

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 913

Introduced by Council, 11.

Read first time January 12, 2010

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to employment; to amend sections 2-1203.02,
2 7-102, 9-1,104, 14-702, 19-1831, 38-131, 43-3201,
3 43-3709, 45-905, 53-131.01, 71-1903, 71-1912, 71-3205,
4 71-3505, 71-5908, 71-6503, 71-7448, 75-903.02, 79-814.01,
5 81-885.13, 81-885.17, 83-1217.01, and 88-528.01, Reissue
6 Revised Statutes of Nebraska, section 48-2521, Revised
7 Statutes Cumulative Supplement, 2008, and sections
8 45-705, 79-808, 81-6,120, 83-1217, and 83-1217.02,
9 Revised Statutes Supplement, 2009; to adopt the Criminal
10 Offender Employment Act; to harmonize provisions; and to
11 repeal the original sections.

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

1 Section 1. Sections 1 through 6 of this act shall be
2 known and may be cited as the Criminal Offender Employment Act.

3 Sec. 2. The Legislature finds that the public is best
4 protected when criminal offenders or ex-convicts are given the
5 opportunity to secure employment or to engage in a lawful trade,
6 occupation, or profession and that barriers to such employment
7 should be removed to make rehabilitation feasible.

8 Sec. 3. (1) Subject to this section and section 4 of
9 this act, in determining eligibility for employment with the state
10 or any of its political subdivisions or for a license, permit,
11 certificate, or other authority to engage in any regulated trade,
12 business, or profession, the regulatory board or other department
13 or agency having jurisdiction may take into consideration a
14 conviction, but the conviction shall not operate as an automatic
15 bar to obtaining public employment or license or other authority
16 to practice the trade, business, or profession. A regulatory
17 board, department, or agency shall not make an inquiry regarding a
18 conviction on an initial application for employment and shall only
19 take into consideration a conviction after the applicant has been
20 selected as a finalist for the position.

21 (2) The following criminal records shall not be used,
22 distributed, or disseminated in connection with an application for
23 any public employment, license, or other authority:

24 (a) Records of arrest not followed by a valid conviction;
25 and

1 (b) Misdemeanor convictions not involving moral
2 turpitude.

3 Sec. 4. (1) Any regulatory board, department, or agency
4 having jurisdiction over employment by the state or any of its
5 political subdivisions or the practice of any trade, business, or
6 profession may refuse to grant or renew or may suspend or revoke
7 any public employment or license or other authority to engage in
8 the public employment, trade, business, or profession for any one
9 or any combination of the following causes:

10 (a) If the applicant, employee, or licensee has been
11 convicted of any felony or of a misdemeanor involving moral
12 turpitude and the criminal conviction directly relates to the
13 particular employment, trade, business, or profession;

14 (b) If the applicant, employee, or licensee has been
15 convicted of a felony or a misdemeanor involving moral turpitude
16 and the criminal conviction does not directly relate to the
17 particular employment, trade, business, or profession, if the
18 regulatory board or other agency determines after investigation
19 that the person so convicted has not been sufficiently
20 rehabilitated to warrant the public trust; or

21 (c) If the applicant, employee, or licensee has been
22 convicted of trafficking in controlled substances, criminal sexual
23 penetration or related sexual offenses, or child abuse and the
24 applicant, employee, or licensee has applied for reinstatement
25 or issuance of a teaching certificate, a license to operate

1 a child-care facility, or employment at a child-care facility,
2 regardless of rehabilitation.

3 (2) The regulatory board, department, or agency shall
4 explicitly state in writing the reasons for a decision which
5 prohibits the person from engaging in the employment, trade,
6 business, or profession if the decision is based in whole or in
7 part on conviction of any crime described in subdivision (1)(a)
8 or (1)(c) of this section. Completion of probation or parole
9 supervision or expiration of a period of three years after final
10 discharge or release from any term of imprisonment without any
11 subsequent conviction shall create a presumption of sufficient
12 rehabilitation for purposes of subdivision (1)(b) of this section.

13 Sec. 5. The Criminal Offender Employment Act is not
14 applicable to any law enforcement agency; however a law enforcement
15 agency may adopt the policy set forth in the act.

16 Sec. 6. The provisions of the Criminal Offender
17 Employment Act relating to any regulatory board, department, or
18 agency which has jurisdiction over the practice of any trade,
19 business, or profession apply to authorities made subject to its
20 coverage by law or by any such authorities' rules or regulations
21 if permitted by law.

22 Sec. 7. Section 2-1203.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 2-1203.02 (1) Subject to the restrictions of the Criminal
25 Offender Employment Act: Any person applying for or holding a

1 license to participate in or be employed at a horserace meeting
2 licensed by the State Racing Commission shall be subject to
3 fingerprinting and a check of his or her criminal history
4 record information maintained by the Identification Division of
5 the Federal Bureau of Investigation for the purpose of determining
6 whether the commission has a basis to deny the license application
7 or to suspend, cancel, or revoke the person's license, except that
8 the commission shall not require a person to be fingerprinted if
9 such person has been previously fingerprinted in connection with
10 a license application in this state or any other state within the
11 last five years prior to the application for such license. Any
12 person involved in the administration or management of a racetrack,
13 including the governing body, shall be subject to fingerprinting
14 and a check of his or her criminal history record information
15 maintained by the Identification Division of the Federal Bureau
16 of Investigation. The applicant, licensee, or person involved in
17 the administration or management of a racetrack shall pay the
18 actual cost of any fingerprinting or check of his or her criminal
19 history record information. The requirements of this subsection
20 shall not apply to employees of concessions who do not work in
21 restricted-access areas, admissions employees whose duties involve
22 only admissions ticket sales and verification or parking receipts
23 sales and verification, and medical or emergency services personnel
24 authorized to provide such services at the racetrack.

25 (2) If the applicant is an individual who is applying for

1 a license to participate in or be employed at a horserace meeting,
2 the application shall include the applicant's social security
3 number.

4 Sec. 8. Section 7-102, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 7-102 (1) Admission to the Nebraska bar shall be
7 governed by admission standards and procedures established by
8 rules adopted by the Supreme Court. Such standards may include,
9 without limitation, educational requirements, character and fitness
10 standards, and satisfactory performance on a bar examination
11 testing the applicant's knowledge of such legal principles as the
12 court may determine. No person shall be admitted to the Nebraska
13 bar, nor permitted to retain such admittance, unless it is shown to
14 the satisfaction of the Supreme Court that such person is of good
15 moral character. The Supreme Court may appoint a bar commission,
16 designated as the Nebraska State Bar Commission, composed of not
17 less than six persons learned in the law to assist in or conduct
18 any bar examination and, by rule of court, to assist the Supreme
19 Court in matters pertaining to bar admission.

20 ~~(2)~~ (2) (a) The application for admission to the bar shall
21 include the applicant's social security number.

22 (b) Subject to the restrictions of the Criminal Offender
23 Employment Act: Each applicant shall submit to the bar commission
24 with the application for admission a complete set of his or her
25 legible fingerprints along with written permission authorizing the

1 set of fingerprints to be forwarded to the Identification Division
2 of the Federal Bureau of Investigation, through the Nebraska
3 State Patrol. Upon request by the bar commission, the Nebraska
4 State Patrol shall undertake a search for criminal history record
5 information relating to the applicant, including transmittal of
6 the applicant's fingerprints to the Identification Division of the
7 Federal Bureau of Investigation for a national criminal history
8 record information check. The criminal history record information
9 check shall include information concerning the applicant from
10 federal repositories of such information and repositories of such
11 information in other states if authorized by federal law. The
12 Nebraska State Patrol shall issue a report to the bar commission
13 and to the applicant which includes the criminal history record
14 information concerning the applicant. The fingerprint record check
15 provided for in this subsection shall be solely for the purpose
16 of evaluating and confirming information provided by the applicant
17 for admission, except that if the applicant appeals a denial of
18 admission to the bar or a refusal of permission to take the bar
19 examination, the filing of such an appeal with the Supreme Court
20 shall constitute a release of the information obtained from such a
21 fingerprint record check for purposes of the appeal.

22 Sec. 9. Section 9-1,104, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 9-1,104 (1) Subject to the restrictions of the Criminal
25 Offender Employment Act: Any person applying for or holding a

1 contract or license (a) as a distributor, gaming manager, or
2 manufacturer pursuant to the Nebraska Bingo Act, (b) as a
3 distributor, manufacturer, pickle card operator, or sales agent
4 pursuant to the Nebraska Pickle Card Lottery Act, (c) as a
5 lottery operator, lottery worker who is designated as a keno
6 manager or who has authority over the verification of winning
7 number selection by an electrically operated blower machine,
8 manufacturer-distributor, or sales outlet location pursuant to
9 the Nebraska County and City Lottery Act, or (d) pursuant to the
10 State Lottery Act shall be subject to fingerprinting and a check
11 of his or her criminal history record information maintained by
12 the Identification Division of the Federal Bureau of Investigation
13 through the Nebraska State Patrol for the purpose of determining
14 whether the Department of Revenue has a basis to deny the
15 contract or license application or to suspend, cancel, revoke,
16 or terminate the person's contract or license. Each applicant
17 for or party holding a license as a manufacturer, distributor,
18 manufacturer-distributor, or lottery operator shall also submit a
19 personal history report to the department on a form provided by
20 the department and may be subject to a background investigation, an
21 inspection of the applicant's or licensee's facilities, or both. If
22 the applicant is an individual, the application shall also include
23 the applicant's social security number.

24 (2)(a) If the applicant, party to the contract, or
25 licensee is a corporation, the persons subject to such requirements

1 shall include any officer or director of the corporation, his or
2 her spouse, any person or entity directly or indirectly associated
3 with such corporation in a consulting or other capacity which may
4 impair the security, honesty, or integrity of the operation or
5 conduct of the activities for which the application is made or
6 contract or license is held, and, if applicable, any person or
7 entity holding in the aggregate ten percent or more of the debt
8 or equity of the corporation. If any person or entity holding ten
9 percent or more of the debt or equity of the applicant, contractor,
10 or licensee corporation is a corporation, partnership, or limited
11 liability company, every partner of such partnership, every member
12 of such limited liability company, every officer or director of
13 such corporation or partnership, every person or entity holding
14 ten percent or more of the debt or equity of such corporation,
15 partnership, or limited liability company, and every person or
16 entity directly or indirectly associated with such corporation,
17 partnership, or limited liability company in a consulting or other
18 capacity which may impair the security, honesty, or integrity
19 of the operation or conduct of the activities for which the
20 application is made or contract or license is held may also be
21 subject to such requirements. If the applicant, party to the
22 contract, or licensee is a partnership, the persons subject to
23 such requirements shall include any partner, his or her spouse,
24 any officer or director of the partnership, or any person or
25 entity directly or indirectly associated with such partnership in

1 a consulting or other capacity which may impair the security,
2 honesty, or integrity of the operation or conduct of the activities
3 for which the application is made or contract or license is
4 held. If the applicant, party to the contract, or licensee is a
5 limited liability company, the persons subject to such requirement
6 shall include any member and his or her spouse. If the applicant,
7 party to the contract, or licensee is a nonprofit organization
8 or nonprofit corporation, the person subject to such requirement
9 shall be the person designated by such nonprofit organization or
10 nonprofit corporation as the manager.

11 (b) Notwithstanding the provisions of this section,
12 background investigations shall not be required of any debt holder
13 which is a financial institution organized or chartered under the
14 laws of this state, any other state, or the United States relating
15 to banks, savings institutions, trust companies, savings and loan
16 associations, credit unions, installment loan licensees, or similar
17 associations organized under the laws of this state and subject to
18 supervision by the Department of Banking and Finance.

19 (c) Notwithstanding the provisions of this section, if
20 an applicant for or party holding a license as a pickle card
21 operator, sales agent, gaming manager, lottery operator, lottery
22 worker, or sales outlet location is issued a license by the
23 Nebraska Liquor Control Commission, the Department of Revenue may
24 waive the fingerprinting requirements for criminal history record
25 investigation purposes.

1 (3) (a) The applicant, party to the contract, or licensee
2 shall pay the actual cost of any fingerprinting or check of his or
3 her criminal history record information.

4 (b) The Department of Revenue may require an applicant
5 or licensee subjected to a background investigation, a facilities
6 inspection, or both to pay the actual costs incurred by the
7 department in conducting the investigation or inspection. The
8 department may require payment of the estimated costs in advance of
9 beginning the investigation or inspection. If an applicant does not
10 wish to pay the estimated costs, it may withdraw its application
11 and its application fee will be refunded. After completion of
12 the investigation or inspection, the department shall refund any
13 overpayment or shall charge and collect an amount sufficient to
14 reimburse the department for any underpayment of actual costs. The
15 department may establish by rule and regulation the conditions and
16 procedures for payment of the costs.

17 (4) Refusal to comply with this section by any person
18 contracted with, licensed, or seeking a contract or license under
19 the Nebraska Bingo Act, the Nebraska County and City Lottery
20 Act, the Nebraska Pickle Card Lottery Act, or the State Lottery
21 Act shall be a violation of the act under which such person is
22 contracted with, licensed, or seeking a contract or license.

23 Sec. 10. Section 14-702, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 14-702 (1) The city council shall employ a chief of

1 the fire department and all other officers, firefighters, and
2 assistants as may be proper and necessary for the effective service
3 of the fire department to the extent and limit that the funds
4 provided by the city council for that purpose will allow.

5 (2) Subject to the restrictions of the Criminal Offender
6 Employment Act: Each fire department applicant shall, as a
7 condition of employment, submit to the city a full set of his
8 or her fingerprints along with written permission authorizing the
9 city to forward the set of fingerprints to the Federal Bureau
10 of Investigation, through either the Nebraska State Patrol or the
11 police department, to facilitate a check of his or her criminal
12 history record information by the Identification Division of the
13 Federal Bureau of Investigation. The fingerprint check provided
14 for in this section shall be solely for the purpose of confirming
15 information provided by the fire department applicant.

16 Sec. 11. Section 19-1831, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 19-1831 (1) An applicant for a position of any kind
19 under civil service shall be able to read and write the English
20 language, meet the minimum job qualifications of the position as
21 established by the appointing authority, and be of good moral
22 character. Subject to the restrictions of the Criminal Offender
23 Employment Act: An applicant shall be required to disclose his or
24 her past employment history and his or her criminal record, if any,
25 and submit a full set of his or her fingerprints and a written

1 statement of permission authorizing the appointing authority to
2 forward the fingerprints for identification. Prior to certifying
3 to the appointing authority the names of the persons eligible
4 for the position or positions, the commission shall validate the
5 qualifications of such persons.

6 (2) The appointing authority shall require an applicant,
7 as part of the application process, to submit a full set of his
8 or her fingerprints along with written permission authorizing the
9 appointing authority to forward the fingerprints to the Federal
10 Bureau of Investigation through the Nebraska State Patrol, for
11 identification. The fingerprint identification shall be solely for
12 the purpose of confirming information provided by the applicant.

13 (3) Any fingerprints received by the commission or
14 appointing authority pursuant to a request made under subsection
15 (2) of this section and any information in the custody of the
16 commission or appointing authority resulting from inquiries or
17 investigations made with regard to those fingerprints initiated
18 by the commission or appointing authority shall not be a public
19 record within the meaning of sections 84-712 to 84-712.09 and
20 shall be withheld from the public by the lawful custodians of
21 such fingerprints and information and shall only be released to
22 those lawfully entitled to the possession of such fingerprints
23 and information. Any member, officer, agent, or employee of the
24 commission, appointing authority, or municipality who comes into
25 possession of fingerprints and information gathered pursuant to

1 subsection (2) of this section shall be an official within the
2 meaning of section 84-712.09.

3 Sec. 12. Section 38-131, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 38-131 (1) Subject to the restrictions of the Criminal
6 Offender Employment Act: An applicant for an initial license to
7 practice a profession which is authorized to prescribe controlled
8 substances shall be subject to a criminal background check. Except
9 as provided in subsection (3) of this section, the applicant shall
10 submit with the application a full set of fingerprints which shall
11 be forwarded to the Nebraska State Patrol to be submitted to the
12 Federal Bureau of Investigation for a national criminal history
13 record information check. The applicant shall authorize release of
14 the results of the national criminal history record information
15 check to the department. The applicant shall pay the actual cost of
16 the fingerprinting and criminal background check.

17 (2) This section shall not apply to a dentist who is
18 an applicant for a dental locum tenens under section 38-1122 or
19 to a physician or osteopathic physician who is an applicant for a
20 physician locum tenens under section 38-2036.

21 (3) An applicant for a temporary educational permit as
22 defined in section 38-2019 shall have ninety days from the issuance
23 of the permit to comply with subsection (1) of this section and
24 shall have his or her permit suspended after such ninety-day period
25 if the criminal background check is not complete or revoked if

1 the criminal background check reveals that the applicant was not
2 qualified for the permit.

3 Sec. 13. Section 43-3201, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-3201 (1) For purposes of this section:

6 (a) McGruff House shall mean a house that has been
7 designated as a temporary haven for school-age children by a
8 McGruff House program; and

9 (b) McGruff House program shall mean a program organized
10 by local law enforcement agencies and civic organizations to
11 provide a temporary haven and sense of security to school-age
12 children in emergency or threatening situations.

13 (2) Subject to the restrictions of the Criminal Offender
14 Employment Act: A local law enforcement agency involved in
15 establishing a McGruff House program may obtain criminal history
16 record information maintained by the Nebraska State Patrol or any
17 other law enforcement agency to investigate each person eighteen
18 years of age or older residing in a house for which an application
19 for designation as a McGruff House has been made.

20 (3) There shall be no cost to the applicant for
21 the McGruff House designation or to the McGruff House program
22 sponsoring the applicant for a criminal history record information
23 check referred to in subsection (2) of this section utilizing
24 Nebraska criminal history record information when the request
25 involves only the electronic transfer of data from Nebraska

1 criminal history record information maintained by the Nebraska
2 State Patrol to the local law enforcement agency requesting the
3 check on the applicant.

4 Sec. 14. Section 43-3709, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-3709 (1) The minimum qualifications for any
7 prospective court appointed special advocate volunteer are that he
8 or she shall:

9 (a) Be at least twenty-one years of age or older and have
10 demonstrated an interest in children and their welfare;

11 (b) Be willing to commit to the court for a minimum of
12 one year of service to a child;

13 (c) Complete an application, including providing
14 background information required pursuant to subsection (2) of this
15 section;

16 (d) Participate in a screening interview; and

17 (e) Participate in the training required pursuant to
18 section 43-3708.

19 (2) Subject to the restrictions of the Criminal Offender
20 Employment Act: As required background screening, the program
21 director shall obtain the following information regarding a
22 volunteer applicant:

23 (a) A check of the applicant's criminal history record
24 information maintained by the Identification Division of the
25 Federal Bureau of Investigation through the Nebraska State Patrol;

1 (b) A check of his or her record with the central
2 register of child protection cases maintained under section 28-718;

3 (c) A check of his or her driving record; and

4 (d) At least three references who will attest to the
5 applicant's character, judgment, and suitability for the position
6 of a court appointed special advocate volunteer.

7 (3) If the applicant has lived in Nebraska for less
8 than twelve months, the program director shall obtain the records
9 required in subdivisions (2)(a) through (2)(c) of this section from
10 all other jurisdictions in which the applicant has lived during the
11 preceding year.

12 Sec. 15. Section 45-705, Revised Statutes Supplement,
13 2009, is amended to read:

14 45-705 (1) No person shall act as a mortgage banker or
15 use the title mortgage banker in this state unless he, she, or it
16 is licensed as a mortgage banker, is registered with the department
17 as provided in section 45-704, is licensed under the Nebraska
18 Installment Loan Act, or is otherwise exempt from the act pursuant
19 to section 45-703.

20 (2) Applicants for a license as a mortgage banker shall
21 submit to the department an application on forms prescribed by the
22 department. The application shall include, but not be limited to,
23 (a) the applicant's corporate name and no more than one trade name
24 or doing business as designation which the applicant intends to
25 use in this state, if applicable, (b) the applicant's main office

1 address, (c) all branch office addresses at which business is to be
2 conducted, (d) the names and titles of each director and principal
3 officer of the applicant, (e) the names of all shareholders,
4 partners, or members of the applicant, (f) a description of the
5 activities of the applicant in such detail as the department may
6 require, and (g) if the applicant is an individual, his or her
7 social security number.

8 (3) The application for a license as a mortgage banker
9 shall include or be accompanied by, in a manner as prescribed by
10 the director, (a) the name and street address in this state of a
11 registered agent appointed by the licensee for receipt of service
12 of process and (b) the written consent of the registered agent
13 to the appointment. A post office box number may be provided in
14 addition to the street address.

15 (4) The application for a license as a mortgage banker
16 shall be accompanied by an application fee of four hundred dollars
17 and, if applicable, a seventy-five-dollar fee for each branch
18 office listed in the application and any processing fee allowed
19 under subsection (2) of section 45-748.

20 (5) Subject to the restrictions of the Criminal Offender
21 Employment Act: The director may prescribe that the application for
22 a license as a mortgage banker include or be accompanied by, in
23 a manner as prescribed by the director, a background investigation
24 of each applicant by means of fingerprints and a check of his
25 or her criminal history record information maintained by the

1 Federal Bureau of Investigation through the Nationwide Mortgage
2 Licensing System and Registry. If the applicant is a partnership,
3 association, corporation, or other form of business organization,
4 the director may require a criminal history record information
5 check on each member, director, or principal officer of each
6 applicant or any individual acting in the capacity of the manager
7 of an office location. The applicant shall be responsible for the
8 direct costs associated with criminal history record information
9 checks performed. The information obtained thereby may be used by
10 the director to determine the applicant's eligibility for licensing
11 under this section. Except as authorized pursuant to subsection (2)
12 of section 45-748, receipt of criminal history record information
13 by a private person or entity is prohibited.

14 (6) A license as a mortgage banker granted under the
15 Residential Mortgage Licensing Act shall not be assignable.

16 (7) An application is deemed filed when accepted as
17 substantially complete by the director.

18 Sec. 16. Section 45-905, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 45-905 (1) An applicant for a license shall submit an
21 application, under oath, to the director on forms prescribed by the
22 director. The forms shall contain such information as the director
23 may prescribe, including, but not limited to:

24 (a) The applicant's financial condition;

25 (b) The qualifications and business history of the

1 applicant and of its officers, directors, shareholders, partners,
2 or members;

3 (c) Whether the applicant or any of its officers,
4 directors, shareholders, partners, or members have ever been
5 convicted of any (i) misdemeanor involving any aspect of a delayed
6 deposit services business or any business of a similar nature or
7 (ii) felony;

8 (d) Whether the applicant or any of its officers,
9 directors, shareholders, partners, or members have ever been
10 permanently or temporarily enjoined by a court of competent
11 jurisdiction from engaging in or continuing any conduct or practice
12 involving any aspect of a delayed deposit services business or any
13 business of a similar nature;

14 (e) A description of the applicant's proposed method of
15 doing business; and

16 (f) If the applicant is an individual, the applicant's
17 social security number.

18 (2) Subject to the restrictions of the Criminal Offender
19 Employment Act: The director shall cause a criminal history record
20 information check to be conducted of the applicant, its officers,
21 directors, shareholders, partners, or members. The direct cost of
22 the criminal history record information check shall be paid by the
23 applicant.

24 Sec. 17. Section 48-2521, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 48-2521 (1) Any person wishing to engage in the work
2 of an elevator mechanic shall apply for and obtain an elevator
3 mechanic license from the commissioner. The application shall be on
4 a form provided by the commissioner.

5 (2) Any person wishing to engage in the business of
6 an elevator contractor shall apply for and obtain an elevator
7 contractor license from the commissioner. The application shall be
8 on a form provided by the commissioner.

9 (3) Each application shall contain:

10 (a) If an individual, the name, residence and business
11 address, and social security number of the applicant;

12 (b) If a partnership, the name, residence and business
13 address, and social security number of each partner;

14 (c) If a domestic corporation, the name and business
15 address of the corporation and the name, residence address, and
16 social security number of the principal officer of the corporation;
17 and if a corporation other than a domestic corporation, the name
18 and address of an agent located locally who is authorized to accept
19 service of process and official notices;

20 (d) The number of years the applicant has engaged in
21 the business of installing, inspecting, maintaining, or servicing
22 conveyances;

23 (e) The approximate number of individuals to be employed
24 by the applicant and, if applicable, satisfactory evidence that
25 the employees are or will be covered by workers' compensation

1 insurance;

2 (f) Satisfactory evidence that the applicant is or will
3 be covered by general liability, personal injury, and property
4 damage insurance;

5 (g) Subject to the restrictions of the Criminal Offender
6 Employment Act: Permission for the Department of Labor to access
7 the criminal history record information of individuals, partners,
8 or officers maintained by the Federal Bureau of Investigation
9 through the Nebraska State Patrol;

10 (h) A description of all accidents causing personal
11 injury or property damage in excess of one thousand dollars
12 involving conveyances installed, inspected, maintained, or serviced
13 by the applicant; and

14 (i) Such other information as the commissioner may by
15 rule and regulation require.

16 (4) Social security numbers on applications shall not be
17 made public or be considered a part of a public record.

18 Sec. 18. Section 53-131.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 53-131.01 (1) Subject to the restrictions of the Criminal
21 Offender Employment Act: The application for a new license shall
22 be submitted upon such forms as the commission may prescribe. Such
23 forms shall contain (a) the name and residence of the applicant and
24 how long he or she has resided within the State of Nebraska, (b)
25 the particular premises for which a license is desired designating

1 the same by street and number if practicable or, if not, by such
2 other description as definitely locates the premises, (c) the name
3 of the owner of the premises upon which the business licensed is
4 to be carried on, (d) a statement that the applicant is a citizen
5 of the United States, that the applicant and the spouse of the
6 applicant are not less than twenty-one years of age, and that such
7 applicant has never been convicted of or pleaded guilty to a felony
8 or been adjudged guilty of violating the laws governing the sale
9 of alcoholic liquor or the law for the prevention of gambling in
10 the State of Nebraska, except that a manager for a corporation
11 applying for a license shall qualify with all provisions of this
12 subdivision as though the manager were the applicant, except that
13 the provisions of this subdivision shall not apply to the spouse
14 of a manager-applicant, (e) a statement that the applicant intends
15 to carry on the business authorized by the license for himself
16 or herself and not as the agent of any other persons and that
17 if licensed he or she will carry on such business for himself or
18 herself and not as the agent for any other person, (f) a statement
19 that the applicant intends to superintend in person the management
20 of the business licensed and that if so licensed he or she will
21 superintend in person the management of the business, and (g) such
22 other information as the commission may from time to time direct.
23 The applicant shall also submit two legible sets of fingerprints
24 to be furnished to the Federal Bureau of Investigation through the
25 Nebraska State Patrol for a national criminal history record check

1 and the fee for such record check payable to the patrol.

2 (2) The application shall be verified by the affidavit
3 of the petitioner made before a notary public or other person duly
4 authorized by law to administer oaths. If any false statement is
5 made in any part of such application, the applicant or applicants
6 shall be deemed guilty of perjury, and upon conviction thereof
7 the license shall be revoked and the applicant subjected to the
8 penalties provided by law for that crime.

9 Sec. 19. Section 71-1903, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1903 (1) Before issuance of a license under
12 sections 71-1901 to 71-1906.01, the department shall cause such
13 investigation to be made as it deems necessary to determine if
14 the character of the applicant, any member of the applicant's
15 household, or the person in charge of the service and the place
16 where the foster care is to be furnished are such as to ensure
17 the proper care and treatment of children. The department may
18 request the State Fire Marshal to inspect such places for fire
19 safety pursuant to section 81-502. The State Fire Marshal shall
20 assess a fee for such inspection pursuant to section 81-505.01,
21 payable by the licensee or applicant for a license, except that
22 the department may pay the fee for inspection for fire safety of
23 foster family homes as defined in section 71-1902. The department
24 may conduct sanitation and health standards investigations pursuant
25 to subsection (2) of this section. The department may also, at any

1 time it sees fit, cause an inspection to be made of the place where
2 any licensee is furnishing foster care to see that such service
3 is being properly conducted.

4 (2) The department shall make an investigation and report
5 of all facilities and programs of licensed providers of foster
6 care programs subject to this section or applicants for licenses
7 to provide such programs to determine if the place or places to be
8 covered by such licenses meet standards of health and sanitation
9 set by the department for the care and protection of the child or
10 children who may be placed in such facilities and programs. The
11 department may delegate the investigation authority to qualified
12 local environmental health personnel.

13 (3) Subject to the restrictions of the Criminal Offender
14 Employment Act: Before the foster care placement of any child in
15 Nebraska by the department, the department shall require a national
16 criminal history record information check of the prospective foster
17 parent of such child and each member of such prospective foster
18 parent's household who is eighteen years of age or older. The
19 department shall provide two sets of legible fingerprints for such
20 persons to the Nebraska State Patrol for submission to the Federal
21 Bureau of Investigation. The Nebraska State Patrol shall conduct a
22 criminal history record information check of such persons and shall
23 submit such fingerprints to the Federal Bureau of Investigation
24 for a national criminal history record information check. The
25 criminal history record information check shall include information

1 from federal repositories of such information and repositories of
2 such information in other states if authorized by federal law.
3 The Nebraska State Patrol shall issue a report of the results of
4 such criminal history record information check to the department.
5 The department shall pay a fee to the Nebraska State Patrol
6 for conducting such check. Information received from the criminal
7 history record information check required under this subsection
8 shall be used solely for the purpose of evaluating and confirming
9 information provided by such persons for providing foster care or
10 for the finalization of an adoption. A child may be placed in
11 foster care by the department prior to the completion of a criminal
12 history record information check under this subsection in emergency
13 situations as determined by the department.

14 Sec. 20. Section 71-1912, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-1912 (1) Before issuance of a license, the department
17 shall investigate or cause an investigation to be made, when
18 it deems necessary, to determine if the applicant or person in
19 charge of the program meets or is capable of meeting the physical
20 well-being, safety, and protection standards and the other rules
21 and regulations of the department adopted and promulgated under
22 the Child Care Licensing Act. Subject to the restrictions of the
23 Criminal Offender Employment Act: The department may investigate
24 the character of applicants and licensees, any member of the
25 applicant's or licensee's household, and the staff and employees of

1 programs by making a national criminal history record information
2 check. The department may at any time inspect or cause an
3 inspection to be made of any place where a program is operating to
4 determine if such program is being properly conducted.

5 (2) All inspections by the department shall be
6 unannounced except for initial licensure visits and consultation
7 visits. Initial licensure visits are announced visits necessary for
8 a provisional license to be issued to a family child care home II,
9 child care center, or preschool program. Consultation visits are
10 announced visits made at the request of a licensee for the purpose
11 of consulting with a department specialist on ways of improving the
12 program.

13 (3) An unannounced inspection of any place where a
14 program is operating shall be conducted by the department or the
15 city, village, or county pursuant to subsection (2) of section
16 71-1914 at least annually for a program licensed to provide child
17 care for fewer than thirty children and at least twice every year
18 for a program licensed to provide child care for thirty or more
19 children.

20 (4) Whenever an inspection is made, the findings shall be
21 recorded in a report designated by the department. The public shall
22 have access to the results of these inspections upon a written
23 or oral request to the department. The request must include the
24 name and address of the program. Additional unannounced inspections
25 shall be performed as often as is necessary for the efficient and

1 effective enforcement of the Child Care Licensing Act.

2 Sec. 21. Section 71-3205, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-3205 (1) Any person desiring to engage in the private
5 detective business in the State of Nebraska and desiring to be
6 licensed under sections 71-3201 to 71-3213 shall file with the
7 secretary an application for a license. The application shall
8 be made on a suitable form prescribed by the secretary; shall
9 include the applicant's social security number if the applicant is
10 an individual; shall be accompanied when filed by an application
11 fee established pursuant to section 71-3204; shall be signed
12 and verified by each individual connected with the applicant to
13 whom the requirements of subsection (2) of this section apply;
14 and may contain such information as may be required by the
15 secretary. Subject to the restrictions of the Criminal Offender
16 Employment Act: The applicant shall also submit two legible sets of
17 fingerprints to the Nebraska State Patrol for a national criminal
18 history record check through the Federal Bureau of Investigation.

19 (2) The secretary shall issue to the person if qualified
20 therefor a nontransferable license to engage in the private
21 detective business as a private detective, as a private detective
22 agency, or as a plain clothes investigator in the State of Nebraska
23 as follows: If the applicant is an individual, the individual; if
24 the applicant is a corporation, each of its individual officers
25 performing the duties of the president, the secretary, and the

1 treasurer of the corporation and the duties of the manager of the
2 business of the corporation in the State of Nebraska; or if the
3 applicant is any person other than an individual or a corporation,
4 each of the individual partners, members, managers, officers, or
5 other individuals having a right to participate in the management
6 of the applicant's business in the State of Nebraska.

7 (3) The applicant shall be at least twenty-one years of
8 age, a citizen of the United States, and of good moral character,
9 temperate habits, and good reputation for truth, honesty, and
10 integrity and shall have such experience and competence in the
11 detective business or otherwise as the secretary may determine to
12 be reasonably necessary for the individual to perform the duties of
13 his or her position in a manner consistent with the public interest
14 and welfare.

15 (4) No license issued under sections 71-3201 to 71-3213
16 shall be issued or renewed to any person who in any manner engages
17 in the business of debt collection in the State of Nebraska as
18 licensee or employee of a licensee as provided in the Collection
19 Agency Act. If any collection agency, or any person in the
20 employ of such agency with knowledge of the owner or operator of
21 such agency, engages in the business of a private detective or
22 represents to others that he or she is engaged in such business,
23 it shall be cause for suspension or revocation of such agency's
24 license as a collection agency.

25 (5) Prior to the issuance of the license, the secretary

1 shall notify the Nebraska State Patrol, and the patrol shall
2 investigate the character and reputation of the applicant
3 respecting his or her fitness to engage in the business of a
4 private detective. Upon completion of the investigation, the patrol
5 shall notify the secretary of the results of the investigation
6 within ninety days after the date of the application. The license
7 shall be issued by the secretary unless he or she has received
8 within ninety days after the application is made for the license a
9 report of investigation from the patrol stating that the applicant
10 is not of the proper character and reputation to engage in the
11 business of a private detective.

12 Sec. 22. Section 71-3505, Reissue Revised Statutes of
13 Nebraska, is amended to read:

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

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

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

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

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

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

18 (4) Collect and disseminate health education information
19 relating to radiation protection;

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

25 (6) Be empowered to inspect radiation sources and their

1 shieldings and surroundings for the determination of any possible
2 undesirable radiation or violations of rules and regulations
3 adopted and promulgated by the department and provide the owner,
4 user, or operator with a report of any known or suspected
5 deficiencies; and

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

1 Sec. 23. Section 71-5908, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5908 The department shall adopt and promulgate rules
4 and regulations necessary to carry out the Assisted-Living Facility
5 Act, including, but not limited to, rules and regulations which:

6 (1) Prohibit the use of chemical or physical restraints
7 at an assisted-living facility;

8 (2) Subject to the restrictions of the Criminal Offender
9 Employment Act: Require that a criminal background check be
10 conducted on all persons employed as direct care staff at an
11 assisted-living facility;

12 (3) Establish initial and ongoing training requirements
13 for administrators and approved curriculum for such training. Such
14 requirements shall consist of thirty hours of initial training,
15 including, but not limited to, training in resident care and
16 services, social services, financial management, administration,
17 gerontology, and rules, regulations, and standards relating to the
18 operation of an assisted-living facility. The department may waive
19 initial training requirements established under this subdivision
20 for persons employed as administrators of assisted-living
21 facilities on January 1, 2005, upon application to the department
22 and documentation of equivalent training or experience satisfactory
23 to the department. Training requirements established under this
24 subdivision shall not apply to an administrator who is also a
25 nursing home administrator or a hospital administrator; and

1 (4) Provide for acceptance of accreditation by a
2 recognized independent accreditation body or public agency, which
3 has standards that are at least as stringent as those of the
4 State of Nebraska, as evidence that the assisted-living facility
5 complies with rules and regulations adopted and promulgated under
6 the Assisted-Living Facility Act.

7 Sec. 24. Section 71-6503, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-6503 An in-home personal services agency shall employ
10 or contract with only persons who meet the requirements of section
11 71-6502 to provide in-home personal services. Subject to the
12 restrictions of the Criminal Offender Employment Act: The in-home
13 personal services agency shall perform or cause to be performed a
14 criminal history record information check on each in-home personal
15 services worker and a check of his or her driving record as
16 maintained by the Department of Motor Vehicles or by any other
17 state which has issued an operator's license to the in-home
18 personal services worker, when driving is a service provided by the
19 in-home personal services worker, and shall maintain documentation
20 of such checks in its records for inspection at its place of
21 business.

22 Sec. 25. Section 71-7448, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-7448 (1) Every applicant for an initial or renewal
25 license as a wholesale drug distributor shall file a written

1 application with the department. The application shall be
2 accompanied by the fee established by the department under section
3 71-7450 and proof of bond or other security required under section
4 71-7452 and shall include the following information:

5 (a) The applicant's name, business address, type of
6 business entity, and telephone number. If the applicant is a
7 partnership, the application shall include the name of each partner
8 and the name of the partnership. If the applicant is a corporation,
9 the application shall include the name and title of each corporate
10 officer and director, all corporate names of the applicant, and
11 the applicant's state of incorporation. If the applicant is a sole
12 proprietorship, the application shall include the name of the sole
13 proprietor and name of the proprietorship;

14 (b) All trade or business names used by the applicant;

15 (c) The addresses and telephone numbers of all facilities
16 used by the applicant for the storage, handling, and wholesale
17 distribution of prescription drugs and the names of persons in
18 charge of such facilities. A separate license shall be obtained for
19 each such facility;

20 (d) A listing of all licenses, permits, or other
21 similar documentation issued to the applicant in any other state
22 authorizing the applicant to purchase or possess prescription
23 drugs;

24 (e) The names and addresses of the owner and manager
25 of the applicant's wholesale drug distribution facilities, a

1 designated representative at each such facility, and all managerial
2 employees at each such facility; and

3 (f) Other information as required by the department,
4 including affirmative evidence of the applicant's ability to comply
5 with the Wholesale Drug Distributor Licensing Act and rules and
6 regulations adopted and promulgated under the act.

7 (2) The department may require persons listed on the
8 application to pass an examination approved by the department
9 on laws pertaining to the wholesale distribution of prescription
10 drugs.

11 (3) The application shall include the applicant's social
12 security number if the applicant is an individual. The social
13 security number shall not be a public record and may only be used
14 by the department for administrative purposes.

15 (4) The application shall be signed by (a) the owner, if
16 the applicant is an individual or partnership, (b) the member, if
17 the applicant is a limited liability company with only one member,
18 or two of its members, if the applicant is a limited liability
19 company with two or more members, or (c) two of its officers, if
20 the applicant is a corporation.

21 (5) Subject to the restrictions of the Criminal Offender
22 Employment Act: The designated representative and the supervisor
23 of the designated representative of a wholesale drug distributor
24 and each owner with greater than a ten percent interest in the
25 wholesale drug distributor, if the wholesale drug distributor

1 is a nonpublicly held company, shall be subject to a criminal
2 history record information check and shall provide the department
3 or the designated agent of the department with a complete set of
4 fingerprints for such purpose if his or her fingerprints are not
5 already on file for such purpose. The department or the designated
6 agent of the department shall forward such fingerprints to the
7 Nebraska State Patrol to be submitted to the Federal Bureau of
8 Investigation for a national criminal history record information
9 check. Such persons shall authorize the release of the results of
10 such criminal history record information check to the department,
11 and the applicant shall pay the actual cost of such fingerprinting
12 and such criminal history record information check.

13 (6) The department may waive certain requirements under
14 this section upon proof satisfactory to the department that such
15 requirements are duplicative of other requirements of law or
16 regulation and that the granting of such exemption will not
17 endanger the public safety.

18 Sec. 26. Section 75-903.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 75-903.02 Subject to the restrictions of the Criminal
21 Offender Employment Act: For each application filed under section
22 75-903 after January 1, 2004, one of the following primary parties
23 shall be subject to fingerprinting and a check of his or her
24 criminal history record information maintained by the Federal
25 Bureau of Investigation through the Nebraska State Patrol: (1) If

1 the applicant is not an individual, the chief executive officer,
2 president, or general manager; or (2) if the applicant is an
3 individual, the individual. If the primary party has been subject
4 to a check of his or her criminal history record information
5 pursuant to this section on a prior application, he or she is
6 not subject to another such check upon a subsequent application.
7 If a primary party has been subject to a check of his or
8 her criminal history record information pursuant to another law,
9 the commission may waive such requirement under this section.
10 A primary party shall furnish to the Nebraska State Patrol
11 a full set of fingerprints to enable a criminal background
12 investigation to be conducted. The primary party shall request
13 that the Nebraska State Patrol submit the fingerprints to the
14 Federal Bureau of Investigation for a national criminal history
15 record check. The primary party shall pay the actual cost, if any,
16 of the fingerprinting and check of his or her criminal history
17 record information. The primary party shall authorize release of
18 the national criminal history record check to the commission.
19 The criminal history record information check shall be completed
20 within ninety days after the date the application for a license is
21 received in the commission's office, and if not, the application
22 shall be returned to the applicant. The commission shall deny a
23 grain dealer license to any applicant whose primary party has been
24 convicted of a felony financial crime.

25 Sec. 27. Section 79-808, Revised Statutes Supplement,

1 2009, is amended to read:

2 79-808 (1) The board shall establish, adopt, and
3 promulgate appropriate rules, regulations, and procedures governing
4 the issuance, renewal, conversion, suspension, and revocation of
5 certificates and permits to teach, provide special services, and
6 administer based upon (a) earned college credit in humanities,
7 social and natural sciences, mathematics, or career and technical
8 education, (b) earned college credit, or its equivalent in
9 professional education, for particular teaching, special services,
10 or administrative assignments, (c) subject to the restrictions
11 of the Criminal Offender Employment Act, criminal history record
12 information if the applicant has not been a continuous Nebraska
13 resident for five years immediately preceding application for the
14 first issuance of a certificate, (d) human relations training,
15 (e) successful teaching, administration, or provision of special
16 services, and (f) moral, mental, and physical fitness for
17 teaching, all in accordance with sound educational practices.
18 Such rules, regulations, and procedures shall also provide for
19 endorsement requirements to indicate areas of specialization on
20 such certificates and permits.

21 (2) The board may issue a temporary certificate, valid
22 for a period not to exceed two years, to any applicant for
23 certification who has not completed the human relations training
24 requirement.

25 (3) Members of any advisory committee established by the

1 board to assist the board in teacher education and certification
2 matters shall be reimbursed for their actual and necessary expenses
3 as provided in sections 81-1174 to 81-1177. Each school district
4 which has an employee who serves as a member of such committee
5 and which is required to hire a person to replace such member
6 during the member's attendance at meetings or activities of the
7 committee or any subcommittee thereof shall be reimbursed from
8 the Certification Fund for the expense it incurs from hiring a
9 replacement. School districts may excuse employees who serve on
10 such advisory committees from certain duties which conflict with
11 any advisory committee duties.

12 Sec. 28. Section 79-814.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-814.01 (1) Subject to the restrictions of the Criminal
15 Offender Employment Act: Upon request by the commissioner, the
16 Nebraska State Patrol shall undertake a search for criminal history
17 record information relating to an applicant for a certificate
18 pursuant to subdivision (1)(c) of section 79-808, including
19 transmittal of the applicant's fingerprints to the Federal Bureau
20 of Investigation for a national criminal history record information
21 check. The criminal history record information check shall include
22 information concerning the applicant from federal repositories of
23 such information and repositories of such information in other
24 states if authorized by federal law. The Nebraska State Patrol
25 shall issue a report to the commissioner that shall include the

1 criminal history record information concerning the applicant.

2 (2) The commissioner may deny issuance of a certificate
3 or permit to any applicant who has a felony conviction or who
4 has any misdemeanor conviction involving abuse, neglect, or sexual
5 misconduct. In reviewing an applicant's criminal history record
6 information, the commissioner shall take into consideration any
7 information, including information submitted by the applicant,
8 regarding (a) the facts and circumstances surrounding a conviction,
9 (b) the type of offense and the sentence imposed, (c) whether
10 the conduct resulting in a conviction would constitute a crime in
11 Nebraska, (d) the date of the offense, (e) the age of the applicant
12 at the time of the offense, and (f) the applicant's conduct and
13 positive social contributions since the offense.

14 (3) The board shall determine and set the costs for
15 processing criminal history record information checks pursuant to
16 this section and section 79-808 which shall be borne by the
17 applicant for a certificate or permit. The costs shall be limited
18 to the actual direct costs arising from the processing of the
19 criminal history record information checks.

20 (4) Criminal history record information subject to
21 federal confidentiality requirements shall remain confidential
22 and may be released only upon the written authorization by the
23 applicant, except that if the applicant appeals the denial of
24 a certificate or permit by the commissioner, the filing of an
25 administrative appeal shall constitute a release of the information

1 for the limited purpose of the appeal. If the applicant requests a
2 closed hearing, such request shall be subject to the Open Meetings
3 Act.

4 Sec. 29. Section 81-6,120, Revised Statutes Supplement,
5 2009, is amended to read:

6 81-6,120 (1) No individual who has been convicted of a
7 felony or of any crime involving moral turpitude, or who has been
8 charged with or indicted for a felony or crime involving moral
9 turpitude and there has been no final resolution of the prosecution
10 of the crime, shall provide transportation services under contract
11 with the Department of Health and Human Services, whether as an
12 employee or as a volunteer, for vulnerable adults as defined in
13 section 28-371 or for persons under nineteen years of age.

14 (2) Subject to the restrictions of the Criminal Offender
15 Employment Act: In order to assure compliance with subsection
16 (1) of this section, any individual who will be providing such
17 transportation services to such vulnerable adults or persons under
18 nineteen years of age and any individual who is providing such
19 services on August 30, 2009, shall be subject to a national
20 criminal history record information check by the Department of
21 Health and Human Services through the Nebraska State Patrol.

22 (3) Subject to the restrictions of the Criminal Offender
23 Employment Act: In addition to the national criminal history record
24 information check required in subsection (2) of this section,
25 all individuals employed to provide transportation services under

1 contract with the Department of Health and Human Services to
2 vulnerable adults or persons under nineteen years of age shall
3 submit to a national criminal history record information check
4 every two years during the period of such employment.

5 (4) Individuals shall submit two full sets of
6 fingerprints to the Nebraska State Patrol to be submitted to
7 the Federal Bureau of Investigation for the national criminal
8 history record information check required under this section. The
9 individual shall pay the actual cost of fingerprinting and the
10 national criminal history record information check.

11 (5) (a) Individuals shall authorize release of the results
12 and contents of a national criminal history record information
13 check under this section to the employer and the Department of
14 Health and Human Services as provided in this section.

15 (b) The Nebraska State Patrol shall not release the
16 contents of a national criminal history record information check
17 under this section to the employer or the individual but shall only
18 indicate in writing to the employer and the individual whether the
19 individual has a criminal record.

20 (c) The Nebraska State Patrol shall release the results
21 and the contents of a national criminal history record information
22 check under this section in writing to the department in accordance
23 with applicable federal law.

24 (6) The Department of Health and Human Services may
25 develop and implement policies that provide for administrative

1 exceptions to the prohibition in subsection (1) of this section,
2 including, but not limited to, situations in which relatives of
3 the vulnerable adult or person under nineteen years of age provide
4 transportation services for such vulnerable adult or person under
5 nineteen years of age or situations in which the circumstances
6 of the crime or the elapsed time since the commission of the
7 crime do not warrant the prohibition. Any decision made by the
8 department regarding an administrative exception under this section
9 is discretionary and is not appealable.

10 (7) An individual who does not comply with this section
11 is guilty of a Class V misdemeanor.

12 Sec. 30. Section 81-885.13, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-885.13 (1) No broker's or salesperson's license shall
15 be issued to any person who has not attained the age of nineteen
16 years. No broker's or salesperson's license shall be issued to
17 any person who is not a high school graduate or the holder of a
18 certificate of high school equivalency.

19 (2) Each applicant for a salesperson's license shall
20 furnish evidence that he or she has completed two courses in
21 real estate subjects, approved by the commission, composed of
22 not less than sixty class hours of study or, in lieu thereof,
23 courses delivered in a distance education format approved by the
24 commission.

25 (3) Each applicant for a broker's license shall either

1 (a) have first served actively for two years as a licensed
2 salesperson or broker and shall furnish evidence of completion
3 of sixty class hours in addition to the hours required by
4 subsection (2) of this section in a course of study approved
5 by the commission or, in lieu thereof, courses delivered in a
6 distance education format approved by the commission, or (b)
7 furnish a certificate that he or she has passed a course of at
8 least eighteen credit hours in subjects related to real estate at
9 an accredited university or college, or completed six courses in
10 real estate subjects composed of not less than one hundred eighty
11 class hours in a course of study approved by the commission or,
12 in lieu thereof, courses delivered in a distance education format
13 approved by the commission.

14 (4) Each applicant for a broker's license must pass a
15 written examination covering generally the matters confronting real
16 estate brokers, and each applicant for a salesperson's license
17 must pass a written examination covering generally the matters
18 confronting real estate salespersons. Such examination may be taken
19 before the commission or any person designated by the commission.
20 Failure to pass the examination shall be grounds for denial of
21 a license without further hearing. The commission may prepare and
22 distribute to licensees under the Nebraska Real Estate License Act
23 informational material deemed of assistance in the conduct of their
24 business.

25 (5) Subject to the restrictions of the Criminal

1 Offender Employment Act: An applicant for an original broker's or
2 salesperson's license shall be subject to fingerprinting and a
3 check of his or her criminal history record information maintained
4 by the Federal Bureau of Investigation through the Nebraska
5 State Patrol. Each applicant shall furnish to the Nebraska State
6 Patrol a full set of fingerprints to enable a criminal background
7 investigation to be conducted. The applicant shall request that the
8 Nebraska State Patrol submit the fingerprints to the Federal Bureau
9 of Investigation for a national criminal history record check. The
10 applicant shall pay the actual cost, if any, of the fingerprinting
11 and check of his or her criminal history record information.
12 The applicant shall authorize release of the national criminal
13 history record check to the commission. The criminal history record
14 information check shall be completed within ninety days preceding
15 the date the original application for a license is received in the
16 commission's office, and if not, the application shall be returned
17 to the applicant.

18 (6) Courses of study, referred to in subsections (2)
19 and (3) of this section, shall include courses offered by private
20 proprietary real estate schools when such courses are prescribed
21 by the commission and are taught by instructors approved by the
22 commission. The commission shall monitor schools offering approved
23 real estate courses and for good cause shall have authority to
24 suspend or withdraw approval of such courses or instructors.

25 Sec. 31. Section 81-885.17, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-885.17 (1)(a) A nonresident of this state who is
3 actively engaged in the real estate business, who maintains a
4 place of business in his or her resident regulatory jurisdiction,
5 and who has been duly licensed in that regulatory jurisdiction
6 to conduct such business in that regulatory jurisdiction may, in
7 the discretion of the commission, be issued a nonresident broker's
8 license.

9 (b) A nonresident salesperson employed by a broker
10 holding a nonresident broker's license may, in the discretion
11 of the commission, be issued a nonresident salesperson's license
12 under such nonresident broker.

13 (c) A nonresident who becomes a resident of the State
14 of Nebraska and who holds a broker's or salesperson's license
15 in his or her prior resident regulatory jurisdiction shall be
16 issued a resident broker's or salesperson's license upon filing
17 an application, paying the applicable license fee, complying with
18 the criminal history record information check under subsection (4)
19 of this section, filing the affidavit required by subsection (7)
20 of this section, and providing to the commission adequate proof
21 of completion of a three-hour class approved by the commission
22 specific to the Nebraska Real Estate License Act and sections
23 76-2401 to 76-2430.

24 (2) Obtaining a nonresident broker's license shall
25 constitute sufficient contact with this state for the exercise of

1 personal jurisdiction over the licensee in any action arising out
2 of the licensee's activity in this state.

3 (3) Prior to the issuance of any license to any
4 nonresident, he or she shall file with the commission a duly
5 certified copy of the license issued to the applicant by the
6 resident regulatory jurisdiction, pay to the commission the
7 nonresident license fee as provided in section 81-885.14 for the
8 obtaining of a broker's or salesperson's license, and provide to
9 the commission adequate proof of completion of a three-hour class
10 approved by the commission specific to the Nebraska Real Estate
11 License Act and sections 76-2401 to 76-2430.

12 (4) Subject to the restrictions of the Criminal Offender
13 Employment Act: An applicant for an original nonresident broker's
14 or salesperson's license shall be subject to fingerprinting and a
15 check of his or her criminal history record information maintained
16 by the Federal Bureau of Investigation through the Nebraska State
17 Patrol. Each applicant shall furnish to the Nebraska State Patrol
18 a full set of fingerprints to enable a criminal background
19 investigation to be conducted. The applicant shall request that
20 the Nebraska State Patrol submit the fingerprints to the Federal
21 Bureau of Investigation for a national criminal history record
22 check. The applicant shall pay the actual cost, if any, of the
23 fingerprinting and check of his or her criminal history record
24 information. The applicant shall authorize release of the national
25 criminal history record check to the commission. The criminal

1 history record information check shall be completed within ninety
2 days preceding the date the original application for a license is
3 received in the commission's office, and if not, the application
4 shall be returned to the applicant.

5 (5) Nothing in this section shall preclude the commission
6 from entering into reciprocal agreements with other regulatory
7 jurisdictions when such agreements are necessary to provide
8 Nebraska residents authority to secure licenses in other regulatory
9 jurisdictions.

10 (6) Nonresident licenses granted as provided in this
11 section shall remain in force for only as long as the requirements
12 of issuing and maintaining a license are met unless (a) suspended
13 or revoked by the commission for just cause or (b) lapsed for
14 failure to pay the annual renewal fee.

15 (7) Prior to the issuance of any license to a nonresident
16 applicant, an affidavit shall be filed by the applicant with
17 the commission certifying that the applicant has reviewed and
18 is familiar with the Nebraska Real Estate License Act and the
19 rules and regulations of the commission and agrees to be bound
20 by the act, rules, and regulations. Within ninety days after the
21 issuance of a license to a nonresident licensee prior to July 18,
22 2008, the licensee shall provide to the commission adequate proof
23 of completion of a three-hour class approved by the commission
24 specific to the Nebraska Real Estate License Act and the law of
25 agency relationships enumerated in sections 76-2401 to 76-2430. If

1 the licensee fails to provide adequate proof of completion of the
2 approved class to the commission within the ninety-day period, the
3 director of the commission or his or her designee shall place the
4 license on inactive status and notify the licensee that he or she
5 must show cause why the license should not be revoked.

6 Sec. 32. Section 83-1217, Revised Statutes Supplement,
7 2009, is amended to read:

8 83-1217 The department shall contract for specialized
9 services and shall only contract with specialized programs
10 which meet certification and accreditation requirements. Assisted
11 services provided under this section through community-based
12 developmental disability programs shall be reimbursed on a daily
13 rate basis, including such services provided to eligible recipients
14 under the medical assistance program established in section 68-903
15 upon approval for such reimbursement from the federal Centers for
16 Medicare and Medicaid Services. The department shall apply to the
17 federal Centers for Medicare and Medicaid Services for approval
18 of any necessary waiver amendments to permit such reimbursement
19 no later than September 1, 2009, and shall begin reimbursing such
20 services on a daily rate basis no later than ninety days after such
21 approval. In order to be certified, each specialized program shall:

- 22 (1) Have an internal quality assurance process;
- 23 (2) Have a program evaluation component;
- 24 (3) Have a complaint mechanism for persons with
25 developmental disabilities and their families;

- 1 (4) Have a process to ensure direct and open
2 communication with the department;
- 3 (5) Develop, implement, and regularly evaluate a plan to
4 ensure retention of quality employees and prevent staff turnover;
- 5 (6) Have measures to enhance staff training and
6 development;
- 7 (7) Be governed by a local governing board or have an
8 advisory committee, the membership of which consists of (a) county
9 commissioners or other locally elected officials, (b) persons with
10 developmental disabilities or members of their families, and (c)
11 persons who are not elected officials, persons with developmental
12 disabilities, or family members of persons with developmental
13 disabilities. At least one-third of the membership shall be persons
14 with developmental disabilities or members of their families. No
15 more than one-third of the membership shall be elected officials,
16 and no more than one-third of the membership shall be persons who
17 are not elected officials, persons with developmental disabilities,
18 or family members of persons with developmental disabilities;
- 19 (8) Meet accreditation standards developed by the
20 department;
- 21 (9) Subject to the restrictions of the Criminal Offender
22 Employment Act: Require a criminal history record information check
23 of all employees hired on or after September 13, 1997, who work
24 directly with clients receiving services and who are not licensed
25 or certified as members of their profession; and

1 (10) Meet any other certification requirements developed
2 by the department to further the purposes of the Developmental
3 Disabilities Services Act.

4 Sec. 33. Section 83-1217.01, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 83-1217.01 Subject to the restrictions of the Criminal
7 Offender Employment Act: Employees of state-operated services and
8 facilities providing developmental disabilities services shall
9 be subject to the criminal history record information check
10 requirements of subdivision (9) of section 83-1217 and section
11 83-1217.02.

12 Sec. 34. Section 83-1217.02, Revised Statutes Supplement,
13 2009, is amended to read:

14 83-1217.02 Subject to the restrictions of the Criminal
15 Offender Employment Act: Each employee subject to the criminal
16 history record information check requirements of subdivision (9) of
17 section 83-1217 and section 83-1217.01 shall file a complete set of
18 his or her legible fingerprints with the department. The department
19 shall transmit such fingerprints to the Nebraska State Patrol
20 which shall transmit a copy of the applicant's fingerprints to the
21 Identification Division of the Federal Bureau of Investigation for
22 a national criminal history record information check.

23 The national criminal history record information
24 check shall include information concerning the employee from
25 federal repositories of such information and repositories of

1 such information in other states if authorized by federal law.
2 The division shall issue a report containing the results of
3 the national criminal history record information check to the
4 department.

5 The Nebraska State Patrol shall undertake a search
6 for Nebraska criminal history record information concerning the
7 employee. The Nebraska State Patrol shall issue a report to the
8 department which contains the results of the criminal history
9 record information check conducted by the Nebraska State Patrol.

10 The department shall issue copies of the reports to the
11 employer listed by the employee.

12 Criminal history record information subject to federal
13 confidentiality requirements shall remain confidential and may be
14 released only upon the written authorization by the employee.

15 The department, in cooperation with the Nebraska State
16 Patrol, shall adopt and promulgate rules and regulations to carry
17 out this section. Such rules and regulations shall provide that the
18 decision to initiate, continue, or terminate the employment of the
19 employee is and shall remain that of the employer.

20 Sec. 35. Section 88-528.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 88-528.01 Subject to the restrictions of the Criminal
23 Offender Employment Act: For each application filed under section
24 88-528 after January 1, 2004, one of the following primary parties
25 shall be subject to fingerprinting and a check of his or her

1 criminal history record information maintained by the Federal
2 Bureau of Investigation through the Nebraska State Patrol: (1) If
3 the applicant is not an individual, the chief executive officer,
4 president, or general manager; or (2) if the applicant is an
5 individual, the individual. If the primary party has been subject
6 to a check of his or her criminal history record information
7 pursuant to this section on a prior application, he or she is
8 not subject to another such check upon a subsequent application.
9 If a primary party has been subject to a check of his or
10 her criminal history record information pursuant to another law,
11 the commission may waive such requirement under this section.
12 A primary party shall furnish to the Nebraska State Patrol
13 a full set of fingerprints to enable a criminal background
14 investigation to be conducted. The primary party shall request
15 that the Nebraska State Patrol submit the fingerprints to the
16 Federal Bureau of Investigation for a national criminal history
17 record check. The primary party shall pay the actual cost, if any,
18 of the fingerprinting and check of his or her criminal history
19 record information. The primary party shall authorize release of
20 the national criminal history record check to the commission.
21 The criminal history record information check shall be completed
22 within ninety days after the date the application for a license is
23 received in the commission's office, and if not, the application
24 shall be returned to the applicant. The commission shall deny a
25 warehouse license to any applicant whose primary party has been

1 convicted of a felony financial crime.

2 Sec. 36. Original sections 2-1203.02, 7-102, 9-1,104,
3 14-702, 19-1831, 38-131, 43-3201, 43-3709, 45-905, 53-131.01,
4 71-1903, 71-1912, 71-3205, 71-3505, 71-5908, 71-6503, 71-7448,
5 75-903.02, 79-814.01, 81-885.13, 81-885.17, 83-1217.01, and
6 88-528.01, Reissue Revised Statutes of Nebraska, section 48-2521,
7 Revised Statutes Cumulative Supplement, 2008, and sections 45-705,
8 79-808, 81-6,120, 83-1217, and 83-1217.02, Revised Statutes
9 Supplement, 2009, are repealed.