

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 928

FINAL READING

Introduced by Johnson, 37; McDonald, 41.

Read first time January 14, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend  
2 sections 30-2483, 71-5830.01, 81-653, 81-655, and 81-659,  
3 Reissue Revised Statutes of Nebraska, sections 68-909,  
4 71-810, 71-818, 81-656, and 81-660, Revised Statutes  
5 Cumulative Supplement, 2006, sections 38-101, 38-711,  
6 38-1901, 38-1902, 38-1907, 38-1915, 38-3321, 43-4001,  
7 68-949, 71-1910, 71-2619, 71-2620, 71-2621, 71-3503,  
8 71-3505, 71-3507, 71-3508.03, 71-3517, 71-3519, 71-5306,  
9 81-654, 81-657, and 81-664, Revised Statutes Supplement,  
10 2007, and section 71-7608, Revised Statutes Supplement,  
11 2007, as amended by section 7, Legislative Bill 606, One  
12 Hundredth Legislature, Second Session, 2008; to require  
13 notice of appointment of a personal representative

1 as prescribed; to provide for the performance of  
2 collaborative animal health care tasks under the Uniform  
3 Credentialing Act as prescribed; to provide additional  
4 functions for certified registered nurse anesthetists; to  
5 define and redefine terms; to change provisions relating  
6 to medical radiographers, licensing and registration  
7 requirements under the Medical Radiography Practice  
8 Act and the Radiation Control Act, laboratories, and  
9 collection and use of fees; to change membership  
10 provisions of the Children's Behavioral Health Task  
11 Force; to change reporting requirements under the Medical  
12 Assistance Act; to rename, extend, and change membership  
13 and duties of the Behavioral Health Oversight Commission  
14 of the Legislature; to exempt certain recreational  
15 facilities from the Child Care Licensing Act; to provide  
16 for fingerprinting and a background check under the  
17 Radiation Control Act; to change an exemption from  
18 certificate of need requirements; to change provisions  
19 relating to the Nebraska Tobacco Settlement Trust Fund;  
20 to name an act and change and eliminate provisions  
21 relating to the brain injury registry; to repeal the  
22 Hepatitis C Education and Prevention Act; to harmonize  
23 provisions; to provide operative dates; to repeal the  
24 original sections; to outright repeal sections 71-545,  
25 71-546, 71-547, 71-548, 71-549, 71-550, and 81-661,

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1 Revised Statutes Supplement, 2007; and to declare an

2 emergency.

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

1           Section 1. Section 30-2483, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           30-2483 Unless notice has already been given under this  
4 article and except when an appointment of a personal representative  
5 is made pursuant to subdivision (4) of section 30-2408, the clerk  
6 of the court upon the appointment of a personal representative  
7 shall publish a notice once a week for three successive weeks  
8 in a newspaper of general circulation in the county announcing  
9 the appointment and the address of the personal representative,  
10 and notifying creditors of the estate to present their claims  
11 within two months after the date of the first publication of the  
12 notice or be forever barred. The first publication shall be made  
13 within thirty days after the appointment. The party instituting or  
14 maintaining the proceeding or his or her attorney is required to  
15 mail the published notice and give proof thereof in accordance with  
16 section 25-520.01. If the decedent was fifty-five years of age or  
17 older or resided in a medical institution as defined in subsection  
18 (1) of section 68-919, the notice shall also be mailed to the  
19 Department of Health and Human Services with the decedent's social  
20 security number and, if available upon reasonable investigation,  
21 the name and social security number of the decedent's spouse if  
22 such spouse is deceased.

23           Sec. 2. Section 38-101, Revised Statutes Supplement,  
24 2007, is amended to read:

25           38-101 Sections 38-101 to 38-1,139 and section 3 of this

1 act and the following practice acts shall be known and may be cited  
2 as the Uniform Credentialing Act:

- 3 (1) The Advanced Practice Registered Nurse Practice Act;
- 4 (2) The Alcohol and Drug Counseling Practice Act;
- 5 (3) The Athletic Training Practice Act;
- 6 (4) The Audiology and Speech-Language Pathology Practice  
7 Act;
- 8 (5) The Certified Nurse Midwifery Practice Act;
- 9 (6) The Certified Registered Nurse Anesthetist Practice  
10 Act;
- 11 (7) The Chiropractic Practice Act;
- 12 (8) The Clinical Nurse Specialist Practice Act;
- 13 (9) The Cosmetology, Electrology, Esthetics, Nail  
14 Technology, and Body Art Practice Act;
- 15 (10) The Dentistry Practice Act;
- 16 (11) The Emergency Medical Services Practice Act;
- 17 (12) The Environmental Health Specialists Practice Act;
- 18 (13) The Funeral Directing and Embalming Practice Act;
- 19 (14) The Hearing Aid Instrument Dispensers and Fitters  
20 Practice Act;
- 21 (15) The Licensed Practical Nurse-Certified Practice Act;
- 22 (16) The Massage Therapy Practice Act;
- 23 (17) The Medical Nutrition Therapy Practice Act;
- 24 (18) The Medical Radiography Practice Act;
- 25 (19) The Medicine and Surgery Practice Act;

- 1 (20) The Mental Health Practice Act;
- 2 (21) The Nurse Practice Act;
- 3 (22) The Nurse Practitioner Practice Act;
- 4 (23) The Nursing Home Administrator Practice Act;
- 5 (24) The Occupational Therapy Practice Act;
- 6 (25) The Optometry Practice Act;
- 7 (26) The Perfusion Practice Act;
- 8 (27) The Pharmacy Practice Act;
- 9 (28) The Physical Therapy Practice Act;
- 10 (29) The Podiatry Practice Act;
- 11 (30) The Psychology Practice Act;
- 12 (31) The Respiratory Care Practice Act;
- 13 (32) The Veterinary Medicine and Surgery Practice Act;
- 14 and
- 15 (33) The Water Well Standards and Contractors' Practice
- 16 Act.

17 If there is any conflict between any provision of

18 sections 38-101 to 38-1,139 and any provision of a practice

19 act, the provision of the practice act shall prevail.

20 The Revisor of Statutes shall assign the Uniform

21 Credentialing Act, including the practice acts enumerated in

22 subdivisions (1) through (32) of this section, to consecutive

23 articles within Chapter 38.

24 Sec. 3. Any person who holds a valid credential in

25 the State of Nebraska in a health care profession or occupation

1 regulated under the Uniform Credentialing Act may consult with a  
2 licensed veterinarian who has contracted with or is employed by an  
3 accredited zoological park or garden regarding an animal on behalf  
4 of such zoological park or garden or perform collaborative animal  
5 health care tasks on an animal under the care of such veterinarian  
6 for such zoological park or garden if all such tasks are performed  
7 under the immediate supervision of such veterinarian. Engaging in  
8 such conduct is hereby authorized and shall not be considered a  
9 part of the credential holder's scope of practice or a violation of  
10 the credential holder's scope of practice.

11           Sec. 4. Section 38-711, Revised Statutes Supplement,  
12 2007, is amended to read:

13           38-711 (1) The determination and administration of total  
14 anesthesia care shall be performed by the certified registered  
15 nurse anesthetist or a nurse anesthetist temporarily licensed  
16 pursuant to section 38-708 in consultation and collaboration with  
17 and with the consent of the licensed practitioner.

18           (2) The following duties and functions shall be  
19 considered as specific expanded role functions of the certified  
20 registered nurse anesthetist:

21           (a) Preanesthesia evaluation including physiological  
22 studies to determine proper anesthetic management and obtaining  
23 informed consent;

24           (b) Selection and application of appropriate monitoring  
25 devices;

1           (c) Selection and administration of anesthetic  
2 techniques;

3           (d) Evaluation and direction of proper postanesthesia  
4 management and dismissal from postanesthesia care; ~~and~~

5           (e) Evaluation and recording of postanesthesia course of  
6 patients; ~~and-~~

7           (f) Use of fluoroscopy in conjunction with a licensed  
8 medical radiographer in connection with the performance of  
9 authorized duties and functions upon (i) the successful completion  
10 of appropriate education and training as approved jointly by  
11 the department and the board and promulgated by the department  
12 in rules and regulations pursuant to section 71-3508 and (ii)  
13 a determination regarding the scope and supervision of such use  
14 consistent with subsection (3) of this section.

15           (3) The determination of other duties that are normally  
16 considered medically delegated duties to the certified registered  
17 nurse anesthetist or to a nurse anesthetist temporarily licensed  
18 pursuant to section 38-708 shall be the joint responsibility of  
19 the governing board of the hospital, medical staff, and nurse  
20 anesthetist personnel of any duly licensed hospital or, if in an  
21 office or clinic, the joint responsibility of the duly licensed  
22 practitioner and nurse anesthetist. All such duties, except in  
23 cases of emergency, shall be in writing in the form prescribed by  
24 hospital or office policy.

25           Sec. 5. Section 38-1901, Revised Statutes Supplement,

1 2007, is amended to read:

2 38-1901 Sections 38-1901 to 38-1920 and sections 8, 9,  
3 11, and 12 of this act shall be known and may be cited as the  
4 Medical Radiography Practice Act.

5 Sec. 6. Section 38-1902, Revised Statutes Supplement,  
6 2007, is amended to read:

7 38-1902 For purposes of the Medical Radiography Practice  
8 Act and elsewhere in the Uniform Credentialing Act, unless the  
9 context otherwise requires, the definitions found in sections  
10 38-1903 to 38-1913 and sections 8 and 9 of this act apply.

11 Sec. 7. Section 38-1907, Revised Statutes Supplement,  
12 2007, is amended to read:

13 38-1907 Medical radiographer means a person licensed ~~to~~  
14 ~~practice medical radiography~~ pursuant to subsection (1) of section  
15 38-1915 to practice medical radiography.

16 Sec. 8. Limited computed tomography radiographer means a  
17 person licensed pursuant to section 11 of this act to practice  
18 medical radiography restricted to computed tomography.

19 Sec. 9. Nuclear medicine technologist means a person who  
20 meets the requirements for training and experience for nuclear  
21 medicine technology under the Radiation Control Act and the rules  
22 and regulations adopted and promulgated under the act.

23 Sec. 10. Section 38-1915, Revised Statutes Supplement,  
24 2007, is amended to read:

25 38-1915 (1) A person licensed by the department, with

1 the recommendation of the board, as a medical radiographer  
2 may practice medical radiography on any part of the human  
3 anatomy for interpretation by and under the direction of a  
4 licensed practitioner, including computed tomography but excluding  
5 interpretative fluoroscopic procedures, and may use fluoroscopy  
6 in conjunction with a certified registered nurse anesthetist as  
7 authorized in section 38-711.

8 (2) An applicant for a license as a medical radiographer  
9 shall:

10 (a) Complete an educational program in radiography  
11 approved by the board pursuant to subsection (1) of section  
12 38-1918;

13 (b) Complete an application in accordance with the  
14 Uniform Credentialing Act; and

15 (c) Successfully complete an examination approved by the  
16 board.

17 ~~(2)~~ (3) Presentation of proof of registration in  
18 radiography with the American Registry of Radiologic Technologists  
19 is proof of meeting the requirements of subdivisions ~~(1)-(a)~~ (2)(a)  
20 and (c) of this section.

21 Sec. 11. (1) A person licensed by the department,  
22 with the recommendation of the board, as a limited computed  
23 tomography radiographer may practice medical radiography restricted  
24 to computed tomography. An applicant for a license as a limited  
25 computed tomography radiographer shall:

1           (a) Complete an application in accordance with the  
2 Uniform Credentialing Act;

3           (b) Be certified by (i) the Nuclear Medicine Technology  
4 Certification Board or (ii) the American Registry of Radiologic  
5 Technologists in nuclear medicine technology; and

6           (c) Be certified by the American Registry of Radiologic  
7 Technologists in computed tomography.

8           (2) A nuclear medicine technologist may perform  
9 computed tomography without being licensed under the Medical  
10 Radiography Practice Act if such practice is limited to X-rays  
11 produced by a combination nuclear medicine-computed tomography  
12 system and administered as an integral part of a nuclear  
13 medicine procedure that uses a computed tomography protocol for  
14 purposes of attenuation correction and anatomical localization  
15 only and if the nuclear medicine technologist has received  
16 documented device-specific training on the combination nuclear  
17 medicine-computed tomography system.

18           Sec. 12. The requirements of section 11 of this act  
19 do not apply to a student while enrolled and participating in  
20 an educational program in nuclear medicine technology who, as  
21 part of the educational program, applies X-rays to humans using  
22 a computed tomography system while under the supervision of the  
23 licensed practitioners, medical radiographers, or limited computed  
24 tomography radiographers associated with the educational program. A  
25 person registered by the Nuclear Medicine Technology Certification

1 Board or the American Registry of Radiologic Technologists in  
2 nuclear medicine technology may apply for a license as a temporary  
3 limited computed tomography radiographer. Temporary limited  
4 computed tomography radiographer licenses shall expire twenty-four  
5 months after issuance and shall not be renewed. Persons licensed  
6 as temporary limited computed tomography radiographers shall be  
7 permitted to perform medical radiography restricted to computed  
8 tomography while under the direct supervision and in the physical  
9 presence of licensed practitioners, medical radiographers, or  
10 limited computed tomography radiographers.

11           Sec. 13. Section 38-3321, Revised Statutes Supplement,  
12 2007, is amended to read:

13           38-3321 No person may practice veterinary medicine and  
14 surgery in the state who is not a licensed veterinarian. The  
15 Veterinary Medicine and Surgery Practice Act shall not be construed  
16 to prohibit:

17           (1) An employee of the federal, state, or local  
18 government from performing his or her official duties;

19           (2) A person who is a student in a veterinary school from  
20 performing duties or actions assigned by his or her instructors  
21 or from working under the direct supervision of a licensed  
22 veterinarian;

23           (3) A person who is a student in an approved veterinary  
24 technician program from performing duties or actions assigned by  
25 his or her instructors or from working under the direct supervision

1 of a licensed veterinarian or a licensed veterinary technician;

2 (4) Any merchant or manufacturer from selling feed or  
3 feeds whether medicated or nonmedicated;

4 (5) A veterinarian regularly licensed in another state  
5 from consulting with a licensed veterinarian in this state;

6 (6) Any merchant or manufacturer from selling from his or  
7 her established place of business medicines, appliances, or other  
8 products used in the prevention or treatment of animal diseases  
9 or any merchant or manufacturer's representative from conducting  
10 educational meetings to explain the use of his or her products or  
11 from investigating and advising on problems developing from the use  
12 of his or her products;

13 (7) An owner of livestock or a bona fide farm or ranch  
14 employee from performing any act of vaccination, surgery, pregnancy  
15 testing, or the administration of drugs in the treatment of  
16 domestic animals under his or her custody or ownership nor the  
17 exchange of services between persons or bona fide employees who are  
18 principally farm or ranch operators or employees in the performance  
19 of these acts;

20 (8) A member of the faculty of a veterinary school  
21 or veterinary science department from performing his or her  
22 regular functions, or a person lecturing or giving instructions  
23 or demonstrations at a veterinary school or veterinary science  
24 department or in connection with a continuing competency activity;

25 (9) Any person from selling or applying any pesticide,

1 insecticide, or herbicide;

2 (10) Any person from engaging in bona fide scientific  
3 research which reasonably requires experimentation involving  
4 animals;

5 (11) Any person from treating or in any manner caring for  
6 domestic chickens, turkeys, or waterfowl, which are specifically  
7 exempted from the Veterinary Medicine and Surgery Practice Act; ~~ex~~

8 (12) Any person from performing dehorning or castrating  
9 livestock, not to include equidae. For purposes of the Veterinary  
10 Medicine and Surgery Practice Act, castration shall be limited to  
11 the removal or destruction of male testes; ~~or-~~

12 (13) Any person who holds a valid credential in the  
13 State of Nebraska in a health care profession or occupation  
14 regulated under the Uniform Credentialing Act from consulting  
15 with a licensed veterinarian who has contracted with or is  
16 employed by an accredited zoological park or garden regarding  
17 an animal on behalf of such zoological park or garden or performing  
18 collaborative animal health care tasks on an animal under the care  
19 of such veterinarian for such zoological park or garden if all  
20 such tasks are performed under the immediate supervision of such  
21 veterinarian.

22 Sec. 14. Section 43-4001, Revised Statutes Supplement,  
23 2007, is amended to read:

24 43-4001 (1) The Children's Behavioral Health Task Force  
25 is created. The task force shall consist of the following members:

1           (a) The chairperson of the Health and Human Services  
2 Committee of the Legislature or another member of the committee as  
3 his or her designee;

4           (b) The chairperson of the Appropriations Committee of  
5 the Legislature or another member of the committee as his or her  
6 designee;

7           ~~(c) The chairperson of the Behavioral Health Oversight~~  
8 ~~Commission of the Legislature;~~

9           ~~(d)~~ (c) Two providers of community-based behavioral  
10 health services to children, appointed by the chairperson of  
11 the Health and Human Services Committee of the Legislature;

12           ~~(e)~~ (d) One regional administrator appointed under  
13 section 71-808, appointed by the chairperson of the Health and  
14 Human Services Committee of the Legislature;

15           ~~(f)~~ (e) Two representatives of organizations advocating  
16 on behalf of consumers of children's behavioral health services  
17 and their families, appointed by the chairperson of the Health and  
18 Human Services Committee of the Legislature;

19           ~~(g)~~ (f) One juvenile court judge, appointed by the Chief  
20 Justice of the Supreme Court;

21           ~~(h)~~ (g) Two representatives of the Department of Health  
22 and Human Services, appointed by the Governor; and

23           ~~(i)~~ (h) The Administrator of the Office of Juvenile  
24 Services.

25           ~~(2) All members shall be appointed within thirty days~~

1 ~~after May 25, 2007.~~

2 ~~(3)~~ (2) Members of the task force shall serve without  
3 compensation but shall be reimbursed from the Nebraska Health Care  
4 Cash Fund for their actual and necessary expenses as provided in  
5 sections 81-1174 to 81-1177.

6 ~~(4)~~ (3) The chairperson of the ~~Behavioral Health~~  
7 ~~Oversight Commission~~ Health and Human Services Committee of the  
8 Legislature or his or her designee shall serve as chairperson of  
9 the task force. Administrative and staff support for the task force  
10 shall be provided by the Health and Human Services Committee of the  
11 Legislature and the Appropriations Committee of the Legislature.

12 Sec. 15. Section 68-909, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 68-909 (1) All contracts, agreements, rules, and  
15 regulations relating to the medical assistance program as entered  
16 into or adopted and promulgated by the department prior to July 1,  
17 2006, and all provisions of the medicaid state plan and waivers  
18 adopted by the department prior to July 1, 2006, shall remain in  
19 effect until revised, amended, repealed, or nullified pursuant to  
20 law.

21 (2) Prior to the adoption and promulgation of proposed  
22 rules and regulations under section 68-912 or relating to the  
23 implementation of medicaid state plan amendments or waivers, the  
24 department shall provide a report to the Governor, the Legislature,  
25 and the Medicaid Reform Council no later than December 1 before the

1 next regular session of the Legislature summarizing the purpose and  
2 content of such proposed rules and regulations and the projected  
3 impact of such proposed rules and regulations on recipients of  
4 medical assistance and medical assistance expenditures.

5 (3) The Medicaid Reform Council, no later than thirty  
6 days after the date of receipt of any report under subsection  
7 (2) of this section, may conduct a public meeting to receive  
8 public comment regarding such report. The council shall promptly  
9 provide any comments and recommendations regarding such report in  
10 writing to the department. Such comments and recommendations shall  
11 be advisory only and shall not be binding on the department, but  
12 the department shall promptly provide a written response to such  
13 comments or recommendations to the council.

14 (4) The department shall monitor and shall periodically,  
15 as necessary, but no less than biennially, report to the  
16 Governor, the Legislature, and the Medicaid Reform Council on  
17 the implementation of rules and regulations, medicaid state plan  
18 amendments, and waivers adopted under the Medical Assistance Act  
19 and the effect of such rules and regulations, amendments, or  
20 waivers on eligible recipients of medical assistance and medical  
21 assistance expenditures.

22 Sec. 16. Section 68-949, Revised Statutes Supplement,  
23 2007, is amended to read:

24 68-949 (1) It is the intent of the Legislature that the  
25 department implement reforms to the medical assistance program

1 such as those contained in the Medicaid Reform Plan, including (a)  
2 an incremental expansion of home and community-based services for  
3 aged persons and persons with disabilities consistent with such  
4 plan, (b) an increase in care coordination or disease management  
5 initiatives to better manage medical assistance expenditures  
6 on behalf of high-cost recipients with multiple or chronic  
7 medical conditions, and (c) other reforms as deemed necessary and  
8 appropriate by the department, in consultation with the committee  
9 and the Medicaid Reform Council.

10 (2) (a) The department shall develop recommendations  
11 relating to the provision of health care and related services  
12 for ~~medicaid-eligible children under the state children's health~~  
13 ~~insurance program as allowed under Title XIX and Title XXI of the~~  
14 ~~federal Social Security Act. Such study and recommendations shall~~  
15 ~~include, but not be limited to, the organization and administration~~  
16 ~~of such program, the establishment of premiums, copayments, and~~  
17 ~~deductibles under such program, and the establishment of limits on~~  
18 ~~the amount, scope, and duration of services offered to recipients~~  
19 ~~under such program.~~ based on a comprehensive analysis of various  
20 options available to the state under applicable federal law for  
21 the provision of medical assistance to persons with disabilities  
22 who are employed, including persons with a medically improved  
23 disability, to enhance and replace current eligibility provisions  
24 contained in subdivision (8) of section 68-915.

25 (b) The department shall provide a draft report of such

1 recommendations to the committee and the Medicaid Reform Council  
2 no later than October 1, ~~2007~~, 2008. The council shall conduct a  
3 public meeting no later than October 15, ~~2007~~, 2008, to discuss  
4 and receive public comment regarding such report. The council shall  
5 provide any comments and recommendations regarding such report in  
6 writing to the department and the committee no later than November  
7 1, ~~2007~~, 2008. The department shall provide a final report of such  
8 recommendations to the Governor, the committee, and the council no  
9 later than December 1, ~~2007~~, 2008.

10 (3)(a) The department shall develop recommendations  
11 for further modification or replacement of the defined benefit  
12 structure of the medical assistance program. Such recommendations  
13 shall be consistent with the public policy in section 68-905 and  
14 shall consider the needs and resources of low-income Nebraska  
15 residents who are eligible or may become eligible for medical  
16 assistance, the experience and outcomes of other states that have  
17 developed and implemented such changes, and other relevant factors  
18 as determined by the department.

19 (b) The department shall provide a draft report of such  
20 recommendations to the committee and the Medicaid Reform Council  
21 no later than October 1, 2008. The council shall conduct a public  
22 meeting no later than October 15, 2008, to discuss and receive  
23 public comment regarding such report. The council shall provide any  
24 comments and recommendations regarding such report in writing to  
25 the department and the committee no later than November 1, 2008.

1 The department shall provide a final report of such recommendations  
2 to the Governor, the committee, and the council no later than  
3 December 1, 2008.

4 Sec. 17. Section 71-810, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 71-810 (1) The division shall encourage and facilitate  
7 the statewide development and provision of an appropriate array of  
8 community-based behavioral health services and continuum of care  
9 for the purposes of (a) providing greater access to such services  
10 and improved outcomes for consumers of such services and (b)  
11 reducing the necessity and demand for regional center behavioral  
12 health services.

13 (2) The division may reduce or discontinue regional  
14 center behavioral health services only if (a) appropriate  
15 community-based services or other regional center behavioral health  
16 services are available for every person receiving the regional  
17 center services that would be reduced or discontinued, (b) such  
18 services possess sufficient capacity and capability to effectively  
19 replace the service needs which otherwise would have been  
20 provided at such regional center, and (c) no further commitments,  
21 admissions, or readmissions for such services are required due  
22 to the availability of community-based services or other regional  
23 center services to replace such services.

24 (3) The division shall notify the Governor and the  
25 Legislature of any intended reduction or discontinuation of

1 regional center services under this section. Such notice shall  
2 include detailed documentation of the community-based services or  
3 other regional center services that are being utilized to replace  
4 such services. The Behavioral Health Oversight Commission ~~of the~~  
5 ~~Legislature~~ shall review such documentation and shall report to  
6 the Governor and the Health and Human Services Committee of the  
7 Legislature whether, in its opinion, the requirements of subsection  
8 (2) of this section have been met with respect to such intended  
9 reduction or discontinuation of regional center services and shall  
10 enumerate the criteria used by the commission in making such  
11 determination.

12 (4) As regional center services are reduced or  
13 discontinued under this section, the division shall make  
14 appropriate corresponding reductions in regional center personnel  
15 and other expenditures related to the provision of such services.  
16 All funding related to the provision of regional center services  
17 that are reduced or discontinued under this section shall be  
18 reallocated and expended by the division for purposes related  
19 to the statewide development and provision of community-based  
20 services.

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

1 necessary for the provision of such state-operated services.

2 (6) When the occupancy of the licensed psychiatric  
3 hospital beds of any regional center reaches twenty percent or  
4 less of its licensed psychiatric hospital bed capacity on March 15,  
5 2004, the division shall notify the Governor and the Legislature of  
6 such fact. Upon such notification, the division, with the approval  
7 of a majority of members of the Executive Board of the Legislative  
8 Council, may provide for the transfer of all remaining patients  
9 at such center to appropriate community-based services or other  
10 regional center services pursuant to this section and cease the  
11 operation of such regional center.

12 (7) The division, in consultation with each regional  
13 behavioral health authority, shall establish and maintain a data  
14 and information system for all persons receiving state-funded  
15 behavioral health services under the Nebraska Behavioral Health  
16 Services Act. Information maintained by the division shall include,  
17 but not be limited to, (a) the number of persons receiving regional  
18 center services, (b) the number of persons ordered by a mental  
19 health board to receive inpatient or outpatient treatment and  
20 receiving regional center services, (c) the number of persons  
21 ordered by a mental health board to receive inpatient or outpatient  
22 treatment and receiving community-based services, (d) the number of  
23 persons voluntarily admitted to a regional center and receiving  
24 regional center services, (e) the number of persons waiting  
25 to receive regional center services, (f) the number of persons

1 waiting to be transferred from a regional center to community-based  
 2 services or other regional center services, (g) the number of  
 3 persons discharged from a regional center who are receiving  
 4 community-based services or other regional center services, and  
 5 (h) the number of persons admitted to behavioral health crisis  
 6 centers. Each regional behavioral health authority shall provide  
 7 such information as requested by the division and necessary to  
 8 carry out this subsection. The division shall submit reports of  
 9 such information to the Governor and the Legislature on a quarterly  
 10 basis beginning July 1, 2005, in a format which does not identify  
 11 any person by name, address, county of residence, social security  
 12 number, or other personally identifying characteristic.

13 (8) The provisions of this section are self-executing and  
 14 require no further authorization or other enabling legislation.

15 Sec. 18. Section 71-818, Revised Statutes Cumulative  
 16 Supplement, 2006, is amended to read:

17 71-818 ~~(1)~~ (1)(a) The Behavioral Health Oversight  
 18 Commission ~~of the Legislature~~ is created. ~~The~~

19 (b) Until June 30, 2008, the commission shall consist  
 20 of not more than twenty-five members appointed by the chairperson  
 21 of the Health and Human Services Committee of the Legislature  
 22 and confirmed by a majority of members of the committee, and  
 23 members ~~Members~~ of the commission shall ~~(a)~~ (i) include, but  
 24 not be limited to, representatives of the Legislature, consumers  
 25 and consumer advocacy organizations, behavioral health providers,

1 the communities of Norfolk and Hastings, state employees,  
2 regional behavioral health authorities, mental health boards, and  
3 law enforcement, ~~(b)~~ (ii) possess a demonstrated interest and  
4 commitment and specialized knowledge, experience, or expertise  
5 relating to the provision of behavioral health services in the  
6 State of Nebraska, and ~~(c)~~ (iii) be broadly representative of all  
7 the behavioral health regions.

8 (c) Beginning on July 1, 2008, the members of the  
9 commission shall possess a demonstrated interest and commitment and  
10 specialized knowledge, experience, or expertise relating to the  
11 provision of behavioral health services in the State of Nebraska,  
12 and the commission shall consist of twelve members appointed  
13 by the Governor as follows: (i) One consumer of behavioral  
14 health services, (ii) one consumer advocate of behavioral  
15 health services, (iii) three providers of community-based  
16 behavioral health services, including one representative from each  
17 congressional district, (iv) three regional behavioral health  
18 authority administrators, including one from each congressional  
19 district, (v) one representative of the Norfolk Regional Center,  
20 (vi) one representative of the Lincoln Regional Center, (vii)  
21 one representative of the city of Norfolk, and (viii) one  
22 representative of the city of Hastings.

23 (d) Members of the commission shall serve without  
24 compensation but shall be reimbursed from the Nebraska Health Care  
25 Cash Fund for their actual and necessary expenses as provided in

1 sections 81-1174 to 81-1177.

2 ~~(2)~~ The (2) (a) Until June 30, 2008, the commission, under  
3 the direction of and in consultation with the Health and Human  
4 Services Committee of the Legislature, shall oversee and support  
5 implementation of the Nebraska Behavioral Health Services Act and  
6 shall administer such funds as appropriated by the Legislature from  
7 the Nebraska Health Care Cash Fund for such purpose, and the  ~~-~~  
8 ~~The~~ commission may employ staff, enter into contracts, establish  
9 and utilize task forces and subcommittees, and perform such other  
10 activities as necessary and appropriate to carry out its duties  
11 under this section.

12 (b) Beginning on July 1, 2008, the commission shall  
13 be responsible to the division and shall oversee and support  
14 implementation of the Nebraska Behavioral Health Services Act. To  
15 carry out this duty, the commission shall (i) conduct regular  
16 meetings, (ii) provide advice and assistance to the division  
17 relating to the implementation of the act, (iii) promote the  
18 interests of consumers and their families, (iv) provide reports as  
19 requested by the division, and (v) engage in such other activities  
20 as directed or authorized by the division.

21 (3) To assist the commission in its role of oversight,  
22 the division shall provide the commission with a quarterly report  
23 regarding the implementation of the Nebraska Behavioral Health  
24 Services Act.

25 ~~(3)~~ (4) The commission and this section terminate on June

1 30, ~~2008~~, 2009.

2 Sec. 19. Section 71-1910, Revised Statutes Supplement,  
3 2007, is amended to read:

4 71-1910 For purposes of the Child Care Licensing Act,  
5 unless the context otherwise requires:

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

8 (2) (a) Program means the provision of services in lieu  
9 of parental supervision for children under thirteen years of age  
10 for compensation, either directly or indirectly, on the average of  
11 less than twelve hours per day, but more than two hours per week,  
12 and includes any employer-sponsored child care, family child care  
13 home, child care center, school-age child care program, school-age  
14 services pursuant to section 79-1104, or preschool or nursery  
15 school.

16 (b) Program does not include casual care at irregular  
17 intervals, a recreation camp as defined in section 71-3101, a  
18 recreation facility, center, or program operated by a political  
19 or governmental subdivision pursuant to the authority provided  
20 in section 13-304, classes or services provided by a religious  
21 organization other than child care or a preschool or nursery  
22 school, a preschool program conducted in a school approved pursuant  
23 to section 79-318, services provided only to school-age children  
24 during the summer and other extended breaks in the school year, or  
25 foster care as defined in section 71-1901.

1           Sec. 20. Section 71-2619, Revised Statutes Supplement,  
2 2007, is amended to read:

3           71-2619 (1) The Department of Health and Human Services  
4 may by regulation establish fees to defray the costs of providing  
5 specimen containers, shipping outfits, and related supplies and  
6 fees to defray the costs of certain laboratory examinations as  
7 requested by individuals, firms, corporations, or governmental  
8 agencies in the state. Fees for the provision of certain classes  
9 of shipping outfits or specimen containers shall be no more than  
10 the actual cost of materials, labor, and delivery. Fees for the  
11 provision of shipping outfits may be made when no charge is made  
12 for service.

13           (2) Fees may be established by regulation for chemical  
14 or microbiological examinations of various categories of water  
15 samples. Fees established for examination of water to ascertain  
16 qualities for domestic, culinary, and associated uses shall be  
17 set to defray no more than the actual cost of the tests  
18 in the following categories: (a) Inorganic chemical assays; (b)  
19 organic pollutants; and (c) bacteriological examination to indicate  
20 sanitary quality as coliform density by membrane filter test or  
21 equivalent test.

22           (3) Fees for examinations of water from lakes, streams,  
23 impoundments, or similar sources, from wastewaters, or from ground  
24 water for industrial or agricultural purposes may be charged in  
25 amounts established by regulation but shall not exceed one and

1 one-half times the limits set by regulation for examination of  
2 domestic waters.

3 (4) Fees may be established by regulation for chemical  
4 or microbiological examinations of various categories of samples to  
5 defray no more than the actual cost of testing. Such fees may be  
6 charged for:

7 (a) Any specimen submitted for radiochemical analysis or  
8 characterization;

9 (b) Any material submitted for chemical characterization  
10 or quantitation; and

11 (c) Any material submitted for microbiological  
12 characterization.

13 (5) Fees may be established by regulation for the  
14 examinations of certain categories of biological and clinical  
15 specimens to defray no more than the actual costs of testing. Such  
16 fees may be charged for examinations pursuant to law or regulation  
17 of:

18 (a) Any specimen submitted for chemical examination for  
19 assessment of health status or functional impairment;

20 (b) Any specimen submitted for microbiological  
21 examination which is not related to direct human contact with the  
22 microbiological agent; and

23 (c) A specimen submitted for microbiological examination  
24 or procedure by an individual, firm, corporation, or governmental  
25 unit other than the department.

1           (6) The department shall not charge fees for tests that  
2 include microbiological isolation, identification examination, or  
3 other laboratory examination for the following:

4           (a) A contagious disease when the department is  
5 authorized by law or regulation to directly supervise the  
6 prevention, control, or surveillance of such contagious disease;

7           (b) Any emergency when the health of the people of any  
8 part of the state is menaced or exposed pursuant to section 71-502;  
9 and

10          (c) When adopting or enforcing special quarantine and  
11 sanitary regulations authorized by the department.

12          (7) Combinations of different tests or groups of tests  
13 submitted together may be offered at rates less than those set for  
14 individual tests as allowed in this section and shall defray the  
15 actual costs.

16          (8) Fees may be established by regulation to defray no  
17 more than the actual costs of ~~conducting qualifying inspections~~  
18 ~~in order to make~~ certifying laboratories, inspecting laboratories,  
19 and making laboratory agreements between the department and  
20 laboratories other than the Department of Health and Human  
21 Services, Division of Public Health, Environmental Laboratory for  
22 the purpose of conducting analyses of drinking water as prescribed  
23 in section 71-5306. ~~The inspection fees shall be collected on~~  
24 ~~an annual schedule from those laboratories which enter into~~  
25 ~~an agreement with the department for the purpose of conducting~~

1 ~~laboratory analyses of water. Such fees shall not exceed the~~  
2 ~~amount in the following categories: (a) Bacteriological examination~~  
3 ~~agreement, one hundred and fifty dollars; (b) inorganic chemical~~  
4 ~~analyses agreement, one hundred dollars; (c) heavy metal analyses~~  
5 ~~agreement, two hundred dollars; (d) organic chemical analyses~~  
6 ~~agreement, two hundred dollars; and (e) radiochemical analyses~~  
7 ~~agreement, two hundred dollars. For each laboratory applying~~  
8 ~~for certification, fees shall include (a) an annual fee not to~~  
9 ~~exceed one thousand eight hundred dollars per laboratory and~~  
10 ~~(b) an inspection fee not to exceed three thousand dollars per~~  
11 ~~certification period for each laboratory located in this state.~~

12 (9) All fees collected pursuant to this section shall be  
13 ~~deposited in the state treasury and credited remitted to the State~~  
14 ~~Treasurer for credit~~ to the Health and Human Services Cash Fund.

15 Sec. 21. Section 71-2620, Revised Statutes Supplement,  
16 2007, is amended to read:

17 71-2620 The Division of Public Health of the Department  
18 of Health and Human Services may enter into agreements, not  
19 exceeding one year in duration, with any other governmental agency  
20 relative to the provision of certain laboratory tests and services  
21 to the agency. Such services shall be provided as stipulated in  
22 the agreement and for such fee, either lump sum or by the item,  
23 as is mutually agreed upon and as complies with the provisions of  
24 section 71-2619. All laboratories performing human genetic testing  
25 for clinical diagnosis and treatment purposes shall be accredited

1 by the College of American Pathologists or by any other national  
2 accrediting body or public agency which has requirements that are  
3 substantially equivalent to or more comprehensive than those of the  
4 college.

5           Sec. 22. Section 71-2621, Revised Statutes Supplement,  
6 2007, is amended to read:

7           71-2621 All fees collected for laboratory tests and  
8 services pursuant to sections 71-2619 and 71-2620 shall be paid  
9 into the state treasury and by remitted to the State Treasurer  
10 credited for credit to the Health and Human Services Cash Fund,  
11 which shall be used to partially defray the costs of labor,  
12 operations, supplies, and materials in the operations of the  
13 Department of Health and Human Services, Division of Public Health,  
14 Environmental Laboratory.

15           Sec. 23. Section 71-3503, Revised Statutes Supplement,  
16 2007, is amended to read:

17           71-3503 For purposes of the Radiation Control Act, unless  
18 the context otherwise requires:

19           (1) Radiation means ionizing radiation and nonionizing  
20 radiation as follows:

21           (a) Ionizing radiation means gamma rays, X-rays, alpha  
22 and beta particles, high-speed electrons, neutrons, protons, and  
23 other atomic or nuclear particles or rays but does not include  
24 sound or radio waves or visible, infrared, or ultraviolet light;  
25 and

1           (b) Nonionizing radiation means (i) any electromagnetic  
2 radiation which can be generated during the operations of  
3 electronic products to such energy density levels as to present  
4 a biological hazard to occupational and public health and safety  
5 and the environment, other than ionizing electromagnetic radiation,  
6 and (ii) any sonic, ultrasonic, or infrasonic waves which are  
7 emitted from an electronic product as a result of the operation of  
8 an electronic circuit in such product and to such energy density  
9 levels as to present a biological hazard to occupational and public  
10 health and safety and the environment;

11           (2) Radioactive material means any material, whether  
12 solid, liquid, or gas, which emits ionizing radiation  
13 spontaneously. Radioactive material includes, but is not  
14 limited to, accelerator-produced material, byproduct material,  
15 naturally occurring material, source material, and special nuclear  
16 material;

17           (3) Radiation-generating equipment means any manufactured  
18 product or device, component part of such a product or device,  
19 or machine or system which during operation can generate or emit  
20 radiation except devices which emit radiation only from radioactive  
21 material;

22           (4) Sources of radiation means any radioactive material,  
23 any radiation-generating equipment, or any device or equipment  
24 emitting or capable of emitting radiation or radioactive material;

25           (5) Undesirable radiation means radiation in such

1 quantity and under such circumstances as determined from time  
2 to time by rules and regulations adopted and promulgated by the  
3 department;

4 (6) Person means any individual, corporation,  
5 partnership, limited liability company, firm, association,  
6 trust, estate, public or private institution, group, agency,  
7 political subdivision of this state, any other state or  
8 political subdivision or agency thereof, and any legal successor,  
9 representative, agent, or agency of the foregoing;

10 (7) Registration means registration with the department  
11 pursuant to the Radiation Control Act;

12 (8) Department means the Department of Health and Human  
13 Services;

14 (9) Administrator means the administrator of radiation  
15 control designated pursuant to section 71-3504;

16 (10) Electronic product means any manufactured product,  
17 device, assembly, or assemblies of such products or devices which,  
18 during operation in an electronic circuit, can generate or emit a  
19 physical field of radiation;

20 (11) License means:

21 (a) A general license issued pursuant to rules and  
22 regulations adopted and promulgated by the department without the  
23 filing of an application with the department or the issuance of  
24 licensing documents to particular persons to transfer, acquire,  
25 own, possess, or use quantities of or devices or equipment

1 utilizing radioactive materials;

2 (b) A specific license, issued to a named person upon  
3 application filed with the department pursuant to the Radiation  
4 Control Act and rules and regulations adopted and promulgated  
5 pursuant to the act, to use, manufacture, produce, transfer,  
6 receive, acquire, own, or possess quantities of or devices or  
7 equipment utilizing radioactive materials; or

8 (c) A license issued to a radon measurement specialist,  
9 ~~radon measurement technician,~~ radon mitigation specialist, ~~radon~~  
10 ~~mitigation technician,~~ radon measurement business, or radon  
11 mitigation business;

12 (12) Byproduct material means:

13 (a) Any radioactive material, except special nuclear  
14 material, yielded in or made radioactive by exposure to the  
15 radiation incident to the process of producing or utilizing special  
16 nuclear material; and

17 (b) The tailings or wastes produced by the extraction  
18 or concentration of uranium or thorium from any ore processed  
19 primarily for its source material content, including discrete  
20 surface wastes resulting from uranium or thorium solution  
21 extraction processes. Underground ore bodies depleted by such  
22 solution extraction operations do not constitute byproduct  
23 material;

24 (13) Source material means:

25 (a) Uranium or thorium or any combination thereof in any

1 physical or chemical form; or

2 (b) Ores which contain by weight one-twentieth of one  
3 percent or more of uranium, thorium, or any combination thereof.

4 Source material does not include special nuclear material;

5 (14) Special nuclear material means:

6 (a) Plutonium, uranium 233, or uranium enriched in the  
7 isotope 233 or in the isotope 235 and any other material that  
8 the United States Nuclear Regulatory Commission pursuant to the  
9 provisions of section 51 of the federal Atomic Energy Act of 1954,  
10 as amended, determines to be special nuclear material but does not  
11 include source material; or

12 (b) Any material artificially enriched by any material  
13 listed in subdivision (14)(a) of this section but does not include  
14 source material;

15 (15) Users of sources of radiation means:

16 (a) Physicians using radioactive material or  
17 radiation-generating equipment for human use;

18 (b) Natural persons using radioactive material or  
19 radiation-generating equipment for education, research, or  
20 development purposes;

21 (c) Natural persons using radioactive material or  
22 radiation-generating equipment for manufacture or distribution  
23 purposes;

24 (d) Natural persons using radioactive material or  
25 radiation-generating equipment for industrial purposes; and

1           (e) Natural persons using radioactive material or  
2 radiation-generating equipment for any other similar purpose;

3           (16) Civil penalty means any monetary penalty levied on  
4 a licensee or registrant because of violations of statutes, rules,  
5 regulations, licenses, or registration certificates but does not  
6 include criminal penalties;

7           (17) Closure means all activities performed at a waste  
8 handling, processing, management, or disposal site, such as  
9 stabilization and contouring, to assure that the site is in a  
10 stable condition so that only minor custodial care, surveillance,  
11 and monitoring are necessary at the site following termination of  
12 licensed operation;

13           (18) Decommissioning means final operational activities  
14 at a facility to dismantle site structures, to decontaminate  
15 site surfaces and remaining structures, to stabilize and contain  
16 residual radioactive material, and to carry out any other  
17 activities to prepare the site for postoperational care;

18           (19) Disposal means the permanent isolation of low-level  
19 radioactive waste pursuant to the Radiation Control Act and rules  
20 and regulations adopted and promulgated pursuant to such act;

21           (20) Generate means to produce low-level radioactive  
22 waste when used in relation to low-level radioactive waste;

23           (21) High-level radioactive waste means:

24           (a) Irradiated reactor fuel;

25           (b) Liquid wastes resulting from the operation of the

1 first cycle solvent extraction system or equivalent and the  
2 concentrated wastes from subsequent extraction cycles or the  
3 equivalent in a facility for reprocessing irradiated reactor fuel;  
4 and

5 (c) Solids into which such liquid wastes have been  
6 converted;

7 (22) Low-level radioactive waste means radioactive waste  
8 not defined as high-level radioactive waste, spent nuclear fuel,  
9 or byproduct material as defined in subdivision (12)(b) of this  
10 section;

11 (23) Management of low-level radioactive waste means the  
12 handling, processing, storage, reduction in volume, disposal, or  
13 isolation of such waste from the biosphere in any manner;

14 (24) Source material mill tailings or mill tailings means  
15 the tailings or wastes produced by the extraction or concentration  
16 of uranium or thorium from any ore processed primarily for  
17 its source material content, including discrete surface wastes  
18 resulting from underground solution extraction processes, but  
19 not including underground ore bodies depleted by such solution  
20 extraction processes;

21 (25) Source material milling means any processing of ore,  
22 including underground solution extraction of unmined ore, primarily  
23 for the purpose of extracting or concentrating uranium or thorium  
24 therefrom and which results in the production of source material  
25 and source material mill tailings;

1           (26) Spent nuclear fuel means irradiated nuclear fuel  
2 that has undergone at least one year of decay since being used as  
3 a source of energy in a power reactor. Spent nuclear fuel includes  
4 the special nuclear material, byproduct material, source material,  
5 and other radioactive material associated with fuel assemblies;

6           (27) Transuranic waste means radioactive waste material  
7 containing alpha-emitting radioactive elements, with radioactive  
8 half-lives greater than five years, having an atomic number greater  
9 than 92 in concentrations in excess of one hundred nanocuries per  
10 gram;

11           (28) Licensed practitioner means a person licensed to  
12 practice medicine, dentistry, podiatry, chiropractic, osteopathic  
13 medicine and surgery, or as an osteopathic physician;

14           (29) X-ray system means an assemblage of components for  
15 the controlled production of X-rays, including, but not limited to,  
16 an X-ray high-voltage generator, an X-ray control, a tube housing  
17 assembly, a beam-limiting device, and the necessary supporting  
18 structures. Additional components which function with the system  
19 are considered integral parts of the system;

20           (30) Licensed facility operator means any person or  
21 entity who has obtained a license under the Low-Level Radioactive  
22 Waste Disposal Act to operate a facility, including any person  
23 or entity to whom an assignment of a license is approved by the  
24 Department of Environmental Quality; and

25           (31) Deliberate misconduct means an intentional act or

1 omission by a person that (a) would intentionally cause a licensee,  
2 registrant, or applicant for a license or registration to be  
3 in violation of any rule, regulation, or order of or any term,  
4 condition, or limitation of any license or registration issued by  
5 the department under the Radiation Control Act or (b) constitutes  
6 an intentional violation of a requirement, procedure, instruction,  
7 contract, purchase order, or policy under the Radiation Control  
8 Act by a licensee, a registrant, an applicant for a license or  
9 registration, or a contractor or subcontractor of a licensee,  
10 registrant, or applicant for a license or registration.

11           Sec. 24. Section 71-3505, Revised Statutes Supplement,  
12 2007, is amended to read:

13           71-3505 Matters relative to radiation as they relate to  
14 occupational and public health and safety and the environment shall  
15 be a responsibility of the department. The department shall:

16           (1) Develop comprehensive policies and programs for the  
17 evaluation and determination of undesirable radiation associated  
18 with the production, use, storage, or disposal of radiation sources  
19 and formulate, adopt, promulgate, and repeal rules and regulations  
20 which may provide (a) for registration or licensure under section  
21 71-3507 or 71-3509, ~~and~~ (b) for registration or licensure of (i)  
22 any other source of radiation, (ii) persons providing services  
23 for collection, detection, measurement, or monitoring of sources  
24 of radiation, including, but not limited to, radon and its decay  
25 products, (iii) persons providing services to reduce the effects

1 of sources of radiation, and (iv) persons practicing industrial  
2 radiography, and (c) for fingerprinting and a federal criminal  
3 background check on persons with unescorted access to radionuclides  
4 of concern, as specified by rule, ~~or~~ regulation, or order so as  
5 to reasonably protect occupational and public health and safety  
6 and the environment in a manner compatible with regulatory programs  
7 of the federal government. The department for identical purposes  
8 may also adopt and promulgate rules and regulations for the  
9 issuance of licenses, either general or specific, to persons  
10 for the purpose of using, manufacturing, producing, transporting,  
11 transferring, receiving, acquiring, owning, or possessing any  
12 radioactive material. Such rules and regulations may prohibit the  
13 use of radiation for uses found by the department to be detrimental  
14 to occupational and public health or safety or the environment  
15 and shall carry out the purposes and policies set out in sections  
16 71-3501 and 71-3502. Such rules and regulations shall not prohibit  
17 or limit the kind or amount of radiation purposely prescribed  
18 for or administered to a patient by doctors of medicine and  
19 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,  
20 and veterinary medicine, while engaged in the lawful practice of  
21 such profession, or administered by other professional personnel,  
22 such as allied health personnel, medical radiographers, limited  
23 radiographers, nurses, and laboratory workers, acting under the  
24 supervision of a licensed practitioner. Violation of rules and  
25 regulations adopted and promulgated by the department pursuant to

1 the Radiation Control Act shall be due cause for the suspension,  
2 revocation, or limitation of a license issued by the department.  
3 Any licensee may request a hearing before the department on the  
4 issue of such suspension, revocation, or limitation. Procedures for  
5 notice and opportunity for a hearing before the department shall be  
6 pursuant to the Administrative Procedure Act. The decision of the  
7 department may be appealed, and the appeal shall be in accordance  
8 with the Administrative Procedure Act;

9 (2) Have the authority to accept and administer loans,  
10 grants, or other funds or gifts, conditional or otherwise, in  
11 furtherance of its functions, from the federal government and from  
12 other sources, public or private;

13 (3) Encourage, participate in, or conduct studies,  
14 investigations, training, research, and demonstrations relating to  
15 the control of sources of radiation;

16 (4) Collect and disseminate health education information  
17 relating to radiation protection;

18 (5) Make its facilities available so that any person or  
19 any agency may request the department to review and comment on  
20 plans and specifications of installations submitted by the person  
21 or agency with respect to matters of protection and safety for the  
22 control of undesirable radiation;

23 (6) Be empowered to inspect radiation sources and their  
24 shieldings and surroundings for the determination of any possible  
25 undesirable radiation or violations of rules and regulations

1 adopted and promulgated by the department and provide the owner,  
2 user, or operator with a report of any known or suspected  
3 deficiencies; and

4 (7) Collect a fee for emergency response or environmental  
5 surveillance, or both, offsite from each nuclear power plant equal  
6 to the cost of completing the emergency response or environmental  
7 surveillance and any associated report. In no event shall the  
8 fee for any nuclear power plant exceed the lesser of the  
9 actual costs of such activities or fifty-three thousand dollars  
10 per annum. Commencing July 1, 1997, the accounting division  
11 of the Department of Administrative Services shall recommend an  
12 inflationary adjustment equivalent which shall be based upon the  
13 Consumer Price Index for All Urban Consumers of the United States  
14 Department of Labor, Bureau of Labor Statistics, and shall not  
15 exceed five percent per annum. Such adjustment shall be applied to  
16 the annual fee for nuclear power plants. The fee collected shall be  
17 credited to the Health and Human Services Cash Fund. This fee shall  
18 be used solely for the purpose of defraying the direct costs of the  
19 emergency response and environmental surveillance at Cooper Nuclear  
20 Station and Fort Calhoun Station conducted by the department. The  
21 department may charge additional fees when mutually agreed upon for  
22 services, training, or equipment that are a part of or in addition  
23 to matters in this section.

24 Sec. 25. The department shall adopt and promulgate rules  
25 and regulations providing for fingerprinting and a federal criminal

1 background check on persons with unescorted access to radionuclides  
2 of concern, as specified by rule, regulation, or order so as to  
3 reasonably protect occupational and public health and safety and  
4 the environment in a manner compatible with regulatory programs of  
5 the federal government.

6 This section terminates on December 1, 2008.

7 Sec. 26. Section 71-3507, Revised Statutes Supplement,  
8 2007, is amended to read:

9 71-3507 (1) The department shall adopt and promulgate  
10 rules and regulations for the issuance, amendment, suspension,  
11 and revocation of general and specific licenses. Such licenses  
12 shall be for byproduct material, source material, special nuclear  
13 material, and radioactive material not under the authority of the  
14 federal Nuclear Regulatory Commission and for devices or equipment  
15 utilizing such materials. The rules and regulations shall provide:

16 (a) For written applications for a specific license  
17 which include the technical, financial, and other qualifications  
18 determined by the department to be reasonable and necessary  
19 to protect occupational and public health and safety and the  
20 environment;

21 (b) For additional written statements and inspections, as  
22 required by the department, at any time after filing an application  
23 for a specific license and before the expiration of the license to  
24 determine whether the license should be issued, amended, suspended,  
25 or revoked;

1           (c) That all applications and statements be signed by the  
2 applicant or licensee;

3           (d) The form, terms, and conditions of general and  
4 specific licenses;

5           (e) That no license or right to possess or utilize  
6 sources of radiation granted by a license shall be assigned or  
7 in any manner disposed of without the written consent of the  
8 department; and

9           (f) That the terms and conditions of all licenses are  
10 subject to amendment by rules, regulations, or orders issued by the  
11 department.

12           (2) The department may require registration or licensing  
13 of radioactive material not enumerated in subsection (1) of this  
14 section in order to maintain compatibility and equivalency with  
15 the standards and regulatory programs of the federal government or  
16 to protect the occupational and public health and safety and the  
17 environment.

18           (3) (a) The department shall require licensure of persons  
19 providing measurement and mitigation services of radon or its decay  
20 products in order to protect the occupational and public health and  
21 safety and the environment.

22           (b) The department shall adopt and promulgate rules  
23 and regulations establishing education, experience, training,  
24 examination, and continuing competency requirements for radon  
25 measurement specialists, ~~radon measurement technicians, radon~~

1 ~~mitigation specialists, and radon mitigation technicians.~~  
2 specialists. Application for such licenses shall be made as  
3 provided in the Uniform Credentialing Act. Such persons shall be  
4 credentialed in the same manner as an individual under subsection  
5 (1) of section 38-121 and shall be subject to disciplinary action  
6 pursuant to section 71-3517. Continuing competency requirements  
7 may include, but not be limited to, one or more of the  
8 continuing competency activities listed in section 38-145. Any  
9 radon measurement technician license issued prior to the operative  
10 date of this section shall remain valid as a radon measurement  
11 specialist license on and after such date until the date such  
12 radon measurement technician license would have expired. Such  
13 radon measurement specialist license shall be subject to rules and  
14 regulations adopted and promulgated by the department.

15 (c) The department shall adopt and promulgate rules and  
16 regulations establishing staffing, proficiency, quality control,  
17 reporting, worker health and safety, equipment, and record-keeping  
18 requirements for radon measurement businesses and radon mitigation  
19 businesses and mitigation system installation requirements for  
20 radon mitigation businesses.

21 (4) The department may exempt certain sources of  
22 radiation or kinds of uses or users from licensing or registration  
23 requirements established under the Radiation Control Act when  
24 the department finds that the exemption will not constitute a  
25 significant risk to occupational and public health and safety and

1 the environment.

2 (5) The department may provide by rule and regulation  
3 for the recognition of other state or federal licenses compatible  
4 and equivalent with the standards established by the department for  
5 Nebraska licensees.

6 (6) The department may accept accreditation for an  
7 industrial radiographer by a recognized independent accreditation  
8 body, a public agency, or the federal Nuclear Regulatory  
9 Commission, which has standards that are at least as stringent as  
10 those of the State of Nebraska, as evidence that the industrial  
11 radiographer complies with the rules and regulations adopted and  
12 promulgated pursuant to the act. The department may adopt and  
13 promulgate rules and regulations which list accreditation bodies,  
14 public agencies, and federal programs that meet this standard.

15 (7) The department may enter at all reasonable times  
16 upon any private or public property for the purpose of determining  
17 whether or not there is compliance with the act and rules and  
18 regulations adopted and promulgated pursuant to the act, except  
19 that entry into areas under the jurisdiction of the federal  
20 government shall be effected only with the concurrence of the  
21 federal government or its duly designated representative.

22 (8) The department shall cause to be registered with the  
23 department such sources of radiation as the department determines  
24 to be reasonably necessary to protect occupational and public  
25 health and safety and the environment as follows:

1           (a) The department shall, by public notice, establish  
2 a date on or before which date such sources of radiation shall  
3 be registered with the department. ~~An    and the department shall~~  
4 ~~provide appropriate forms for such registration.~~ Each application  
5 for registration shall be either in writing or by electronic means  
6 and shall state such information as the department by rules or  
7 regulations may determine to be necessary and reasonable to protect  
8 occupational and public health and safety and the environment;

9           (b) Registration of sources of radiation shall be  
10 an initial registration with appropriate notification to the  
11 department in the case of alteration of equipment, acquisition of  
12 new sources of radiation, or the transfer, loss, or destruction of  
13 sources of radiation and shall include the registration of persons  
14 installing or servicing sources of radiation;

15           (c) Failure to register or reregister sources of  
16 radiation in accordance with rules and regulations adopted and  
17 promulgated by the department shall be subject to a fine of not  
18 less than fifty dollars nor more than two hundred dollars; and

19           (d) The department may provide by rule and regulation for  
20 reregistration of sources of radiation.

21           (9) The results of any surveys or inspections of sources  
22 of radiation conducted by the department shall be public records  
23 subject to sections 84-712 to 84-712.09. In addition, the following  
24 information shall be deemed confidential:

25           (a) The names of individuals in dosimetry reports;

1           (b) Emergency response procedures which would present a  
2 clear threat to security or disclose names of individuals; and

3           (c) Any other information that is likely to present  
4 a clear threat to the security of radioactive material. The  
5 department shall make such reports of results of surveys or  
6 inspections available to the owner or operator of the source  
7 of radiation together with any recommendations of the department  
8 regarding deficiencies noted.

9           (10) The department shall have the right to survey or  
10 inspect again any source of radiation previously surveyed without  
11 limitation of the number of surveys or inspections conducted on a  
12 given source of radiation.

13           (11) The department may enter into contracts with  
14 persons or corporations to perform the inspection of X-ray  
15 radiation-generating equipment or devices which emit radiation  
16 from radioactive materials and to aid the department in the  
17 administration of the act.

18           Sec. 27. Section 71-3508.03, Revised Statutes Supplement,  
19 2007, is amended to read:

20           71-3508.03 (1) The department shall establish by rule  
21 and regulation annual fees for the radioactive materials licenses,  
22 for inspections of radioactive materials, for the registration  
23 and inspection of radiation-generating equipment and other sources  
24 of radiation, and for radon measurement and mitigation business  
25 licenses and inspections of radon mitigation systems installations

1 under the Radiation Control Act. The annual fee for registration  
2 and inspection of X-ray radiation generating equipment used to  
3 diagnose conditions in humans or animals shall not exceed ~~seventy~~  
4 four hundred dollars per X-ray machine. The department shall also  
5 establish by rule and regulation additional fees for environmental  
6 surveillance activities performed by the department to assess  
7 the radiological impact of activities conducted by licensees  
8 and registrants. Such activities shall not duplicate surveillance  
9 programs approved by the federal Nuclear Regulatory Commission and  
10 conducted by entities licensed by such commission. No fee shall  
11 exceed the actual cost to the department for administering the act.  
12 The fees collected shall be remitted to the State Treasurer for  
13 credit to the Health and Human Services Cash Fund and shall be used  
14 solely for the purpose of defraying the direct and indirect costs  
15 of administering the act. The department shall collect such fees.

16 (2) The department may, upon application by an interested  
17 person or on its own initiative, grant such exemptions from  
18 the requirements of this section as it determines are in the  
19 public interest. Applications for exemption under this subsection  
20 may include, but shall not be limited to, the use of licensed  
21 materials for educational or noncommercial displays or scientific  
22 collections.

23 (3) When a registrant or licensee fails to pay  
24 the applicable fee, the department may suspend or revoke the  
25 registration or license or may issue an appropriate order.

1           (4) The department shall establish and collect fees for  
2 licenses for individuals engaged in radon detection, measurement,  
3 and mitigation as provided in sections 38-151 to 38-157.

4           Sec. 28. Section 71-3517, Revised Statutes Supplement,  
5 2007, is amended to read:

6           71-3517 (1) Any person who violates any of the provisions  
7 of the Radiation Control Act shall be guilty of a Class IV  
8 misdemeanor.

9           (2) In addition to the penalty provided in subsection  
10 (1) of this section, any person who violates any provision of the  
11 Radiation Control Act or any rule, regulation, or order issued  
12 pursuant to such act or any term, condition, or limitation of any  
13 license or registration certificate issued pursuant to such act  
14 shall be subject to:

15           (a) License revocation, suspension, modification,  
16 condition, or limitation;

17           (b) The imposition of a civil penalty; or

18           (c) The terms of any appropriate order issued by the  
19 department.

20           (3) Whenever the department proposes to subject a person  
21 to the provisions of subsection (2) of this section, the department  
22 shall notify the person in writing (a) setting forth the date,  
23 facts, and nature of each act or omission with which the person  
24 is charged, (b) specifically identifying the particular provision  
25 or provisions of the section, rule, regulation, order, license, or

1 registration certificate involved in the violation, and (c) of the  
2 sanction or order to be imposed. If a civil penalty is imposed, the  
3 notice shall include a statement that it can be collected by civil  
4 action. The notice shall be delivered to each alleged violator by  
5 personal service, by certified or registered mail to his or her  
6 last-known address, or by publication. Notice by publication shall  
7 only be made if personal service or service by mail cannot be  
8 effectuated. The sanction or order in the notice shall become final  
9 thirty days after the mailing of the notice unless the applicant,  
10 registrant, or licensee, within the thirty-day period, requests, in  
11 writing, a hearing before the department. If the notice is served  
12 by personal service or publication, the sanction or order shall  
13 become final thirty days after completion of such service unless  
14 the applicant, registrant, or licensee, within the thirty-day  
15 period, requests, in writing, a hearing before the department.

16 (4) Hearings held pursuant to subsection (3) of this  
17 section shall be held in accordance with rules and regulations  
18 adopted and promulgated by the department and shall provide for  
19 the alleged violator to present such evidence as may be proper.  
20 Witnesses may be subpoenaed by either party and shall be allowed  
21 fees at a rate prescribed by the rules and regulations of the  
22 department. A full and complete record shall be kept of the  
23 proceedings.

24 (5) Following the hearing, the department shall determine  
25 whether the charges are true or not, and if true, the department

1 may (a) issue a declaratory order finding the charges to be true,  
2 (b) revoke, suspend, modify, condition, or limit the license, (c)  
3 impose a civil penalty in an amount not to exceed ten thousand  
4 dollars for each violation, or (d) enter an appropriate order. If  
5 any violation is a continuing one, each day of such violation shall  
6 constitute a separate violation for the purpose of computing the  
7 applicable civil penalty and the amount of the penalty shall be  
8 based on the severity of the violation. A copy of such decision  
9 setting forth the finding of facts and the particular reasons upon  
10 which it is based shall be sent by either certified or registered  
11 mail to the alleged violator. The decision may be appealed, and  
12 the appeal shall be in accordance with the Administrative Procedure  
13 Act.

14 (6) Any civil penalty assessed and unpaid under  
15 subsection (5) of this section shall constitute a debt to the  
16 State of Nebraska which may be collected in the manner of a  
17 lien foreclosure or sued for and recovered in any proper form of  
18 action in the name of the State of Nebraska in the district court  
19 of the county in which the violator resides or owns property.  
20 The department shall, within thirty days from receipt, remit any  
21 collected civil penalty to the State Treasurer for distribution  
22 in accordance with Article VII, section 5, of the Constitution of  
23 Nebraska.

24 (7) In addition to the provisions of this section,  
25 radon measurement specialists, ~~radon measurement technicians,~~

1 ~~radon mitigation specialists,~~ and radon mitigation ~~technicians~~  
2 specialists shall be subject to the reporting, investigatory, and  
3 disciplinary provisions of sections 38-176 to 38-185, 38-1,106,  
4 38-1,109 to 38-1,126, and 38-1,137 to 38-1,139. In addition to the  
5 grounds for disciplinary action found in the Uniform Credentialing  
6 Act, a license issued to a specialist ~~or technician~~ may be  
7 disciplined for any violation of the Radiation Control Act or the  
8 rules and regulations adopted and promulgated under the act.

9           Sec. 29. Section 71-3519, Revised Statutes Supplement,  
10 2007, is amended to read:

11           71-3519 Sections 71-3501 to 71-3520 and section 25 of  
12 this act shall be known and may be cited as the Radiation Control  
13 Act.

14           Sec. 30. Section 71-5306, Revised Statutes Supplement,  
15 2007, is amended to read:

16           71-5306 (1) To carry out the provisions and purposes of  
17 the Nebraska Safe Drinking Water Act, the director may:

18           (a) Enter into agreements, contracts, or cooperative  
19 arrangements, under such terms as are deemed appropriate,  
20 with other state, federal, or interstate agencies or with  
21 municipalities, educational institutions, local health departments,  
22 or other organizations, entities, or individuals;

23           (b) Require all laboratory analyses to be performed  
24 at the Department of Health and Human Services, Division of  
25 Public Health, Environmental Laboratory, or at any other certified

1 laboratory which has entered into an agreement with the department  
2 therefor, and establish and collect fees for making laboratory  
3 analyses of water samples pursuant to sections 71-2619 to 71-2621,  
4 except that subsection (6) of section 71-2619 shall not apply for  
5 purposes of the Nebraska Safe Drinking Water Act. Inspection fees  
6 for making other laboratory agreements shall be established and  
7 collected pursuant to sections 71-2619 to 71-2621;

8 (c) Certify laboratories performing tests on water that  
9 is intended for human consumption. The director may establish,  
10 through rules and regulations, standards for certification.  
11 Such standards may include requirements for staffing, equipment,  
12 procedures, and methodology for conducting laboratory tests,  
13 quality assurance and quality control procedures, and communication  
14 of test results. Such standards shall be consistent with  
15 requirements for performing laboratory tests established by  
16 the federal Environmental Protection Agency to the extent such  
17 requirements are consistent with state law. The director may  
18 accept accreditation by a recognized independent accreditation  
19 body, public agency, or federal program which has standards  
20 that are at least as stringent as those established pursuant to  
21 this section. The director may adopt and promulgate rules and  
22 regulations which list accreditation bodies, public agencies, and  
23 federal programs that may be accepted as evidence that a laboratory  
24 meets the standards for certification. Inspection fees and fees for  
25 certifying other laboratories shall be established and collected to

1 defray the cost of the inspections and certification as provided  
2 in sections 71-2619 to 71-2621;

3 (d) Receive financial and technical assistance from an  
4 agency of the federal government or from any other public or  
5 private agency;

6 (e) Enter the premises of a public water system at any  
7 time for the purpose of conducting monitoring, making inspections,  
8 or collecting water samples for analysis;

9 (f) Delegate those responsibilities and duties as deemed  
10 appropriate for the purpose of administering the requirements of  
11 the Nebraska Safe Drinking Water Act, including entering into  
12 agreements with designated agents which shall perform specifically  
13 delegated responsibilities and possess specifically delegated  
14 powers;

15 (g) Require the owner and operator of a public water  
16 system to establish and maintain records, make reports, and provide  
17 information as the department may reasonably require by regulation  
18 to enable it to determine whether such owner or operator has  
19 acted or is acting in compliance with the Nebraska Safe Drinking  
20 Water Act and rules and regulations adopted pursuant thereto. The  
21 department or its designated agent shall have access at all times  
22 to such records and reports; and

23 (h) Assess by regulation a fee for any review of plans  
24 and specifications pertaining to a public water system governed by  
25 section 71-5305 in order to defray no more than the actual cost of

1 the services provided.

2 (2) All such fees collected by the department shall be  
3 remitted to the State Treasurer for credit to the Safe Drinking  
4 Water Act Cash Fund, which is hereby created. Such fund shall  
5 be used by the department for the purpose of administering the  
6 Nebraska Safe Drinking Water Act. Any money in the fund available  
7 for investment shall be invested by the state investment officer  
8 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
9 State Funds Investment Act.

10 Sec. 31. Section 71-5830.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 71-5830.01 Notwithstanding any other provisions of the  
13 Nebraska Health Care Certificate of Need Act, a certificate of need  
14 is not required for:

15 (1) A change in classification between an intermediate  
16 care facility, a nursing facility, or a skilled nursing facility;

17 (2) A project of a county in which is located a city of  
18 the metropolitan class for which a bond issue has been approved by  
19 the electorate of such county on or after January 1, 1994; and

20 (3) A project of a federally recognized Indian tribe  
21 to be located on tribal lands within the exterior boundaries of  
22 the State of Nebraska where (a) a determination has been made by  
23 the tribe's governing body that the cultural needs of the tribe's  
24 members cannot be adequately met by existing facilities if such  
25 project has been approved by the tribe's governing body and (b)

1 the tribe has a self-determination agreement in place with the  
2 Indian Health Service of the United States Department of Health and  
3 Human Services so that payment for enrolled members of a federally  
4 recognized Indian tribe who are served at such facility will be  
5 made with one hundred percent federal reimbursement.

6           Sec. 32. Section 71-7608, Revised Statutes Supplement,  
7 2007, as amended by section 7, Legislative Bill 606, One Hundredth  
8 Legislature, Second Session, 2008, is amended to read:

9           71-7608 The Nebraska Tobacco Settlement Trust Fund is  
10 created. The fund shall include any settlement payments or other  
11 revenue received by the State of Nebraska in connection with any  
12 tobacco-related litigation to which the State of Nebraska is a  
13 party. The Department of Health and Human Services shall remit such  
14 revenue to the State Treasurer for credit to the fund, except that  
15 ~~(1)~~ of such revenue received on or after April 1, 2005, two million  
16 five hundred thousand dollars shall be credited annually to the  
17 Tobacco Prevention and Control Cash Fund. Beginning in July 2008  
18 ~~and (2) within seven days after the effective date of this act,~~  
19 ~~and on July 1 of each year thereafter, on or before July 25, five~~  
20 hundred thousand dollars shall be ~~credited~~ transferred from the  
21 Nebraska Tobacco Settlement Trust Fund to the Stem Cell Research  
22 Cash Fund created under section 5 of this act. Subject to the  
23 terms and conditions of such litigation, money from the Nebraska  
24 Tobacco Settlement Trust Fund shall be transferred to the Nebraska  
25 Health Care Cash Fund as provided in section 71-7611. Any money in

1 the Nebraska Tobacco Settlement Trust Fund available for investment  
2 shall be invested by the state investment officer pursuant to  
3 the Nebraska Capital Expansion Act and the Nebraska State Funds  
4 Investment Act.

5 Sec. 33. Section 81-653, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 ~~81-653 It is the intent of sections 81-653 to 81-661 (1)~~  
8 Sections 81-653 to 81-660 and section 40 of this act shall be known  
9 and may be cited as the Brain Injury Registry Act.

10 (2) The intent of the Brain Injury Registry Act is  
11 to require the establishment and maintenance of a brain injury  
12 registry in and for the State of Nebraska.

13 (3) The purpose of the brain injury registry is to  
14 provide a central data bank of accurate, precise, and current  
15 information which will to assist in the statistical identification  
16 and of persons with brain or head injury, planning for the  
17 treatment and rehabilitation of such persons, and with brain or  
18 head injury and in the prevention of such injury.

19 Sec. 34. Section 81-654, Revised Statutes Supplement,  
20 2007, is amended to read:

21 81-654 For purposes of ~~sections 81-653 to 81-661~~ the  
22 Brain Injury Registry Act:

23 ~~(1) Brain injury registry shall mean the system of~~  
24 ~~reporting established by sections 81-653 to 81-661 in which cases~~  
25 ~~of brain or head injury in this state are reported and recorded~~

1 in order to achieve the goals of statistical identification and  
 2 planning for treatment and rehabilitation of persons with brain or  
 3 head injury and prevention of such injury;

4 ~~(2)~~ (1) Brain or head injury shall mean means clinically  
 5 evident neurotrauma resulting directly or indirectly from closed  
 6 or penetrating brain or head trauma, infection, febrile condition,  
 7 anoxia, vascular lesions, toxin, or spinal cord injury, not  
 8 primarily related to congenital or degenerative conditions,  
 9 chemical dependency, or aging processes, which impairs mental,  
 10 cognitive, behavioral, or physical functioning; and

11 ~~(3)~~ (2) Department shall mean means the Department of  
 12 Health and Human Services.

13 Sec. 35. Section 81-655, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 81-655 The department shall establish and maintain a  
 16 ~~central registry~~ the brain injury registry. The registry shall  
 17 consist of information concerning persons with brain or head  
 18 injury that occurs within the state. The registry shall include  
 19 such information as ~~7~~ which information the department deems  
 20 necessary and appropriate for the statistical identification ~~and~~  
 21 of persons with brain or head injury, planning for the treatment  
 22 and rehabilitation of such persons, ~~with brain or head injury~~ and  
 23 the prevention of such injury. Any information released from the  
 24 registry shall be disclosed as Class I, Class II, and Class IV data  
 25 as provided in sections 81-663 to 81-675.

1           Sec. 36. Section 81-656, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           81-656 In order to implement the intent and purposes  
4 of ~~section 81-653~~, the Brain Injury Registry Act, the department  
5 shall:

6           (1) Adopt and promulgate necessary rules and regulations,  
7 ~~including~~ to carry out the act, including, but not limited  
8 to, a uniform system of classification of brain or head injury  
9 which is consistent with medically and clinically accepted  
10 standards and definitions for use in reporting by treating medical  
11 personnel and hospitals. ~~The~~ In adopting and promulgating such  
12 rules and regulations, the department shall be guided by the  
13 standards and definitions of the International Classification of  
14 Disease, Clinical Modification Coding System of the World Health  
15 Organization; and

16           (2) Execute any contracts that the department deems  
17 necessary to carry out the act; and

18           ~~(2)~~ (3) Comply with all necessary requirements in order  
19 to obtain funds or grants.

20           Sec. 37. Section 81-657, Revised Statutes Supplement,  
21 2007, is amended to read:

22           81-657 (1) If a person with brain or head injury is  
23 ~~not admitted to a hospital within the state but~~ is treated in  
24 this state in the office of a physician or psychologist licensed  
25 ~~under the Uniform Credentialing Act,~~ to practice in this state

1 but is not admitted to a hospital within this state, the treating  
 2 physician or psychologist shall provide a report ~~the brain or head~~  
 3 of such injury to the department within thirty days after such  
 4 treatment and identification of the person sustaining such injury.  
 5 ~~Each treating physician or psychologist shall be required to report~~  
 6 ~~each brain or head injury only one time.~~

7 (2) ~~Each hospital and each rehabilitation center located~~  
 8 ~~within a hospital in the State of Nebraska shall annually report to~~  
 9 ~~the department a brain or head injury which results in admission~~  
 10 ~~or treatment.~~ If a person with brain or head injury is admitted to  
 11 or treated at a hospital or a rehabilitation center located within  
 12 a hospital in this state, such hospital or rehabilitation center  
 13 shall provide a report of such injury to the department within  
 14 thirty days after the discharge of such person from the hospital or  
 15 rehabilitation center.

16 (3) ~~The report~~ A report provided under this section shall  
 17 contain the following information about the person ~~sustaining the~~  
 18 who has sustained the brain or head injury, if known:

- 19 (a) Name;
- 20 ~~(b) Social security number;~~
- 21 ~~(c) (b) Date of birth;~~
- 22 ~~(d) (c) Gender;~~
- 23 ~~(e) (d) Residence;~~
- 24 ~~(f) (e) Date of the injury;~~
- 25 ~~(g) (f) Final diagnosis or classification of the injury~~

1 according to the International Classification of Disease, Clinical  
 2 Modification Coding System of the World Health Organization, as  
 3 adopted by the department;

4 ~~(h)~~ (g) Cause of the injury and, if practicable, whether  
 5 the injury resulted from an accident involving the use of alcohol;

6 ~~(i)~~ (h) Place or site of occurrence of the injury;

7 ~~(j)~~ (i) Identification of the reporting source;

8 ~~(k)~~ ~~Dispensation~~ (j) Disposition upon discharge;

9 ~~(l)~~ (k) Payor source; and

10 ~~(m)~~ (l) Any additional information the department can  
 11 demonstrate is reasonable in order to implement the purposes stated  
 12 in section 81-653, deems necessary and appropriate to carry out the  
 13 purposes of the Brain Injury Registry Act.

14 Sec. 38. Section 81-659, Reissue Revised Statutes of  
 15 Nebraska, is amended to read:

16 81-659 No patient-identifying data as defined in section  
 17 81-664 shall be ~~divulged~~, disclosed, made public, or released by  
 18 the department to any public or private person or entity. All other  
 19 data obtained from medical records of persons sustaining brain or  
 20 head injury is for the confidential use as Class I, Class II, or  
 21 Class IV data of the department and the private or public persons  
 22 or entities that the department determines may view such records as  
 23 provided in sections 81-663 to 81-675.

24 Sec. 39. Section 81-660, Revised Statutes Cumulative  
 25 Supplement, 2006, is amended to read:

1           81-660 No physician, psychologist, hospital, or  
2 administrator, officer, or employee of a hospital or medical  
3 professional who is in compliance with sections 81-657 and 81-663  
4 to 81-675 shall be civilly or criminally liable for ~~divulging~~  
5 disclosing the information required ~~pursuant to~~ under section  
6 81-657.

7           Sec. 40. Within thirty days after receiving a report of  
8 brain or head injury, the department shall provide relevant and  
9 timely information to the person with such injury to assist such  
10 person in accessing necessary and appropriate services relating  
11 to such injury. The department may develop such information or  
12 utilize information developed by other sources and approved by the  
13 department. The department may provide such information directly or  
14 contract with an appropriate entity to provide such information.  
15 Costs associated with providing such information shall be paid from  
16 cash funds, gifts, and grants. No General Funds shall be used to  
17 pay such costs. Funds received by the department for the payment of  
18 such costs shall be remitted to the State Treasurer for credit to  
19 the Health and Human Services Cash Fund. The department shall not  
20 be required to provide information under this section if sufficient  
21 funding is unavailable.

22           Sec. 41. Section 81-664, Revised Statutes Supplement,  
23 2007, is amended to read:

24           81-664 For purposes of sections 81-663 to 81-675:

25           (1) Aggregate data means data contained in the medical

1 record and health information registries maintained by the  
2 department which is compiled in a statistical format and which does  
3 not include patient-identifying data;

4 (2) Approved researcher means an individual or entity  
5 which is approved by the department pursuant to section 81-666 to  
6 obtain access to data contained in the medical record and health  
7 information registries maintained by the department to assist in  
8 the scientific or medical research for the prevention, cure, or  
9 control of a disease or injury process;

10 (3) Case-specific data means data contained in the  
11 medical record and health information registries concerning a  
12 specific individual other than patient-identifying data;

13 (4) Department means the Department of Health and Human  
14 Services;

15 (5) Medical record and health information registry means  
16 the system of reporting certain medical conditions occurring  
17 in this state, as prescribed by law, which are reported and  
18 recorded in order to achieve the goals of prevention, cure, and  
19 control through research and education, and includes the birth  
20 defects registry established in section 71-646, the cancer registry  
21 established in sections 81-642 to 81-650, the brain injury registry  
22 established in ~~sections 81-653 to 81-661,~~ the Brain Injury Registry  
23 Act, and the Parkinson's Disease Registry established in the  
24 Parkinson's Disease Registry Act;

25 (6) Patient-identifying data means the patient's name,

1 address, record number, symbol, or other identifying particular  
2 assigned to or related to an individual patient; and

3 (7) Research means study specific to the diseases or  
4 injuries for which access to data is requested and which is  
5 dedicated to the prevention, cure, or control of the diseases or  
6 injuries.

7 Sec. 42. Sections 1, 15, 16, 19, 20, 21, 22, 30, 33, 34,  
8 35, 36, 37, 38, 39, 40, 41, 45, and 47 of this act become operative  
9 three calendar months after the adjournment of this legislative  
10 session. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 23,  
11 24, 26, 27, 28, and 43 of this act become operative on December  
12 1, 2008. Sections 14 and 46 of this act become operative on July  
13 1, 2008. The other sections of this act become operative on their  
14 effective date.

15 Sec. 43. Original sections 38-101, 38-711, 38-1901,  
16 38-1902, 38-1907, 38-1915, 38-3321, 71-3503, 71-3505, 71-3507,  
17 71-3508.03, and 71-3517, Revised Statutes Supplement, 2007, are  
18 repealed.

19 Sec. 44. Original section 71-5830.01, Reissue Revised  
20 Statutes of Nebraska, sections 71-810 and 71-818, Revised Statutes  
21 Cumulative Supplement, 2006, section 71-3519, Revised Statutes  
22 Supplement, 2007, and section 71-7608, Revised Statutes Supplement,  
23 2007, as amended by section 7, Legislative Bill 606, One Hundredth  
24 Legislature, Second Session, 2008, are repealed.

25 Sec. 45. Original sections 30-2483, 81-653, 81-655, and

1 81-659, Reissue Revised Statutes of Nebraska, sections 68-909,  
2 81-656, and 81-660, Revised Statutes Cumulative Supplement, 2006,  
3 and sections 68-949, 71-1910, 71-2619, 71-2620, 71-2621, 71-5306,  
4 81-654, 81-657, and 81-664, Revised Statutes Supplement, 2007, are  
5 repealed.

6           Sec. 46. Original section 43-4001, Revised Statutes  
7 Supplement, 2007, is repealed.

8           Sec. 47. The following sections are outright repealed:  
9 Sections 71-545, 71-546, 71-547, 71-548, 71-549, 71-550, and  
10 81-661, Revised Statutes Supplement, 2007.

11           Sec. 48. Since an emergency exists, this act takes effect  
12 when passed and approved according to law.