

**SIXTEENTH DAY - JANUARY 25, 2007****LEGISLATIVE JOURNAL****ONE HUNDREDTH LEGISLATURE  
FIRST SESSION****SIXTEENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, January 25, 2007

**PRAYER**

The prayer was offered by Pastor Andrew DeGolyer, Unadilla Christian Church, Unadilla.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Langemeier presiding.

The roll was called and all members were present except Senator Cornett who was excused; and Senators Engel, Loudon, Mines, Nantkes, and Preister who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the fifteenth day was approved.

**ATTORNEY GENERAL'S OPINION**Opinion 07002

DATE: January 24, 2007

SUBJECT: Unlicensed Assistants Under the Nebraska Veterinary Practice Act

REQUESTED BY: Senator Chris Langemeier

WRITTEN BY: Jon Bruning, Attorney General  
Lynn A. Melson, Assistant Attorney General

You have requested our opinion concerning the use of unlicensed assistants under the Nebraska Veterinary Practice Act. Neb. Rev. Stat. §§ 71-1,152.01 to 71-1,166 (2003). Your specific questions are as follows:

Question 1: May individuals licensed under other provisions of the Uniform

Licensing Law such as chiropractors, massage or physical therapists, be treated as unlicensed assistants, when they perform services on animals, under the above referenced statute?

Question 2: May the Department of Health and Human Services adopt regulations allowing a veterinarian to delegate performance of health care tasks such as those referred to above to be administered under his or her supervision? It would be assumed that the individual, licensed or unlicensed, who is acting as a veterinary assistant under either the direct or indirect supervision of a licensed veterinarian, would not be directly involved in the billing process of customers and may or may not be providing said services at the supervising veterinarian's primary office location.

### RESPONSE TO QUESTION 1

You first ask whether health care professionals credentialed by the Department of Health and Human Services Regulation and Licensure, other than a licensed veterinarian or veterinary technician, may perform services on animals as "unlicensed assistants." You mentioned chiropractors, massage therapists and physical therapists in your opinion request letter. The scope of practice of all four health care professions is statutorily defined. Such licensing statutes make it unlawful to do, without a license, those things that are within the definition or scope of practice of that profession. The practice of veterinary medicine and surgery is defined at Neb. Rev. Stat. § 71-1,154(3) as follows:

"(3) Practice of veterinary medicine and surgery means:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy or for correcting sterility or infertility. The acts described in this subdivision shall not be done without a valid veterinarian-client-patient relationship;

(b) To render advice or recommendation with regard to any act described in subdivision (a) of this subdivision;..."

This broad definition appears to include all treatment of animal injury and disease including the administration of therapeutic substances or techniques.

The scopes of practice for chiropractors, massage therapists and physical therapists are found at Neb. Rev. Stat. § 71-177 (2003), Neb. Rev. Stat. § 71-1,278 (2003) and Neb. Rev. Stat. § 71-1,376 (Laws 2006, LB 994, Section 132) respectively. The statutes defining the scope of practice for these three health care professions do not, on their face, include the

treatment of animals. In fact, Neb. Rev. Stat. § 71-177, pertaining to the practice of chiropractic refers specifically to the human body. Statutory language would generally be given its plain and ordinary meaning and where the words of the statute are plain, direct and unambiguous, no interpretation is necessary to ascertain their meaning. *State v. Burlison*, 255 Neb. 190, 195, 583 N.W.2d 31, 35 (1998); *Sorensen v. Meyer*, 220 Neb. 457, 370 N.W.2d 173 (1985). Furthermore, the components of a series or collection of statutes pertaining to a certain subject matter may be conjunctively considered and construed so that different provisions of the act are consistent, harmonious and sensible. *State v. Seberger*, 257 Neb. 747, 601 N.W.2d 229 (1999). In this situation, we have also considered Neb. Rev. Stat. § 71-1,155 which provides certain exceptions to the licensing requirements of the Nebraska Veterinary Practice Act. The Legislature has created no exception therein for a member of another health care profession which is credentialed by the Department. Considering all of these statutes together, it is apparent that the practice of veterinary medicine is limited to those individuals licensed as a veterinarian or veterinary technician.

You have inquired whether these other health care professionals could be treated as "unlicensed assistants" so as to be able to perform services within their licensed areas of practice on animals. For purposes of the Nebraska Veterinary Practice Act, an unlicensed assistant is defined as "an individual who is not a veterinarian or a veterinary technician who is working in veterinary medicine." Neb. Rev. Stat. § 71-1,154(13). In our view, the terms "assistant" and "working in veterinary medicine" support the conclusion that some sort of employment relationship exists between an unlicensed assistant and the veterinarian with whom he or she practices. Also, our review of the regulations adopted by the Department of Health and Human Services Regulation and Licensure at 172 NAC 180, including those pertaining to tasks which may be performed by unlicensed assistants at § 004.02, reveal no intent to authorize other health care professionals to perform services on animals or to be treated as unlicensed assistants. Therefore, it is our opinion that individuals licensed under other provisions of the Uniform Licensing Law, such as chiropractors, massage or physical therapists, may not currently be treated as unlicensed assistants pursuant to § 71-1,154(13).

## RESPONSE TO QUESTION 2

Your second question is whether the Department may adopt regulations which would allow a veterinarian to delegate the performance of certain treatment procedures to be administered under his or her supervision. As indicated above, while Nebraska statutes currently allow veterinarians to delegate certain tasks to unlicensed assistants who are "working in veterinary medicine" it does not appear that it was the intent of the Legislature to allow the delegation of tasks in the treatment of animals to other health care professionals credentialed by the Department through this statutory authorization of unlicensed assistants. Therefore, in our view, a statutory change would be necessary to authorize either a change in the scopes of practice for chiropractors, massage therapists and physical

therapists or to establish some fashion of collaborative practice between these health care professionals and licensed veterinarians. While the Department is given broad authority pursuant to Neb. Rev. Stat. § 71-1,166 to adopt rules and regulations with regard to which tasks may be performed by a veterinary technician or by unlicensed assistants, we think it doubtful that the Legislature intended this delegation model to apply to health care professionals working in areas other than veterinary medicine. Therefore, while the answer to your second question is not clear, it appears to us that the better answer is that the Department currently lacks authority for such regulations. As a statutory change would more clearly provide authorization for a shared or collaborative practice, the introduction of legislation may well be advised.

Sincerely,  
JON BRUNING  
Attorney General  
(Signed) Lynn A. Melson  
Assistant Attorney General

9-448-24

### MESSAGE FROM THE GOVERNOR

January 23, 2007

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Senators:

Contingent upon your approval, the following individuals are being appointed to the Foster Care Review Board:

Melisa (Lisa) M. Borchardt, 2626 South 34th Street, Lincoln NE 68506  
Sarah Ann Lewis, 702 North 49th Street, Omaha NE 68132

The aforementioned appointees are respectfully submitted for your consideration. Copies of the appointment certificates and applications are attached for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

**MOTION - Withdraw LB 414**

Senator Flood renewed his motion, found on page 359, to withdraw LB 414.

The Flood motion to withdraw prevailed with 29 ayes, 0 nays, 14 present and not voting, and 6 excused and not voting.

**GENERAL FILE**

**LEGISLATIVE BILL 63.** Title read. Considered.

**SPEAKER FLOOD PRESIDING**

Advanced to E & R for review with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 74.** Title read. Considered.

Advanced to E & R for review with 42 ayes, 0 nays, 5 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 111.** Title read. Considered.

Advanced to E & R for review with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 110.** Title read. Considered.

Committee AM78, found on page 351, was adopted with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

**RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR 9 was adopted.

**SPEAKER SIGNED**

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 9.

**NOTICE OF COMMITTEE HEARINGS**

**Education**  
Room 1525

Monday, February 5, 2007

1:30 p.m.

Larry Teahon - Board of Trustees of the Nebraska State Colleges

Monday, March 5, 2007

1:30 p.m.

J. Richard Shoemaker - Nebraska Educational Telecommunications Commission

(Signed) Ron Raikes, Chairperson

**COMMITTEE REPORTS****Revenue****LEGISLATIVE BILL 315.** Placed on General File.**LEGISLATIVE BILL 344.** Placed on General File.**LEGISLATIVE BILL 305.** Placed on General File - Com AM98.  
AM98

- 1 1. On page 2, lines 17 and 20, after "lease" insert "for
- 2 periods of more than thirty-one days".

(Signed) Ray Janssen, Chairperson

**Government, Military and Veterans Affairs****LEGISLATIVE BILL 27.** Placed on General File.

(Signed) Ray Aguilar, Chairperson

**Health and Human Services****LEGISLATIVE BILL 185.** Placed on General File.**LEGISLATIVE BILL 283.** Placed on General File.**LEGISLATIVE BILL 296.** Placed on General File - Com AM74.  
AM74

- 1 1. Strike original sections 1 to 7 and insert the
- 2 following sections:
- 3 Section 1. Sections 1 to 16 of this act shall be known
- 4 and may be cited as the Health and Human Services System Act.
- 5 Sec. 2. The purposes of the Health and Human Services
- 6 System Act are to (1) provide for the administration of publicly
- 7 funded health and human services programs and services in the
- 8 State of Nebraska through the Health and Human Services System;
- 9 (2) transfer programs, services, and duties of the Department of
- 10 Health and Human Services, the Department of Health and Human

11 Services Regulation and Licensure, and the Department of Health  
12 and Human Services Finance and Support to a single state agency  
13 to be known as the Health and Human Services System; (3) create  
14 six departments within the Health and Human Services System; (4)  
15 require the appointment by the Governor of a single chief executive  
16 officer for the system, a director for each of the six departments  
17 of the system, and a chief medical officer; and (5) clarify the  
18 system's core missions, scope, functions, and responsibilities;  
19 ensure and improve accountability, collaboration, and coordination;  
20 and enhance services provided to Nebraskans by the system.

21 Sec. 3. Effective July 1, 2007, all programs, services,  
22 and duties of the Department of Health and Human Services, the  
23 Department of Health and Human Services Regulation and Licensure,  
1 and the Department of Health and Human Services Finance and Support  
2 shall be transferred to the Health and Human Services System.

3 Sec. 4. The Health and Human Services System is created.  
4 The system shall have six departments to be known as (1) the  
5 Department of Behavioral Health, (2) the Department of Children and  
6 Family Services, (3) the Department of Developmental Disabilities,  
7 (4) the Department of Medicaid and Long-Term Care, (5) the  
8 Department of Public Health, and (6) the Department of Veterans'  
9 Homes.

10 Sec. 5. The Governor shall appoint the chief executive  
11 officer of the Health and Human Services System who shall have  
12 recognized and demonstrated knowledge and expertise in the delivery  
13 of publicly funded health and human services programs and services  
14 and administrative experience in an executive capacity. The chief  
15 executive officer shall report to the Governor and serve at the  
16 pleasure of the Governor. The chief executive officer shall be  
17 subject to confirmation by a majority vote of the members of the  
18 Legislature.

19 Sec. 6. (1) The Governor shall appoint a director for  
20 each department created in section 4 of this act who shall serve  
21 at the pleasure of the Governor and shall report to the chief  
22 executive officer. Each department director shall be subject to  
23 confirmation by a majority of the members of the Legislature.

24 (2) If the Director of Public Health is licensed to  
25 practice medicine and surgery in the State of Nebraska, he or  
26 she shall also be the chief medical officer. If the Director of  
27 Public Health is not licensed to practice medicine and surgery in  
1 the State of Nebraska, the Governor shall appoint a chief medical  
2 officer in addition to the Director of Public Health. The chief  
3 medical officer shall be licensed to practice medicine and surgery  
4 in the State of Nebraska, shall serve at the pleasure of the  
5 Governor, and shall be subject to confirmation by a majority of the  
6 members of the Legislature.

7 (3) The chief medical officer shall perform duties under  
8 the Uniform Licensing Law enumerated in section 71-155.01 and  
9 shall be the final decisionmaker in contested cases of (a) health

10 care facilities defined in the Health Care Facility Licensure Act  
 11 arising under the act and sections 71-6042 and 81-604.03, (b)  
 12 occupations defined in subdivisions (2) and (4) of section 71-6038,  
 13 and (c) the Medication Aide Act.

14 Sec. 7. The responsibilities of the departments created  
 15 in section 4 of this act include, but are not limited to, the  
 16 following:

17 (1) The Department of Behavioral Health shall administer  
 18 (a) the state hospitals for the mentally ill designated in section  
 19 83-305 and (b) publicly funded community-based behavioral health  
 20 services;

21 (2) The Department of Children and Family Services  
 22 shall administer (a) protection and safety programs and services,  
 23 including child welfare programs and services and the Office of  
 24 Juvenile Services, (b) economic and family support programs and  
 25 services, and (c) service areas as may be designated by the  
 26 chief executive officer or by the Director of Children and Family  
 27 Services under authority of the chief executive officer;

1 (3) The Department of Developmental Disabilities shall  
 2 administer (a) the Beatrice State Developmental Center and  
 3 (b) publicly funded community-based developmental disabilities  
 4 services;

5 (4) The Department of Medicaid and Long-Term Care shall  
 6 administer (a) the medical assistance program also known as  
 7 medicaid, (b) aging services, and (c) other related programs  
 8 and services;

9 (5) The Department of Public Health shall administer  
 10 (a) preventive and community health programs and services, (b)  
 11 the regulation and licensure of health-related professions and  
 12 occupations, and (c) the regulation and licensure of health care  
 13 facilities and health care services; and

14 (6) The Department of Veterans' Homes shall administer  
 15 (a) the Eastern Nebraska Veterans' Home, (b) the Grand Island  
 16 Veterans' Home, (c) the Norfolk Veterans' Home, and (d) the Western  
 17 Nebraska Veterans' Home.

18 Sec. 18. Section 80-314, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20 80-314 ~~The Division of Veterans Homes is created within~~  
 21 ~~the Department of Health and Human Services. The Director of Health~~  
 22 ~~and Human Services shall appoint a director of the division who~~  
 23 ~~is responsible to the Director of Health and Human Services. The~~  
 24 ~~department-Department of Veterans' Homes shall be responsible for~~  
 25 ~~the management and administration of the homes and the treatment of~~  
 26 ~~the members thereof, define the duties of the officers, fix their~~  
 27 ~~compensation, and adopt and promulgate rules and regulations. The~~  
 1 ~~division director-Director of Veterans' Homes and the Director of~~  
 2 ~~Veterans' Affairs are jointly responsible for shall jointly develop~~  
 3 member grievance procedures, family support programs, volunteer  
 4 support, policy, and internal standards. The Director of Veterans'



- 5 Affairs shall have access to all confidential information relating  
6 to members' care.
- 7 2. On page 14, reinstate beginning with "The" in line  
8 2 through the first "the" in line 3 and after the reinstated  
9 "the" insert "chief executive officer of the system or his or her  
10 designee"; and reinstate beginning with "and" in line 4 through the  
11 period in line 5.
- 12 3. On page 15, line 16, strike "elected" and insert  
13 "selected".
- 14 4. On page 21, line 23, strike the new matter; after line  
15 23 insert  
16 "(t)(i) The Director of Behavioral Health of the  
17 Department of Behavioral Health; (ii) the Director of Children and  
18 Family Services of the Department of Children and Family Services;  
19 (iii) the Director of Developmental Disabilities of the Department  
20 of Developmental Disabilities; (iv) the Director of Medicaid and  
21 Long-Term Care of the Department of Medicaid and Long-Term Care;  
22 (v) the Director of Public Health of the Department of Public  
23 Health; and (vi) the Director of Veterans' Homes of the Department  
24 of Veterans' Homes;"; in line 24 strike "(t)", show as stricken  
25 and insert "(u)"; and in line 26 after "act" insert ", the  
26 Administrator of the Office of Juvenile Services,".
- 27 5. On page 22, line 7, strike "(u)", show as stricken and  
1 insert "(v)"; and in line 13 strike "(v)", show as stricken, and  
2 insert "(w)".
- 3 6. On page 23, line 25, strike "and 81-3303" and insert  
4 "81-3303, and 83-125".
- 5 7. Renumber the remaining sections and correct the  
6 repealer accordingly.

(Signed) Joel Johnson, Chairperson

### REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the following report:

Borchardt, Melisa (Lisa) M. - Foster Care Review Board - Health and Human Services

Lewis, Sarah Ann - Foster Care Review Board - Health and Human Services

(Signed) Pat Engel, Chairperson  
Legislative Council, Executive Board

**GENERAL FILE**

**LEGISLATIVE BILL 148.** Title read. Considered.

Senator Langemeier offered the following amendment:

FA3

Insert the word "rear" on Page 3 Line 27 after the word "two"

Senator Langemeier withdrew his amendment.

Senator Langemeier offered the following amendment:

FA5

Strike the word "two" page 3 line 27 and insert "single rear"; Page 3 Line 27 strike the "s" on the word "axles"

The Langemeier amendment was adopted with 32 ayes, 0 nays, 14 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 36 ayes, 1 nay, 9 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 206.** Title read. Considered.

Advanced to E & R for review with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 207.** Title read. Considered.

Advanced to E & R for review with 40 ayes, 0 nays, 7 present and not voting, and 2 excused and not voting.

**LEGISLATIVE BILL 35.** Title read. Considered.

Committee AM9, found on page 357, was adopted with 36 ayes, 0 nays, 10 present and not voting, and 3 excused and not voting.

Advanced to E & R for review with 41 ayes, 0 nays, 5 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 43.** Title read. Considered.

Committee AM12, found on page 357, was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

**COMMITTEE REPORT**  
**Natural Resources**

**LEGISLATIVE BILL 333.** Placed on General File - Com AM90.  
AM90

- 1 1. Strike the original sections and insert the following  
2 new sections:  
3 Section 1. Section 81-15,236, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:  
5 81-15,236 Sections 81-15,236 to 81-15,253 and sections 5  
6 and 7 of this act shall be known and may be cited as the Private  
7 Onsite Wastewater Treatment System Contractors Certification and  
8 System Registration Act.  
9 Sec. 2. Section 81-15,237, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:  
11 81-15,237 The purposes of the Private Onsite Wastewater  
12 Treatment System Contractors Certification and System Registration  
13 Act are to:  
14 (1) Protect the air, water, and land of the state through  
15 the certification and regulation of private onsite wastewater  
16 treatment system professionals in Nebraska;  
17 (2) Require certified professionals for siting, layout,  
18 construction, closure, reconstruction, alteration, modification,  
19 repair, inspection, and pumping of private onsite wastewater  
20 treatment systems and require that all siting, layout,  
21 construction, closure, reconstruction, alteration, modification,  
22 repair, inspection, or pumping of any private onsite wastewater  
23 treatment system ~~after August 31, 2003~~, be done by certified  
1 professionals in accordance with the act and rules and regulations  
2 adopted under the act;  
3 (3) Provide for the registration of all private onsite  
4 wastewater treatment systems constructed, reconstructed, altered,  
5 or modified after August 31, 2003;  
6 (4) Provide for review of plans and specifications,  
7 issuance of permits and approvals, construction standards, and  
8 requirements necessary for proper operation and maintenance of all  
9 private onsite wastewater treatment systems;  
10 ~~(4)-(5)~~ (5) Protect the health and general welfare of the  
11 citizens of Nebraska; and  
12 ~~(5)-(6)~~ (6) Protect the air, water, and land of the state  
13 from potential pollution by providing for proper siting, layout,  
14 construction, closure, reconstruction, alteration, modification,  
15 repair, and pumping of private onsite wastewater treatment systems.  
16 Sec. 3. Section 81-15,247, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:  
18 81-15,247 The council shall adopt and promulgate rules  
19 and regulations to carry out the Private Onsite Wastewater  
20 Treatment System Contractors Certification and System Registration  
21 Act. Such rules and regulations shall provide for, but not be

22 limited to:

23 (1) Certification of private onsite wastewater treatment  
24 system professionals;

25 (2) Establishing categories for such professionals to be  
26 certified under the act;

27 (3) ~~Temporary, provisional, and hardship~~ Hardship  
1 certifications;

2 (4) Examination requirements for certification;

3 (5) Continuing education requirements for certification;

4 (6) A fee schedule which ~~shall cover~~ covers direct and  
5 indirect costs to administer the act. Such costs include (a) ,  
6 ~~including, but not limited to,~~ system registration, late fees for  
7 system registration, application for certification, examination,  
8 and renewal, late fees for renewal, ~~temporary, provisional, and~~  
9 ~~hardship certifications, and~~ fees for continuing education classes  
10 offered or approved by the department, and administration and  
11 enforcement and (b) development and enforcement of standards;

12 (7) Requirements for the registration of private onsite  
13 wastewater treatment systems to be constructed, reconstructed,  
14 altered, modified, or inspected by professionals certified under  
15 the act; and

16 (8) Requiring that all private onsite wastewater  
17 treatment system siting, layout, construction, closure,  
18 reconstruction, alteration, modification, repair, inspection,  
19 or pumping be performed by certified professionals in accordance  
20 with the act, rules and regulations adopted under the act, and  
21 other rules and regulations adopted and promulgated by the council.

22 Sec. 4. Section 81-15,248, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 81-15,248 (1) ~~Beginning January 1, 2004, a~~ A private  
25 onsite wastewater treatment system shall not be sited, laid out,  
26 constructed, closed, reconstructed, altered, modified, repaired,  
27 inspected, or pumped unless the siting, layout, construction,  
1 closure, reconstruction, alteration, modification, repair,  
2 inspection, or pumping is carried out or supervised by either a  
3 certified professional as required by the Private Onsite Wastewater  
4 Treatment System Contractors Certification and System Registration  
5 Act, a professional engineer licensed in Nebraska, or a registered  
6 environmental health specialist registered in Nebraska.

7 (2) ~~Beginning January 1, 2004, any~~ Any private onsite  
8 wastewater treatment system constructed, reconstructed, altered,  
9 or modified by a certified professional, professional engineer  
10 licensed in Nebraska, or registered environmental health specialist  
11 registered in Nebraska shall be registered with the department by  
12 the certified professional, professional engineer, or registered  
13 environmental health specialist within forty-five days of  
14 completion of the construction, reconstruction, alteration, or  
15 modification. The certified professional, professional engineer,  
16 or registered environmental health specialist shall submit the

17 registration on forms provided by the department and shall include  
18 the registration fee. The registration fee shall be fifty dollars  
19 until rules and regulations adopted and promulgated under the act  
20 provide a schedule of system registration fees adequate to cover  
21 direct and indirect program costs.

22 (3) ~~The department may issue a temporary provisional~~  
23 ~~certificate which shall satisfy the requirements of subsection (1)~~  
24 ~~of this section until December 31, 2005, to an individual who~~  
25 ~~applies to the department and includes with the application (a) a~~  
26 ~~fee of three hundred dollars and (b) a properly executed and sworn~~  
27 ~~affidavit stating that the applicant was engaged in activity~~  
1 ~~relating to the siting, layout, construction, reconstruction,~~  
2 ~~alteration, modification, repair, inspection, or pumping of a~~  
3 ~~private onsite wastewater treatment system for at least twelve~~  
4 ~~months preceding August 31, 2003. The affidavit shall specify the~~  
5 ~~activity or activities listed in this subsection in which the~~  
6 ~~applicant was engaged during such time.~~

7 (4) ~~All temporary provisional certificates issued~~  
8 ~~pursuant to subsection (3) of this section shall be subject to all~~  
9 ~~administrative and enforcement authority of the department under~~  
10 ~~the act and any rules and regulations relating to private onsite~~  
11 ~~wastewater treatment systems adopted and promulgated by the council~~  
12 ~~under the Environmental Protection Act.~~

13 (5) ~~All temporary provisional certificates issued under~~  
14 ~~subsection (3) of this section shall expire on December 31,~~  
15 ~~2005. Any individual holding a temporary provisional certificate~~  
16 ~~wishing to become a certified professional under the Private Onsite~~  
17 ~~Wastewater Treatment System Contractors Certification and System~~  
18 ~~Registration Act shall before such date meet the requirements for~~  
19 ~~such certification contained in the rules and regulations of the~~  
20 ~~council adopted and promulgated pursuant to section 81-15,247.~~

21 ~~(6)-(3) The director by contract may delegate onsite~~  
22 ~~wastewater treatment system inspection and registration to a~~  
23 ~~governmental subdivision which has adopted a program at least~~  
24 ~~as stringent as the requirements provided by the Private Onsite~~  
25 ~~Wastewater Treatment System Contractors Certification and System~~  
26 ~~Registration Act and which has demonstrated authority to administer~~  
27 ~~and enforce its onsite wastewater treatment system inspection and~~  
1 ~~registration program.~~

2 (4) The director may waive certification and examination  
3 fees for inspectors employed by a governmental agency or  
4 subdivision which has adopted and has the authority to enforce  
5 an inspection and compliance program at least as stringent  
6 as the standards for siting, layout, construction, closure,  
7 reconstruction, alteration, modification, repair, inspection, and  
8 pumping provided by the Private Onsite Wastewater Treatment System  
9 Contractors Certification and System Registration Act and rules and  
10 regulations under the act adopted and promulgated by the council.

11 Sec. 5. The council shall adopt and promulgate rules

12 and regulations to develop a fee schedule which covers direct  
13 and indirect costs to administer requirements related to private  
14 onsite wastewater treatment systems authorized by the Environmental  
15 Protection Act. Such costs include costs related to review of  
16 submitted plans and specifications, issuance of permits and  
17 approvals, proper operation and maintenance, development and  
18 enforcement of standards, closure, and necessary administration and  
19 enforcement.

20 Sec. 6. Section 81-15,250, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 81-15,250 The Private Onsite Wastewater Treatment System  
23 Permit and Approval Cash Fund is created. Fees collected pursuant  
24 to the Private Onsite Wastewater Treatment System Contractors  
25 Certification and System Registration Act section 5 of this act  
26 shall be remitted to the State Treasurer for credit to the fund.

27 The fund shall be administered by the department. Any money in  
1 the fund available for investment shall be invested by the state  
2 investment officer pursuant to the Nebraska Capital Expansion Act  
3 and the Nebraska State Funds Investment Act.

4 Any money remaining in the Private Onsite Wastewater  
5 Treatment System Cash Fund on the effective date of this act shall  
6 be transferred to the Private Onsite Wastewater Treatment System  
7 Certification and Registration Cash Fund created under section 7 of  
8 this act on such date.

9 Sec. 7. The Private Onsite Wastewater Treatment System  
10 Certification and Registration Cash Fund is created. Fees collected  
11 pursuant to sections 81-15,247 and 81-15,248 shall be remitted to  
12 the State Treasurer for credit to the fund. The fund shall be  
13 administered by the department. Any money in the fund available  
14 for investment shall be invested by the state investment officer  
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
16 State Funds Investment Act.

17 Sec. 8. Original sections 81-15,236, 81-15,237,  
18 81-15,247, 81-15,248, and 81-15,250, Revised Statutes Cumulative  
19 Supplement, 2006, are repealed.

20 Sec. 9. Since an emergency exists, this act takes effect  
21 when passed and approved according to law.

(Signed) LeRoy Loudon, Chairperson

### **UNANIMOUS CONSENT - Room Change**

Senator Cornett asked unanimous consent that the Business and Labor Committee conduct its hearing on Monday, January 29, 2007, in Room 1524 instead of Room 2102. No objections. So ordered.

**NOTICE OF COMMITTEE HEARING**  
**Judiciary**  
 Room 1113

|        |                            |           |
|--------|----------------------------|-----------|
| LB 137 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 152 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 220 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 586 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 384 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 618 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 619 | Thursday, February 1, 2007 | 1:30 p.m. |
| LB 620 | Thursday, February 1, 2007 | 1:30 p.m. |

(Signed) Steve Lathrop, Vice Chairperson

**UNANIMOUS CONSENT - Add Cointroducers**

Senator Fischer asked unanimous consent to add her name as cointroducer to LB 264. No objections. So ordered.

Senator Schimek asked unanimous consent to add her name as cointroducer to LB 335. No objections. So ordered.

Senator Dubas asked unanimous consent to add her name as cointroducer to LB 341. No objections. So ordered.

Senator Mines asked unanimous consent to add his name as cointroducer to LB 441. No objections. So ordered.

Senator Pahls asked unanimous consent to add his name as cointroducer to LB 700. No objections. So ordered.

**WITHDRAW - Cointroducer**

Senator Lathrop withdrew his name as cointroducer to LB 182.

**VISITORS**

Visitors to the Chamber were Matthew Gerber from Beatrice and Ryan Pitkin from Callaway; and Nebraska Nurses Association members and student nurses from across the state.

The Doctor of the Day was Dr. Brent Barnstubble from Bellevue.

**ADJOURNMENT**

At 11:53 a.m., on a motion by Senator Harms, the Legislature adjourned until 9:00 a.m., Friday, January 26, 2007.

Patrick J. O'Donnell  
Clerk of the Legislature