

LEGISLATIVE BILL 148

Approved by the Governor March 31, 2021

Introduced by Bostelman, 23.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 2-3254, 38-108, 38-157, 38-158, 38-167, 38-179, 38-1,107, 38-1,115, 38-1,119, 46-1011, 46-1201, 46-1204.01, 46-1207, 46-1227.01, 46-1229, 46-1231, 46-1235, 46-1238, 71-1910, 71-2619, 71-2621, 71-2622, 71-3101, 71-3102, 71-3103, 71-3104, 71-3105, 71-3106, 71-3107, 71-4301, 71-4302, 71-4303, 71-4304, 71-4305, 71-4306, 71-4307, 71-4621, 71-4622, 71-4623, 71-4624, 71-4625, 71-4626, 71-4627, 71-4629, 71-4630, 71-4631, 71-4632, 71-4633, 71-4634, 71-4635, 71-5301, 71-5301.01, 71-5304, 71-5306, 71-5308, 71-5309, 71-5310, 71-5312.01, and 81-2121, Reissue Revised Statutes of Nebraska, and sections 2-2626, 38-101, 38-121, 38-151, 38-155, 38-1,143, 46-602, 46-705, 46-1224, 71-5302, and 81-502, Revised Statutes Cumulative Supplement, 2020; to adopt the Environmental Safety Act; to transfer powers and duties from the Department of Health and Human Services to the Department of Environment and Energy; to define and redefine terms; to change provisions relating to testing of water samples, issuance of licenses and permits, fees, water well contractors, recreation camps, swimming pools, mobile home parks, and drinking water; to provide powers and duties regarding conflicts of interest and expenses of the Water Well Standards and Contractors' Licensing Board; to create funds; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 32 of this act shall be known and may be cited as the Environmental Safety Act.

Sec. 2. The Legislature finds that:

(1) Best practices in environmental safety and protection recognize that the regulation of water supply and disposal infrastructure are connected;

(2) The proper design, construction, and monitoring of water and wastewater uses is critical for the safety and sustainability of communities in the State of Nebraska;

(3) The regulation of mobile homes, recreation camps, and swimming pools provide fundamental environmental safety for persons who use them; and

(4) Consolidating the administration of state environmental safety programs and the environmental and water programs of the United States Environmental Protection Agency delegated to the State of Nebraska into the Department of Environment and Energy will better serve the communities in the State of Nebraska.

Sec. 3. For purposes of the Environmental Safety Act:

(1) Department means the Department of Environment and Energy; and

(2) Director means the Director of Environment and Energy.

Sec. 4. Section 71-4301, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4301~~ For purposes of sections 4 to 10 of this act ~~71-4301 to 71-4307~~, unless the context otherwise requires: -

(1) ~~Swimming~~ swimming pool means any artificial basin of water modified, improved, constructed, or installed solely for the purpose of public swimming, wading, diving, recreation, or instruction; -

(2) Swimming pool includes, but is not limited to, a pool serving a community, a subdivision, an apartment complex, a condominium, a club, a camp, a school, an institution, a park, a manufactured home park, a hotel, a motel, a recreational area, or a water park; -

(3) Swimming pool includes a spa, hot tub, or whirlpool or similar device which (a) ~~(1)~~ is designed for recreational use and not to be drained, cleaned, and refilled after each individual use and (b) ~~(2)~~ may consist of elements, including, but not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof; and -

(4) Swimming pool does not include an artificial lake, a pool at a private residence intended only for the use of the owner and guests, or a pool operated exclusively for medical treatment, physical therapy, water rescue training, or training of divers.

Sec. 5. Section 71-4302, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4302~~ The ~~department~~ Department of Health and Human Services shall prepare, adopt, and have available ~~printed~~ minimum sanitary and safety requirements in the form of regulations for the design, construction, equipment, and operation of swimming pools and bather preparation facilities. Such requirements shall include, but not be limited to, provisions for waiver or variance of design standards and the circumstances under which such waiver or variance may be granted.

Sec. 6. Section 71-4303, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4303~~ No swimming pool shall be constructed after January 1, 1970,

unless and until plans, specifications, and any additional information relative to such pool as may be requested by the ~~department~~ Department of Health and Human Services shall have been submitted to ~~the~~ such department and after review by ~~the~~ such department found to comply with the minimum sanitary and safety requirements provided in section 5 of this act ~~71-4302~~ and a permit for the construction of the pool issued by ~~the~~ such department.

Sec. 7. Section 71-4304, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4304~~ After January 1, 1970, swimming pools shall have equipment and shall be operated so as to comply with the minimum sanitary and safety requirements provided in section 5 of this act ~~71-4302~~. After such date no swimming pool shall operate until it has received a permit from the ~~department~~ Department of Health and Human Services. Application for a permit to operate shall be submitted on forms provided by ~~the~~ such department. Swimming pools constructed prior to January 1, 1970, which do not fully comply with the minimum sanitary and safety requirements as regards design and construction may be continued in use for such period as the department may authorize if the equipment and operation of such swimming pool comply with the minimum sanitary and safety requirements.

Sec. 8. Section 71-4305, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4305~~ (1) The ~~department~~ Department of Health and Human Services shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the department to determine the sanitary and safety condition of the swimming pool.

(3) The department shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners, and other appropriate parties fees established by rules and regulations for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure. Fees collected under this subsection for the review of plans and specifications shall be remitted to the State Treasurer for credit to the Engineering Plan Review Cash Fund. All other fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Health and Human Services Cash Fund. The department shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

(4) The department shall establish and collect fees for certificates of competency for swimming pool operators ~~as provided in sections 38-151 to 38-157.~~ All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

(5) All rules and regulations adopted prior to the operative date of this act under sections 4 to 10 of this act, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by this legislative bill until amended or repealed by the department.

(6) All licenses, permits, or other forms of approval issued prior to the operative date of this act in accordance with sections 4 to 10 of this act, as such sections existed prior to such date, shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or otherwise terminated by law.

(7) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this act under sections 4 to 10 of this act, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to the operative date of this act.

Sec. 9. Section 71-4306, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4306~~ Whenever any duly authorized representative of the ~~department~~ finds Department of Health and Human Services shall find that a swimming pool is being constructed, equipped, or operated in violation of any of the provisions of sections 4 to 10 of this act ~~71-4301 to 71-4307~~, the department may grant such time as in its opinion may reasonably be necessary for changing the construction or providing for the proper operation of the swimming pool to meet the provisions of sections 4 to 10 of this act ~~71-4301 to 71-4307~~. If and when the duly authorized representative of the department upon inspection and investigation of a swimming pool considers that the conditions are such as to warrant prompt closing of such swimming pool until the provisions of sections 4 to 10 of this act ~~71-4301 to 71-4307~~ are complied with, the representative of the department he or she shall notify the owner or operator of the swimming pool to prohibit any person from using the swimming pool and upon such notification to the sheriff and the county attorney of the county in which such pool is located, it shall be the duty of such county attorney and sheriff shall cause to see that the notice of the representative of the department to shall be enforced. If and when the owner or operator of the pool has, in the opinion of the department, met the provisions of sections 4 to 10 of this act ~~71-4301 to 71-4307~~, the department may in writing authorize the use again of such swimming pool.

Sec. 10. Section 71-4307, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4307~~ Any owner or operator of a swimming pool failing to comply with any of the provisions of sections 4 to 10 of this act ~~71-4301 to 71-4307~~ shall be guilty of maintaining a public nuisance, and it shall be the duty of the county attorney of the county in which such swimming pool is located to act as provided by law for the abatement of public nuisances.

Sec. 11. Section 71-3101, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3101~~ For purposes of ~~As used in sections 11 to 17 of this act~~ ~~71-3101 to 71-3107~~, unless the context otherwise requires:

(1) Recreation camp ~~means shall mean~~ one or more temporary or permanent tents, buildings, structures, or site pads, together with the tract of land appertaining thereto, established or maintained for more than a consecutive forty-eight-hour period as living quarters or sites used for purposes of sleeping or the preparation and the serving of food extending beyond the limits of a family group for children or adults, or both, for recreation, education, or vacation purposes, and including facilities located on either privately or publicly owned lands except hotels or inns; and

(2) Person ~~means shall mean~~ any individual or group of individuals, association, partnership, limited liability company, or corporation. ~~;~~ ~~and~~

~~(3) Department shall mean the Department of Health and Human Services.~~

Sec. 12. Section 71-3102, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3102~~ Before any person shall directly or indirectly operate a recreation camp he or she shall make an application to the department and receive a valid permit for the operation of such camp. Application for such a permit shall be made at least thirty days prior to the proposed operation of the camp and shall be on forms supplied by the department upon request. The application shall be in such form and contain such information as the department may deem necessary to its determination that the recreation camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp and shall be accompanied by an annual fee. The department may establish fees by regulation to defray the actual costs of issuing the permit, conducting inspections, and other expenses incurred by the department in carrying out this section. ~~If the applicant is an individual, the application shall include the applicant's social security number. Where a person operates or is seeking to operate more than one recreation camp, a separate application shall be made for each camp. Such a permit shall not be transferable or assignable. A permit~~ It shall expire on March 31 of the following year after one year from the date of its issuance, upon a change of operator of the camp, or upon revocation. If the department finds, after investigation, that the camp or the proposed operation thereof conforms, or will conform, to the minimum standards for recreation camps, a permit on a form prescribed by the department shall be issued for operation of the camp. All fees shall be remitted to the State Treasurer for credit to the Environmental Safety Health and Human Services Cash Fund.

Sec. 13. Section 71-3103, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3103~~ It shall be the duty of the department to make at least one annual inspection of each recreation camp. The duly authorized representatives of the department shall have the right of entry and access to any such camp at any reasonable time.

Where, upon inspection, it is found that there is failure to protect the health and safety of the persons using the camp, or a failure to comply with the camp regulations prescribed by the department, the department shall give notice to the camp operator of such failure, which notice shall set forth the reason or reasons for such failure.

Sec. 14. Section 71-3104, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3104~~ (1) A permit may be temporarily suspended by the department for failure to protect the health and safety of the occupants of the camp or failure to comply with the camp regulations prescribed by the department.

(2) A permit may be revoked at any time, after notice and opportunity for a fair hearing held by the department, if it is found that the camp for which the permit is issued is maintained or operated in violation of law or of any regulations applicable to a camp or in violation of the conditions stated in the permit. A new permit shall not be issued until the department is satisfied that the camp will be operated in compliance with the law and regulations.

Sec. 15. Section 71-3105, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3105~~ (1) The department is authorized to and shall formulate, adopt, publish, promulgate, and enforce such reasonable rules and regulations as it deems necessary to enforce ~~the provisions of sections 11 to 17 of this act~~ ~~71-3101 to 71-3107~~ and to protect the health and welfare of persons in attendance at recreation camps.

(2) All rules and regulations adopted prior to the operative date of this act under sections 11 to 17 of this act, as such sections existed prior to such date, shall continue to be effective to the extent not in conflict with the changes made by this legislative bill and until amended or repealed by the department.

(3) All permits or other forms of approval issued prior to the operative date of this act in accordance with sections 11 to 17 of this act, as such

sections existed prior to such date, shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or otherwise terminated by law.

(4) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this act under sections 11 to 17 of this act, as such sections existed prior to such date, shall be subject to the provisions of such sections as they existed prior to the operative date of this act.

Sec. 16. Section 71-3106, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3106~~ Properly prepared plans for all recreation camps which are hereafter constructed, reconstructed, or extensively altered shall be submitted to the department before such work is begun. Signed approval shall be obtained from the department.

Sec. 17. Section 71-3107, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-3107~~ Any person who shall violate any of the provisions of sections 11 to 17 of this act ~~71-3101 to 71-3107~~ or of the regulations or standards adopted and promulgated under such sections hereunder shall be guilty of a Class V misdemeanor.

Sec. 18. Section 71-4634, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4634~~ Sections 18 to 31 of this act ~~71-4621 to 71-4634~~ shall be known and may be cited as the Uniform Standard Code for Mobile Home Parks.

Sec. 19. Section 71-4621, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4621~~ As used in the Uniform Standard Code for Mobile Home Parks, unless the context otherwise requires:

(1) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit. Mobile home includes a manufactured home as defined in section 71-4603;

(2) Mobile home lot means a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants;

(3) Mobile home park means a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force; and

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

~~(4)~~ (5) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and includes any trustee, receiver, assignee, or other legal representative thereof.

Sec. 20. Section 71-4622, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4622~~ (1) No person shall establish, conduct, operate, or maintain a mobile home park within this state without first obtaining an annual license therefor from the department. Such license shall be issued for the calendar year applied for and shall expire at midnight on December 31 of such year.

(2) All licenses, permits, or other forms of approval issued prior to the operative date of this act in accordance with the Uniform Standard Code for Mobile Home Parks shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or otherwise terminated by law.

(3) All rules and regulations adopted prior to the operative date of this act under the Uniform Standard Code for Mobile Home Parks shall continue to be effective to the extent not in conflict with the changes made by this legislative bill and until amended or repealed by the department.

(4) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this act under the Uniform Standard Code for Mobile Home Parks shall be subject to the provisions of the code as they existed prior to the operative date of this act.

Sec. 21. Section 71-4623, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4623~~ The application for such annual license to conduct, operate, and maintain a mobile home park shall be submitted in writing or by electronic format and shall include the full name and address of the applicant or applicants, the names and addresses of the partners if the applicant is a partnership, the names and addresses of the members if the applicant is a limited liability company, or the names and addresses of the officers if the applicant is a corporation, and the current or most recent occupation of the applicant at the time of the filing of the application, and such other pertinent data as the department may require by regulation. ~~If the applicant is an individual, the application shall include the applicant's social security number.~~

Sec. 22. Section 71-4624, Reissue Revised Statutes of Nebraska, is amended

to read:

~~71-4624~~ (1) The application for the first or initial annual license shall be submitted with the requirements mentioned in section 21 of this act ~~71-4623~~ accompanied by the appropriate fees. The department by regulation shall charge engineering firms, mobile home park owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a mobile home park, the issuance of a license or permit, the inspection of a mobile home park, and any other services rendered at a rate which defrays no more than the actual costs of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

(2) Fees collected by the department under this section for the review of plans and specifications shall be remitted to the State Treasurer for credit to the Engineering Plan Review Cash Fund. All other fees collected by the department under the Uniform Standard Code for Mobile Home Parks shall be remitted to the State Treasurer for credit to the Environmental Safety Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the Uniform Standard Code for Mobile Home Parks.

(3) When any application is received, the department shall cause the mobile home park and appurtenances to be inspected by representatives of the department. When such inspection has been made and the department finds that all of the provisions of the Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department have been met by the applicant, the department shall issue an annual license. Inspection by the department or its authorized representatives at any time of a mobile home park shall be a condition of continued licensure.

Sec. 23. Section 71-4625, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4625~~ No person shall construct, expand, remodel, or make alterations to the sanitary facilities in a mobile home park within this state without first obtaining a permit therefor from the department, except that no such permit shall be required in the making of minor repairs or in matters of general maintenance. The application for such permit shall be made to the department in such manner as may be prescribed by regulations of the department, which shall require the applicant to supply plans and specifications and otherwise provide a description of the nature, type, location, and extent of the sanitary facilities contemplated. When the application has been approved, the department shall issue a permit to the applicant to construct, expand, remodel, or make alterations to sanitary facilities, including water and sewage disposal, upon a mobile home park and the appurtenances thereto according to the plans and specifications and other data submitted with the approved application. No approval of plans and specifications and issuance of a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto by the department shall be made unless such park is in compliance with the Uniform Standard Code for Mobile Home Parks provisions of sections 71-4621 to 71-4634 and the rules, regulations, and standards of the department. Such a permit does not relieve the applicant from obtaining building permits when located within a municipality or county having a building code or from complying with any other municipal or county resolution, ordinance, or regulation applicable thereto, and not in conflict with the Uniform Standard Code for Mobile Home Parks sections 71-4621 to 71-4634.

Sec. 24. Section 71-4626, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4626~~ If the application for a permit to construct, expand, remodel, or make alterations upon a mobile home park and the appurtenances thereto, pursuant to section 23 of this act ~~71-4625~~, is denied by the department, it shall so state in writing, giving the reasons for denying the application. If the objection can be corrected, the applicant may amend his or her application and resubmit it for approval. No such permit shall be denied except after due notice and opportunity for a hearing before the department pursuant to the Administrative Procedure Act. Any denial of such permit may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 25. Section 71-4627, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4627~~ When the department has approved an application for a permit to construct, expand, remodel, or make alterations upon a mobile home park or appurtenances thereto, pursuant to section 23 of this act ~~71-4625~~, or a license to establish, conduct, operate, or maintain a mobile home park, it shall retain the original and keep a file thereof. One copy shall be returned to the applicant or his or her agent.

Sec. 26. Section 71-4629, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4629~~ The department shall adopt, promulgate, and enforce by rules and regulations standards governing utility systems and sanitary conditions for mobile home parks. The department shall not adopt or enforce by rules and regulations any design, construction, or land-use standards for any mobile home park.

Sec. 27. Section 71-4630, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4630~~ (1) The Uniform Standard Code for Mobile Home Parks shall not apply to any mobile home park located within the jurisdiction of any city, village, or county which provides for the regulation of mobile home parks by

resolution, ordinance, or regulation which at a minimum is not less stringent than the then current standards and specifications, and all subsequent revisions and amendments thereto, approved, adopted, and promulgated by the department, as such standards and specifications apply to mobile home parks. No such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the department. Such certificate of exemption shall be available for inspection in the office of the city or county clerk as the case may be.

(2) If the department shall determine at any time after the issuance of such a certificate of exemption that such a resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with the standards mentioned in subsection (1) of this section or is otherwise being improperly enforced in any city, village, or county holding a certificate of exemption, the department may revoke the certificate of exemption and the Uniform Standard Code for Mobile Home Parks shall apply in such city, village, or county until such standards are met and enforced and a new certificate is issued.

(3) Any city, village, or county desiring a certificate of exemption shall make application for such certificate by filing a petition for a certificate of exemption with the department. The department shall promptly investigate such petition. If the recommendation of the department is against the granting of a certificate of exemption and the applicant requests that a formal hearing be held, a formal hearing shall be held on the questions of whether (a) the resolution, ordinance, or regulation is at a minimum as stringent as the standards mentioned in subsection (1) of this section, (b) the resolution, ordinance, or regulation is being enforced in a manner contrary to or inconsistent with such standards or is otherwise being improperly enforced, and (c) adequate provisions have been made for enforcement. The burden of proof thereof shall be upon the applicant. A like formal hearing shall be held upon any proposed revocation of a certificate of exemption upon the request of the holder thereof. The procedure governing hearings authorized by this subsection shall be in accordance with the Administrative Procedure Act. The decision to deny or revoke a certificate of exemption may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 28. Section 71-4631, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4631~~ (1) The department shall issue licenses for the establishment, operation, and maintenance of mobile home parks which are found to comply with the Uniform Standard Code for Mobile Home Parks and such rules, regulations, and standards as are lawfully adopted and promulgated by the department pursuant thereto.

(2) The department shall deny, refuse renewal of, suspend, or revoke licenses or impose a civil penalty not to exceed two thousand dollars per day on any of the following grounds:

- (a) Violation of any of the provisions of the code or the rules, regulations, and standards lawfully adopted and promulgated pursuant thereto;
- (b) Permitting, aiding, or abetting the commission of any unlawful act; or
- (c) Conduct or utility or sanitation practices detrimental to the health or safety of residents of a mobile home park.

(3) Should the department determine to deny, refuse renewal of, suspend, or revoke a license or impose a civil penalty, it shall send to the applicant or licensee, by either certified or registered mail, a notice setting forth the specific reasons for the determination.

(4) The denial, refusal of renewal, suspension, revocation, or imposition of a civil penalty shall become final thirty days after the mailing of the notice in all cases of failure to pay the required licensure fee if not paid by the end of such period, and in all other instances unless the applicant or licensee, within such thirty-day period, shall give written notice of a desire for a hearing. Thereupon the applicant or licensee shall be given opportunity for a formal hearing before the department and shall have the right to present evidence on his or her own behalf.

(5) The procedure governing hearings authorized by this section shall be in accordance with the Administrative Procedure Act. On the basis of the evidence presented, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the findings of facts and the specific reasons upon which it is based shall be sent by either certified or registered mail to the applicant or licensee. The applicant or licensee may appeal such decision, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) The department shall remit any collected civil penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 29. Section 71-4632, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4632~~ Any person who establishes, conducts, operates, or maintains a mobile home park without first obtaining a license therefor from the department as provided in the Uniform Standard Code for Mobile Home Parks sections 71-4621 to 71-4634 shall be guilty of a Class IV misdemeanor, and each day such mobile home park shall operate without a license after a first conviction shall be considered a separate offense. Such person shall also be guilty of maintaining a nuisance pursuant to section 28-1321, and upon conviction thereof, in addition to payment of the fine, such nuisance shall be removed.

Sec. 30. Section 71-4633, Reissue Revised Statutes of Nebraska, is amended

to read:

~~71-4633~~ The department may, in accordance with the laws governing injunctions and other process, maintain an action in the name of the state against any person for establishing, conducting, operating, or maintaining any mobile home park without first having a license therefor from the department as provided in the Uniform Standard Code for Mobile Home Parks sections 71-4621 to 71-4634. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, operate, or maintain a mobile home park without having a license to do so without averring any further or more particular facts concerning the same.

Sec. 31. Section 71-4635, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-4635~~ The department ~~Department of Health and Human Services~~ may request the State Fire Marshal to inspect for fire safety any mobile home park for which a license or renewal of a license is sought, pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 32. Section 71-2622, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-2622~~ (1) The department ~~Department of Health and Human Services~~ shall collect a fee of not less than sixty nor more than one hundred dollars, as determined by regulation, for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same or to meet the requirements of any federal governmental agency, including, but not limited to, the Rural Development Agency of the United States Department of Agriculture Farmers Home Administration, the Federal Housing Administration, and the United States Department of Veterans Affairs, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety ~~All fees so collected shall be paid into the state treasury and by the State Treasurer credited to the Health and Human Services Cash Fund.~~

(2) The Director of Environment and Energy shall adopt and promulgate rules and regulations determining the fee required pursuant to this section.

(3) All rules and regulations adopted and promulgated prior to the operative date of this act under this section shall continue to be effective to the extent not in conflict with the changes made by this legislative bill until amended or repealed by the department.

Sec. 33. On and after July 1, 2021, positions of employment in the Department of Health and Human Services related to the powers, duties, and functions transferred to the Department of Environment and Energy pursuant to this legislative bill are transferred to the Department of Environment and Energy. For purposes of the transition, employees of the Department of Health and Human Services shall be considered employees of the Department of Environment and Energy and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the Department of Environment and Energy or the Director of Environment and Energy from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 34. Any appropriation and salary limit provided in any legislative bill enacted by the One Hundred Seventh Legislature, First Session, to Agency No. 25, Department of Health and Human Services, regarding the powers, duties, and functions transferred to the Department of Environment and Energy by this legislative bill, shall be reduced, and any such amounts are hereby appropriated to Program No. 513, Administration, in Agency No. 84, Department of Environment and Energy. Any financial obligations of the Department of Health and Human Services regarding the powers, duties, and functions transferred to the Department of Environment and Energy that remain unpaid as of June 30, 2021, and that are subsequently certified as valid encumbrances to the accounting division of the Department of Administrative Services pursuant to sections 81-138.01 to 81-138.04, shall be paid by the Department of Environment and Energy from the unexpended balance of appropriations existing in such program classification on June 30, 2021.

Sec. 35. On and after July 1, 2021, whenever the Department of Health and Human Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Environment and Energy, such reference or designation shall apply to the Department of Environment and Energy. All contracts entered into by the Department of Health and Human Services prior to July 1, 2021, in connection with the duties and functions transferred to the Department of Environment and Energy are hereby recognized, with the Department of Environment and Energy succeeding to all rights and obligations under such contracts. Any cash funds,

custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to such department for the payments of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by such department for all legal purposes.

Sec. 36. No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2021, or which could have been commenced prior to that date, by or against the Department of Health and Human Services, or the director or any employee thereof in such director's or employee's official capacity or in relation to the discharge of such person's official duties, shall abate by reason of the transfer of duties and functions from the Department of Health and Human Services to the Department of Environment and Energy.

Sec. 37. On and after July 1, 2021, unless otherwise specified, whenever any provision of law refers to the Department of Health and Human Services in connection with duties and functions transferred to the Department of Environment and Energy, such law shall be construed as referring to the Department of Environment and Energy.

Sec. 38. On July 1, 2021, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department of Health and Human Services pertaining to the duties and functions transferred to the Department of Environment and Energy pursuant to this legislative bill shall become the property of such department.

Sec. 39. Section 2-2626, Revised Statutes Cumulative Supplement, 2020, is amended to read:

2-2626 The department shall have the following powers, functions, and duties:

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The department shall involve the natural resources districts and other state agencies, including the Department of Environment and Energy, or the Department of Natural Resources, ~~or the Department of Health and Human Services,~~ in matters relating to water quality. Nothing in the act shall be interpreted in any way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan and pesticide management plans. The Department of Environment and Energy shall be responsible for the adoption of standards for pesticides in surface water, and ground water, ~~and the Department of Health and Human Services shall be responsible for the adoption of standards for pesticides in drinking water.~~ These standards shall be established as action levels in the state management plan and pesticide management plans at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, ~~2021~~ 2019. The Department of Agriculture shall cooperate with and use existing expertise in other state agencies when developing the state management plan and pesticide management plans and shall not hire a hydrologist within the department for such purpose;

(3) After notice and public hearing, to adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

(a) A pesticide shall be included on a list of state-limited-use pesticides if:

(i) The Department of Agriculture determines that the pesticide, when used in accordance with its directions for use, warnings, and cautions and for uses for which it is registered, may without additional regulatory restrictions cause unreasonable adverse effects on humans or the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticides;

(ii) The water quality standards set by the Department of Environment and Energy ~~or the Department of Health and Human Services~~ pursuant to this section are exceeded; or

(iii) The Department of Agriculture determines that the pesticide requires additional restrictions to meet the requirements of the Pesticide Act, the federal act, or any plan adopted under the Pesticide Act or the federal act;

(b) The Department of Agriculture may regulate the specific time, locations, and conditions restricting the use of a state-limited-use pesticide, including allowable quantities or concentrations, and may require that it be purchased or possessed only with permission or under the direct supervision of the department or its designee;

(c) The Department of Agriculture may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records;

(d) The state management plan and pesticide management plans shall be coordinated with the Department of Agriculture and other state agency plans and with other state agencies and with natural resources districts;

(e) The state management plan and pesticide management plans may impose progressively more rigorous pesticide management practices as pesticides are detected in ground water or surface water at increasing fractions of the

standards adopted by the Department of Environment and Energy or the Department of Health and Human Services; and

(f) A pesticide management plan may impose progressively more rigorous pesticide management practices to address any unreasonable adverse effect of pesticides on humans or the environment. When appropriate, a pesticide management plan may establish action levels for imposition of such progressively more rigorous management practices based upon measurable indicators of the adverse effect on humans or the environment;

(4) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. The regulations may include, but not be limited to, regulations providing for:

(a) The collection of samples, examination of records, and reporting of information by persons subject to the act;

(b) The safe handling, transportation, storage, display, distribution, use, and disposal of pesticides and their containers;

(c) Labeling requirements of all pesticides required to be registered under provisions of the act, except that such regulations shall not impose any requirements for federally registered labels contrary to those required pursuant to the federal act;

(d) Classes of devices which shall be subject to the Pesticide Act;

(e) Reporting and record-keeping requirements for persons distributing or using pesticide products made available under 7 U.S.C. 136i-1 of the federal act and for persons required to keep records under the Pesticide Act;

(f) Methods to be used in the application of pesticides when the Department of Agriculture finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Act. Such regulations may include methods to be used in the application of a restricted-use pesticide or state-limited-use pesticide, may relate to the time, place, manner, methods, materials, amounts, and concentrations in connection with the use of the pesticide, may restrict or prohibit use of the pesticides in designated areas during specified periods of time, and may provide specific examples and technical interpretations of subdivision (4) of section 2-2646. The regulations shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to (i) plants, including forage plants, or adjacent or nearby property, (ii) wildlife in the adjoining or nearby areas, (iii) fish and other aquatic life in waters in reasonable proximity to the area to be treated, (iv) surface water or ground water, and (v) humans, animals, or beneficial insects. In adopting and promulgating such regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The department may, by regulation, require that notice of a proposed use of a pesticide be given to landowners whose property is adjacent to the property to be treated or in the immediate vicinity thereof if the department finds that such notice is necessary to carry out the purpose of the act;

(g) State-limited-use pesticides for the state or for designated areas in the state;

(h) Establishment of the amount of any fee or fine as directed by the act;

(i) Establishment of the components of any state management plan or pesticide management plan;

(j) Establishment of categories for licensed pesticide applicators in addition to those established in 40 C.F.R. part 171, as such regulations existed on January 1, 2019; and

(k) Establishment of a process for the issuance of permits for emergency-use pesticides made available under 7 U.S.C. 136p of the federal act;

(5) To enter any public or private premises at any reasonable time to:

(a) Inspect and sample any equipment authorized or required to be inspected under the Pesticide Act or to inspect the premises on which the equipment is kept or stored;

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide use has occurred;

(c) Inspect and sample any area where a pesticide is disposed of or stored;

(d) Observe the use and application of and sample any pesticide;

(e) Inspect and copy any records relating to the distribution or use of any pesticide or the issuance of any license, permit, or registration under the act; or

(f) Inspect, examine, or take samples from any application equipment, building, or place owned, controlled, or operated by any person engaging in an activity regulated by the act if, from probable cause, it appears that the application equipment, building, or place contains a pesticide;

(6) To sample, inspect, make analysis of, and test any pesticide found within this state;

(7) To issue and enforce a written or printed order to stop the sale, removal, or use of a pesticide if the Department of Agriculture has reason to believe that the pesticide or use of the pesticide is in violation of any provision of the act. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order shall not distribute, remove, or use the pesticide until the department determines that the pesticide or its use is in compliance with the act. This subdivision shall not limit the right of the department to proceed as authorized by any other provision of the act;

(8)(a) To sue in the name of the director to enjoin any violation of the

act. Venue for such action shall be in the county in which the alleged violation occurred, is occurring, or is threatening to occur; and

(b) To request the county attorney or the Attorney General to bring suit to enjoin a violation or threatened violation of the act;

(9) To impose or levy an administrative fine of not more than five thousand dollars for each violation on any person who has violated any provision, requirement, condition, limitation, or duty imposed by the act or rules and regulations adopted and promulgated pursuant to the act. A violation means each action which violates any separate or distinct provision, requirement, condition, limitation, or duty imposed by the act or rules and regulations adopted and promulgated pursuant to the act;

(10) To cause a violation warning letter to be served upon the alleged violator or violators pursuant to the act;

(11) To take reasonable measures to assess and collect all fees and fines prescribed by the act and the rules or regulations adopted under the act;

(12) To access, inspect, and copy all books, papers, records, bills of lading, invoices, and other information relating to the use, manufacture, repackaging, and distribution of pesticides necessary for the enforcement of the act;

(13) To seize, for use as evidence, without formal warrant if probable cause exists, any pesticide which is in violation of the act or is not approved by the Department of Agriculture or which is found to be used or distributed in the violation of the act or the rules and regulations adopted and promulgated under it;

(14) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the Department of Agriculture may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (3) of this section;

(15) To receive grants-in-aid from any federal entity, and to enter into cooperative agreements with any federal entity, any agency of this state, any subdivision of this state, any agency of another state, any Indian tribe, or any private person for the purpose of obtaining consistency with or assistance in the implementation of the Pesticide Act. The Department of Agriculture may reimburse any such entity from the Pesticide Administrative Cash Fund for the work performed under the cooperative agreement. The department may delegate its administrative responsibilities under the act to cities of the metropolitan and primary classes if it reasonably believes that such cities can perform the responsibilities in a manner consistent with the act and the rules and regulations adopted and promulgated under it;

(16) To prepare and adopt such plans as are necessary to implement any requirements of the federal agency under the federal act;

(17) To request the assistance of the Attorney General or the county attorney in the county in which a violation of the Pesticide Act has occurred with the prosecution or enforcement of any violation of the act;

(18) To enter into a settlement agreement with any person regarding the disposition of any license, permit, registration, or administrative fine;

(19) To issue a cease and desist order pursuant to section 2-2649;

(20) To deny an application or cancel, suspend, or modify the registration of a pesticide pursuant to section 2-2632;

(21) To issue, cancel, suspend, modify, or place on probation any license or permit issued pursuant to the act; and

(22) To make such reports to the federal agency as are required under the federal act.

Sec. 40. Section 2-3254, Reissue Revised Statutes of Nebraska, is amended to read:

2-3254 (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of or altering the boundaries of an existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with all applicable law and with the district's goals, criteria, and policies, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area or alter the boundaries of an existing improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not so conform, the findings shall be entered in the board's records and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by

some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Natural Resources, except that if such project involves a public water system as defined in section 71-5301, the filing of the information shall be with the Department of Environment and Energy Health and Human Services rather than the Director of Natural Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Natural Resources and the Department of Environment and Energy Health and Human Services, if applicable, except that if such special project involves a public water system as defined in section 71-5301, only the Department of Environment and Energy Health and Human Services shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the improvement project area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any improvement project area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the improvement project area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the improvement project area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in

such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such improvement project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area or altering the boundaries of an existing improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 41. Section 38-101, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-101 Sections 38-101 to 38-1,145 and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

- (1) The Advanced Practice Registered Nurse Practice Act;
- (2) The Alcohol and Drug Counseling Practice Act;
- (3) The Athletic Training Practice Act;
- (4) The Audiology and Speech-Language Pathology Practice Act;
- (5) The Certified Nurse Midwifery Practice Act;
- (6) The Certified Registered Nurse Anesthetist Practice Act;
- (7) The Chiropractic Practice Act;
- (8) The Clinical Nurse Specialist Practice Act;
- (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (10) The Dentistry Practice Act;
- (11) The Dialysis Patient Care Technician Registration Act;
- (12) The Emergency Medical Services Practice Act;
- (13) The Environmental Health Specialists Practice Act;
- (14) The Funeral Directing and Embalming Practice Act;
- (15) The Genetic Counseling Practice Act;
- (16) The Hearing Instrument Specialists Practice Act;
- (17) The Licensed Practical Nurse-Certified Practice Act until November 1, 2017;
- (18) The Massage Therapy Practice Act;
- (19) The Medical Nutrition Therapy Practice Act;
- (20) The Medical Radiography Practice Act;
- (21) The Medicine and Surgery Practice Act;
- (22) The Mental Health Practice Act;
- (23) The Nurse Practice Act;
- (24) The Nurse Practitioner Practice Act;
- (25) The Nursing Home Administrator Practice Act;
- (26) The Occupational Therapy Practice Act;
- (27) The Optometry Practice Act;
- (28) The Perfusion Practice Act;
- (29) The Pharmacy Practice Act;
- (30) The Physical Therapy Practice Act;
- (31) The Podiatry Practice Act;
- (32) The Psychology Practice Act;
- (33) The Respiratory Care Practice Act;
- (34) The Surgical First Assistant Practice Act; and
- (35) The Veterinary Medicine and Surgery Practice Act. ~~;~~ and
- ~~(36) The Water Well Standards and Contractors' Practice Act.~~

If there is any conflict between any provision of sections 38-101 to 38-1,145 and any provision of a practice act, the provision of the practice act shall prevail.

~~The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through (35) of this section, to articles within Chapter 38.~~

Sec. 42. Section 38-108, Reissue Revised Statutes of Nebraska, is amended to read:

38-108 Board means one of the boards appointed by the State Board of Health pursuant to section 38-158 or appointed by the Governor pursuant to the Emergency Medical Services Practice Act ~~or the Water Well Standards and Contractors' Practice Act.~~ For professions for which there is no board established by statute, the duties normally carried out by a board are the responsibility of the department.

Sec. 43. Section 38-121, Revised Statutes Cumulative Supplement, 2020, is

amended to read:

38-121 (1) No individual shall engage in the following practices unless such individual has obtained a credential under the Uniform Credentialing Act:

- (a) Acupuncture;
- (b) Advanced practice nursing;
- (c) Alcohol and drug counseling;
- (d) Asbestos abatement, inspection, project design, and training;
- (e) Athletic training;
- (f) Audiology;
- (g) Speech-language pathology;
- (h) Body art;
- (i) Chiropractic;
- (j) Cosmetology;
- (k) Dentistry;
- (l) Dental hygiene;
- (m) Electrology;
- (n) Emergency medical services;
- (o) Esthetics;
- (p) Funeral directing and embalming;
- (q) Genetic counseling;
- (r) Hearing instrument dispensing and fitting;
- (s) Lead-based paint abatement, inspection, project design, and training;
- (t) Licensed practical nurse-certified until November 1, 2017;
- (u) Massage therapy;
- (v) Medical nutrition therapy;
- (w) Medical radiography;
- (x) Medicine and surgery;
- (y) Mental health practice;
- (z) Nail technology;
- (aa) Nursing;
- (bb) Nursing home administration;
- (cc) Occupational therapy;
- (dd) Optometry;
- (ee) Osteopathy;
- (ff) Perfusion;
- (gg) Pharmacy;
- (hh) Physical therapy;
- (ii) Podiatry;
- (jj) Psychology;
- (kk) Radon detection, measurement, and mitigation;
- (ll) Respiratory care;
- (mm) Surgical assisting; and
- (nn) Veterinary medicine and surgery. ;
- ~~(oo) Public water system operation; and~~
- ~~(pp) Constructing or decommissioning water wells and installing water well pumps and pumping equipment.~~

(2) No individual shall hold himself or herself out as any of the following until such individual has obtained a credential under the Uniform Credentialing Act for that purpose:

- (a) Registered environmental health specialist;
- (b) Certified marriage and family therapist;
- (c) Certified professional counselor;
- (d) Social worker; or
- (e) Dialysis patient care technician.

(3) No business shall operate for the provision of any of the following services unless such business has obtained a credential under the Uniform Credentialing Act:

- (a) Body art;
- (b) Cosmetology;
- (c) Emergency medical services;
- (d) Esthetics;
- (e) Funeral directing and embalming;
- (f) Massage therapy; or
- (g) Nail technology.

Sec. 44. Section 38-151, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-151 (1) It is the intent of the Legislature that the revenue to cover the cost of the credentialing system administered by the department is to be derived from General Funds, cash funds, federal funds, gifts, grants, or fees from individuals or businesses seeking credentials except as otherwise provided in section 38-155. The credentialing system includes the totality of the credentialing infrastructure and the process of issuance and renewal of credentials, examinations, inspections, investigations, continuing competency, compliance assurance, the periodic review under section 38-128, and the activities conducted under the Nebraska Regulation of Health Professions Act, for individuals and businesses that provide health services, health-related services, and environmental services.

(2) The department shall determine the cost of the credentialing system for such individuals and businesses by calculating the total of the base costs, the variable costs, and any adjustments as provided in sections 38-152 to 38-154.

(3) When fees are to be established pursuant to section 38-155 for individuals or businesses ~~other than individuals in the practice of~~

~~constructing or decommissioning water wells and installing water well pumps and pumping equipment, the department, with the recommendation of the appropriate board if applicable, shall base the fees on the cost of the credentialing system and shall include usual and customary cost increases, a reasonable reserve, and the cost of any new or additional credentialing activities. For individuals in the practice of constructing or decommissioning water wells and installing water well pumps and pumping equipment, the Water Well Standards and Contractors' Licensing Board shall establish the fees as otherwise provided in this subsection. All such fees shall be used as provided in section 38-157.~~

(4) In addition to the fees established under section 38-155, each applicant for the initial issuance and renewal of a credential to practice as a physician or an osteopathic physician under the Medicine and Surgery Practice Act shall pay a patient safety fee of fifty dollars and to practice as a physician assistant under the Medicine and Surgery Practice Act shall pay a patient safety fee of twenty dollars, which fee shall be collected biennially with the initial or renewal fee for the credential. Revenue from such fee shall be remitted to the State Treasurer for credit to the Patient Safety Cash Fund. The patient safety fee shall terminate on January 1, 2026, unless extended by the Legislature.

Sec. 45. Section 38-155, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-155 (1) Subject to subsection (3) of this section, the department, with the recommendation of the appropriate board if applicable, ~~or the Water Well Standards and Contractors' Licensing Board as provided in section 38-151,~~ shall adopt and promulgate rules and regulations to establish and collect the fees for the following credentials:

(a) Initial credentials, which include, but are not limited to:

- (i) Licensure, certification, or registration;
- (ii) Add-on or specialty credentials;
- (iii) Temporary, provisional, or training credentials; and
- (iv) Supervisory or collaborative relationship credentials;

(b) Applications to renew licenses, certifications, and registrations;

(c) Approval of continuing education courses and other methods of continuing competency; and

(d) Inspections and reinspections.

(2) When a credential will expire within one hundred eighty days after its initial issuance date or its reinstatement date and the initial credentialing or renewal fee is twenty-five dollars or more, the department shall collect twenty-five dollars or one-fourth of the initial credentialing or renewal fee, whichever is greater, for the initial or reinstated credential. The initial or reinstated credential shall be valid until the next subsequent renewal date.

(3) All fees for initial credentials under the Uniform Credentialing Act for low-income individuals, military families, and young workers shall be waived except the actual cost of the fingerprinting and criminal background check for an initial license under section 38-131.

Sec. 46. Section 38-157, Reissue Revised Statutes of Nebraska, is amended to read:

38-157 (1) The Professional and Occupational Credentialing Cash Fund is created. Except as provided in section 71-17,113, the fund shall consist of all fees, gifts, grants, and other money, excluding fines and civil penalties, received or collected by the department under sections 38-151 to 38-156 and the Nebraska Regulation of Health Professions Act.

(2) The department shall use the fund for the administration and enforcement of such laws regulating the individuals and businesses listed in section 38-121. Transfers may be made from the fund to the General Fund at the direction of the Legislature. The State Treasurer shall transfer any money in ~~the Nebraska Regulation of Health Professions Fund on July 19, 2012, to the Professional and Occupational Credentialing Cash Fund for licensing activities under the Water Well Standards and Contractors' Practice Act on the operative date of this act to the Water Well Standards and Contractors' Licensing Fund.~~

(3) Any money in the Professional and Occupational Credentialing Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 47. Section 38-158, Reissue Revised Statutes of Nebraska, is amended to read:

38-158 (1) The State Board of Health shall appoint members to the boards designated in section 38-167 except the Board of Emergency Medical Services ~~and the Water Well Standards and Contractors' Licensing Board.~~

(2) Any vacancy in the membership of a board caused by death, resignation, removal, or otherwise shall be filled for the unexpired term in the same manner as original appointments are made.

Sec. 48. Section 38-167, Reissue Revised Statutes of Nebraska, is amended to read:

38-167 (1) Boards shall be designated as follows:

- (a) Board of Advanced Practice Registered Nurses;
- (b) Board of Alcohol and Drug Counseling;
- (c) Board of Athletic Training;
- (d) Board of Audiology and Speech-Language Pathology;
- (e) Board of Chiropractic;

(f) Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;

(g) Board of Dentistry;

- (h) Board of Emergency Medical Services;
- (i) Board of Registered Environmental Health Specialists;
- (j) Board of Funeral Directing and Embalming;
- (k) Board of Hearing Instrument Specialists;
- (l) Board of Massage Therapy;
- (m) Board of Medical Nutrition Therapy;
- (n) Board of Medical Radiography;
- (o) Board of Medicine and Surgery;
- (p) Board of Mental Health Practice;
- (q) Board of Nursing;
- (r) Board of Nursing Home Administration;
- (s) Board of Occupational Therapy Practice;
- (t) Board of Optometry;
- (u) Board of Pharmacy;
- (v) Board of Physical Therapy;
- (w) Board of Podiatry;
- (x) Board of Psychology;
- (y) Board of Respiratory Care Practice; and
- (z) Board of Veterinary Medicine and Surgery. ~~;~~ ~~and~~
- ~~(aa) Water Well Standards and Contractors' Licensing Board.~~

(2) Any change made by the Legislature of the names of boards listed in this section shall not change the membership of such boards or affect the validity of any action taken by or the status of any action pending before any of such boards. Any such board newly named by the Legislature shall be the direct and only successor to the board as previously named.

Sec. 49. Section 38-179, Reissue Revised Statutes of Nebraska, is amended to read:

38-179 For purposes of section 38-178, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including, but not limited to:

(1) Receipt of fees on the assurance that an incurable disease can be permanently cured;

(2) Division of fees, or agreeing to split or divide the fees, received for professional services with any person for bringing or referring a consumer other than (a) with a partner or employee of the applicant or credential holder or his or her office or clinic, (b) with a landlord of the applicant or credential holder pursuant to a written agreement that provides for payment of rent based on gross receipts, or (c) with a former partner or employee of the applicant or credential holder based on a retirement plan or separation agreement, ~~or (d) by a person credentialed pursuant to the Water Well Standards and Contractors' Practice Act;~~

(3) Obtaining any fee for professional services by fraud, deceit, or misrepresentation, including, but not limited to, falsification of third-party claim documents;

(4) Cheating on or attempting to subvert the credentialing examination;

(5) Assisting in the care or treatment of a consumer without the consent of such consumer or his or her legal representative;

(6) Use of any letters, words, or terms, either as a prefix, affix, or suffix, on stationery, in advertisements, or otherwise, indicating that such person is entitled to practice a profession for which he or she is not credentialed;

(7) Performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;

(8) Knowingly disclosing confidential information except as otherwise permitted by law;

(9) Commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder;

(10) Failure to keep and maintain adequate records of treatment or service;

(11) Prescribing, administering, distributing, dispensing, giving, or selling any controlled substance or other drug recognized as addictive or dangerous for other than a medically accepted therapeutic purpose;

(12) Prescribing any controlled substance to (a) oneself or (b) except in the case of a medical emergency (i) one's spouse, (ii) one's child, (iii) one's parent, (iv) one's sibling, or (v) any other person living in the same household as the prescriber;

(13) Failure to comply with any federal, state, or municipal law, ordinance, rule, or regulation that pertains to the applicable profession;

(14) Disruptive behavior, whether verbal or physical, which interferes with consumer care or could reasonably be expected to interfere with such care; and

(15) Such other acts as may be defined in rules and regulations.

Nothing in this section shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

Sec. 50. Section 38-1,107, Reissue Revised Statutes of Nebraska, is amended to read:

38-1,107 (1) Except as provided in subsection (2) of this section, the department shall provide the Attorney General with a copy of all complaints it

receives and advise the Attorney General of investigations it makes which may involve any possible violation of statutes or rules and regulations by a credential holder. The Attorney General shall then determine which, if any, statutes, rules, or regulations the credential holder has violated and the appropriate legal action to take. The Attorney General may (a) elect to file a petition under section 38-186 or not to file a petition, (b) negotiate a voluntary surrender or voluntary limitation pursuant to section 38-1,109, or (c) in cases involving a minor or insubstantial violation, refer the matter to the appropriate board for the opportunity to resolve the matter by recommending to the Attorney General that he or she enter into an assurance of compliance with the credential holder in lieu of filing a petition. An assurance of compliance shall not constitute discipline against a credential holder.

(2) This section does not apply to the following professions or businesses: Asbestos abatement, inspection, project design, and training; lead-based paint abatement, inspection, project design, and training; medical radiography; and radon detection, measurement, and mitigation; ~~water system operation; and constructing or decommissioning water wells and installing water well pumps and pumping equipment.~~

Sec. 51. Section 38-1,115, Reissue Revised Statutes of Nebraska, is amended to read:

38-1,115 It shall be prima facie evidence of practice without being credentialed when any of the following conditions exist:

- (1) The person admits to engaging in practice;
- (2) Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
- (3) Billing or payment records document the provision of service, care, or treatment by the person;
- (4) Service, care, or treatment records document the provision of service, care, or treatment by the person;
- (5) Appointment records indicate that the person was engaged in practice;
- (6) Government ~~Water well registrations or other government~~ records indicate that the person was engaged in practice; and
- (7) The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

Sec. 52. Section 38-1,119, Reissue Revised Statutes of Nebraska, is amended to read:

38-1,119 (1) Sections 38-1,119 to 38-1,123 apply to the following professions and businesses: Asbestos abatement, inspection, project design, and training; lead-based paint abatement, inspection, project design, and training; medical radiography; and radon detection, measurement, and mitigation; ~~water system operation; and constructing or decommissioning water wells and installing water well pumps and pumping equipment.~~

(2) If an applicant for an initial credential to practice a profession or operate a business does not meet all of the requirements for the credential, the department shall deny issuance of the credential. If an applicant for an initial credential or a credential holder applying for renewal of the credential has committed any of the acts set out in section 38-178 or 38-182, as applicable, the department may deny issuance or refuse renewal of the credential or may issue or renew the credential subject to any of the terms imposed under section 38-196 in order to protect the public.

Sec. 53. Section 38-1,143, Revised Statutes Cumulative Supplement, 2020, is amended to read:

38-1,143 (1) Except as otherwise provided in subsection (4) of this section, any credential holder under the Uniform Credentialing Act may establish a provider-patient relationship through telehealth.

(2) Any credential holder under the Uniform Credentialing Act who is providing a telehealth service to a patient may prescribe the patient a drug if the credential holder is authorized to prescribe under state and federal law.

(3) The department may adopt and promulgate rules and regulations pursuant to section 38-126 that are consistent with this section.

(4) This section does not apply to a credential holder under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Dialysis Patient Care Technician Registration Act, the Environmental Health Specialists Practice Act, the Funeral Directing and Embalming Practice Act, the Massage Therapy Practice Act, the Medical Radiography Practice Act, the Nursing Home Administrator Practice Act, the Perfusion Practice Act, the Surgical First Assistant Practice Act, or the Veterinary Medicine and Surgery Practice Act, ~~or the Water Well Standards and Contractors' Practice Act.~~

Sec. 54. Section 46-602, Revised Statutes Cumulative Supplement, 2020, is amended to read:

46-602 (1) Each water well completed in this state on or after July 1, 2001, excluding test holes and dewatering wells to be used for less than ninety days, shall be registered with the Department of Natural Resources as provided in this section within sixty days after completion of construction of the water well. The licensed water well contractor as defined in section 46-1213 constructing the water well, or the owner of the water well if the owner constructed the water well, shall file the registration on a form made available by the department and shall also file with the department the information from the well log required pursuant to section 46-1241. The department shall, by January 1, 2002, provide licensed water well contractors with the option of filing such registration forms electronically. No signature shall be required on forms filed electronically. The fee required by subsection

(3) of section 46-1224 shall be the source of funds for any required fee to a contractor which provides the online services for such registration. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to section 46-1224.

(2)(a) If the newly constructed water well is a replacement water well, the registration form shall include (i) the registration number of the water well being replaced, if applicable, and (ii) the date the original water well was decommissioned or a certification that the water well will be decommissioned within one hundred eighty days or a certification that the original water well will be modified and equipped to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive use or de minimis use approved by the applicable natural resources district.

(b) For purposes of this section, replacement water well means a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the department and any applicable rules and regulations of the natural resources district and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (i) replaces a decommissioned water well within one hundred eighty days after the decommissioning of the original water well, (ii) replaces a water well that has not been decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty days after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one year after completion of the replacement water well, or (iii) the original water well will continue to be used but will be modified and equipped within one hundred eighty days after such construction of the replacement water well to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the applicable natural resources district.

(c) No water well shall be registered as a replacement water well until the Department of Natural Resources has received a properly completed notice of decommissioning for the water well being replaced on a form made available by the department, or properly completed notice, prepared in accordance with subsection (7) of this section, of the modification and equipping of the original water well to pump fifty gallons per minute or less for use only for livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the applicable natural resources district. Such notices, as required, shall be completed by (i) the licensed water well contractor as defined in section 46-1213 who decommissions the water well or modifies and equips the water well, (ii) the licensed pump installation contractor as defined in section 46-1209 who decommissions the water well or modifies and equips the water well, or (iii) the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode. The Department of Environment and Energy Health and Human Services shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection.

(3) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, a registration form and a detailed site plan shall be filed for each water well. The registration form shall include the registration numbers of other water wells included in the series if such water wells are already registered.

(4) A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well. One registration form and a detailed site plan shall be filed for each such series.

(5) One registration form shall be required along with a detailed site plan which shows the location of each such water well in the site and a log from each such water well for water wells constructed as part of a single site plan for (a) monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, (b) water wells constructed as part of remedial action approved by the Department of Environment and Energy pursuant to section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who have a permit issued pursuant to the Industrial Ground Water Regulatory Act and also have an underground injection control permit issued by the Department of Environment and Energy.

(6) The Department of Natural Resources shall be notified by the owner of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and include such evidence of ownership as the Director of Natural Resources by rule and regulation directs. The department shall use such notice to update the registration on file. The department shall not collect a fee for the filing of the notice.

(7) The licensed water well contractor or licensed pump installation contractor responsible therefor shall notify the department within sixty days on a form provided by the department of any pump installation or any modifications to the construction of the water well or pump, after the initial registration of the well. For a change of use resulting in modification and

equipping of an original water well which is being replaced in accordance with subsection (2) of this section, the licensed water well contractor or licensed pump installation contractor shall notify the department within sixty days on a form provided by the department of the water well and pump modifications and equipping of the original water well. A water well owner shall notify the department within sixty days on a form provided by the department of any other changes or any inaccuracies in recorded water well information, including, but not limited to, changes in use. The department shall not collect a fee for the filing of the notice.

(8) Whenever a water well becomes an illegal water well as defined in section 46-706, the owner of the water well shall either correct the deficiency that causes the well to be an illegal water well or shall cause the proper decommissioning of the water well in accordance with rules and regulations adopted pursuant to the Water Well Standards and Contractors' Practice Act. The licensed water well contractor who decommissions the water well, the licensed pump installation contractor who decommissions the water well, or the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode, shall provide a properly completed notice of decommissioning to the Department of Natural Resources within sixty days. The Department of ~~Environment and Energy Health and Human Services~~ shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection. The Department of Natural Resources shall not collect a fee for the filing of the notice.

(9) Except for water wells which are used solely for domestic purposes and were constructed before September 9, 1993, and for test holes and dewatering wells used for less than ninety days, each water well which was completed in this state before July 1, 2001, and which is not registered on that date shall be an illegal water well until it is registered with the Department of Natural Resources. Such registration shall be completed by a licensed water well contractor or by the current owner of the water well, shall be on forms provided by the department, and shall provide as much of the information required by subsections (1) through (5) of this section for registration of a new water well as is possible at the time of registration.

(10) Water wells which are or were used solely for injecting any fluid other than water into the underground water reservoir, which were constructed before July 16, 2004, and which have not been properly decommissioned on or before July 16, 2004, shall be registered on or before July 1, 2005.

(11) Water wells described in subdivision (1)(b) of section 46-601.01 shall be registered with the Department of Natural Resources as provided in subsection (1) of this section within sixty days after the water well is constructed. Water wells described in subdivision (1)(b) of section 46-601.01 which were constructed prior to May 2, 2007, shall be registered within one hundred eighty days after such date.

Sec. 55. Section 46-705, Revised Statutes Cumulative Supplement, 2020, is amended to read:

46-705 Nothing in the Nebraska Ground Water Management and Protection Act shall be construed to limit the powers of the Department of ~~Environment and Energy Health and Human Services~~ provided in the Nebraska Safe Drinking Water Act.

Nothing in the Nebraska Ground Water Management and Protection Act relating to the contamination of ground water is intended to limit the powers of the Department of Environment and Energy provided in Chapter 81, article 15.

Sec. 56. Section 46-1011, Reissue Revised Statutes of Nebraska, is amended to read:

46-1011 Plans and specifications for any proposed improvement authorized by sections 46-1001 to 46-1020 shall be filed with the director, the Department of ~~Environment and Energy Health and Human Services~~, and the secretary of the district. No construction of any such improvement shall begin until the plans and specifications for such improvement have been approved by the director and the Department of ~~Environment and Energy Health and Human Services~~, except that if the improvement involves a public water system as defined in section 71-5301, only the Department of ~~Environment and Energy Health and Human Services~~ shall be required to review the plans and specifications for such improvement and approve the same if in compliance with the Nebraska Safe Drinking Water Act Chapter 71, article 53, and departmental regulations adopted thereunder.

The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any political subdivision organized under the laws of the State of Nebraska.

Sec. 57. Section 46-1201, Reissue Revised Statutes of Nebraska, is amended to read:

46-1201 Sections 46-1201 to 46-1241 and sections 60 and 61 of this act shall be known and may be cited as the Water Well Standards and Contractors' Practice Act.

Sec. 58. Section 46-1204.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1204.01 Abandoned water well means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Environment and Energy Health and Human Services, and (3) for which the notice of abandonment required by subsection (2) of section 46-602 has been filed with the Department of Natural Resources by the licensed water well contractor or licensed pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.

Sec. 59. Section 46-1207, Reissue Revised Statutes of Nebraska, is amended to read:

46-1207 Department means shall mean the Department of Environment and Energy Health and Human Services.

Sec. 60. No board member shall take any action or make any decision in the discharge of the duties of a member of the board that may constitute a conflict of interest. As soon as a member is aware of a potential conflict or should reasonably be aware of such potential conflict, whichever is sooner, the member shall submit a written statement to the Director of Environment and Energy describing the matter requiring action or decision and the nature of the potential conflict. The member shall take such action as the director shall advise or prescribe to remove the member from influence over the action or decision on the matter. For purposes of this section, conflict of interest includes financial, professional, or personal obligations that may compromise or present the appearance of compromising the judgment of a member in the performance of the duties of a member of the board. The director may establish a definition of conflicts of interest for members of the board and may establish procedures in case such a conflict arises.

Sec. 61. (1) Each member of the board shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of the duties of a member of the board, including compensation for the time spent in traveling to and from the place of conducting business. Traveling and lodging expenses shall be on the same basis as provided in sections 81-1174 to 81-1177. The compensation per day shall not exceed fifty dollars and shall be determined by the board with the approval of the department.

(2) The board may select one or more of its members to attend the annual meeting of the national organization of state boards of water well contractors or other related meetings. Any member so selected shall receive traveling and lodging expenses in attending such meetings on the same basis as provided in sections 81-1174 to 81-1177.

(3) The department shall be responsible for the general administration of the activities of the board. The cost of operation and administration of the board shall be paid from the General Fund and the Water Well Standards and Contractors' Licensing Fund.

Sec. 62. Section 46-1224, Revised Statutes Cumulative Supplement, 2020, is amended to read:

46-1224 (1) Except as otherwise provided in subsections (3) and (2) through (4) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Practice Act. Such fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' Practice Act. Additionally, such fund shall be used to pay any required fee to a contractor which provides the online services for registration of water wells. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The board shall set fees for licensing individuals under the Water Well Standards and Contractors' Practice Act for application for, issuance of, and renewal of licenses. The fees shall be waived for initial licenses for low-income individuals, military families, and young workers as those terms are defined in the Uniform Credentialing Act Fees for credentialing individuals under the Water Well Standards and Contractors' Practice Act shall be established and collected as provided in sections 38-151 to 38-157.

(3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or less and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump more than fifty gallons per minute. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee set pursuant to this subsection shall be collected for each of the first ten such water wells registered, and for each

group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environment and Energy pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the Director of Natural Resources with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The director shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(4) The board shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

Sec. 63. Section 46-1227.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1227.01 (1) All water well construction and monitoring, pump and pumping equipment installation and repair, and decommissioning shall be accomplished following the standards developed under the Water Well Standards and Contractors' Practice Act.

(2) A licensed water well contractor may have supervisory authority over all employees.

(3) A licensed water well drilling supervisor shall work under the supervision of a licensed water well contractor and may have supervisory authority over nonlicensed noncredentialed employees.

(4) A licensed pump installation contractor may have supervisory authority over all employees.

(5) A licensed pump installation supervisor shall work under the supervision of a licensed pump installation contractor and may have supervisory authority over nonlicensed noncredentialed employees.

(6) A licensed water well monitoring technician may work independently and shall not have supervisory authority.

(7) A licensed natural resources ground water technician employed by a natural resources district may work independently and shall not have supervisory authority over any licensed or nonlicensed credentialed or noncredentialed persons.

(8) An individual who owns land and uses it for farming, ranching, or agricultural purposes or as his or her place of abode may, on such land, construct a water well, install a pump in a well, or decommission a driven sandpoint well.

Sec. 64. Section 46-1229, Reissue Revised Statutes of Nebraska, is amended to read:

46-1229 (1) Any person desiring to engage in the construction of water wells, the installation of pumps and pumping equipment, or the decommissioning of water wells shall make initial application for a license to the department in accordance with rules and regulations adopted and promulgated pursuant to the Water Well Standards and Contractors' Practice Act section 38-130. A license to engage in the construction or decommissioning of water wells or the installation of pumps and pumping equipment shall be issued to every applicant who demonstrates professional competence by successfully passing the examination prescribed in section 46-1223 and otherwise complies with ~~the Uniform Credentialing Act,~~ the Water Well Standards and Contractors' Practice Act, and all standards, rules, and regulations adopted and promulgated pursuant to the act such acts. Applicants shall receive licenses for any category or combination of categories for which they have successfully passed the required examination.

(2) The department, with the approval of the board, shall adopt and promulgate rules and regulations governing application for and issuance and renewal of licenses required pursuant to this section and fees pursuant to section 46-1224.

(3) All rules and regulations adopted prior to the operative date of this act under the Uniform Credentialing Act and the Water Well Standards and Contractors' Practice Act shall continue to be effective to the extent not in conflict with the changes made by this legislative bill.

(4) All licenses or other forms of approval issued prior to the operative date of this act in accordance with the Uniform Credentialing Act and the Water Well Standards and Contractors' Practice Act shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or otherwise terminated by law.

(5) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this act under the Uniform Credentialing Act and the Water Well Standards and Contractors'

Practice Act shall be subject to the provisions of the acts as they existed prior to the operative date of this act.

Sec. 65. Section 46-1231, Reissue Revised Statutes of Nebraska, is amended to read:

46-1231 Each water well drilling supervisor, pump installation supervisor, natural resources ground water technician, and water well monitoring technician shall make application for a license in his or her respective trade. A license shall be issued to every applicant who successfully passes the examination for such license and otherwise complies with the ~~Uniform Credentialing Act~~, the Water Well Standards and Contractors' Practice Act, and all standards, rules, and regulations adopted and promulgated pursuant to the act such acts. Any individual employed by a licensed water well contractor or a licensed pump installation contractor who is not deemed to qualify as a licensed water well drilling supervisor or licensed pump installation supervisor may apply for a license in his or her respective trade in the same manner as the licensed water well drilling supervisor or the licensed pump installation supervisor.—~~A supervisor holding a certificate of competence in his or her respective trade on December 1, 2008, shall be deemed to be licensed as a supervisor in such trade on such date. A technician holding a certificate of competence in his or her respective trade on December 1, 2008, shall be deemed to be licensed as a technician in such trade on such date.~~

Sec. 66. Section 46-1235, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235 In cases other than those relating to failure to meet the requirements for an initial license, the Director of Environment and Energy department may deny, refuse renewal of, suspend, or revoke licenses or may take other disciplinary action following notice and an opportunity for a hearing in accordance with section 38-196 for the grounds found in sections 38-178 and 38-179 and for any of the following acts or offenses:

(1) Violation of the Water Well Standards and Contractors' Practice Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;

(2) Fraud or deception by the applicant or licensee;

(3) Failure to exercise reasonable care in the practice of the trade;

(4) Inability to properly perform the practice of the trade;

(5) Failure to comply with continuing education requirements for licensure under the act;

(6) (2) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or of members of the general public;

(7) (3) Practice of the trade while the license to do so is suspended or practice of the trade in contravention of any limitation placed upon the license;

(8) (4) Failing to file a water well registration required by subsection (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice required by subsection (7) of such section; or

(9) (5) Failing to file a properly completed notice of abandonment of a water well required by subsection (8) of section 46-602.

Sec. 67. Section 46-1238, Reissue Revised Statutes of Nebraska, is amended to read:

46-1238 Any person who fails to employ or use at least one individual appropriately licensed and available or any person who engages, without a license for such activities, in the construction of water wells, the installation of pumps and pumping equipment, the decommissioning of water wells, or the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices, in addition to the other penalties provided in ~~the Uniform Credentialing Act or the Water Well Standards and Contractors' Practice Act~~, may be enjoined from continuing such activities.

Sec. 68. Section 71-1910, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(b) Program does not include casual care at irregular intervals, a recreation camp as defined in section 11 of this act 71-3101, a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in section 13-304, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-318, services provided only to school-age children during the summer and other extended breaks in the school year, or foster care as defined in section 71-1901.

Sec. 69. Section 71-2619, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(3) Fees for examinations of water from lakes, streams, impoundments, or similar sources, from wastewaters, or from ground water for industrial or agricultural purposes may be charged in amounts established by regulation but shall not exceed one and one-half times the limits set by regulation for examination of domestic waters.

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

(a) Any specimen submitted for radiochemical analysis or characterization;
(b) Any material submitted for chemical characterization or quantitation;
and

(c) Any material submitted for microbiological characterization.

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

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

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

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

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

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

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

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

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

(8) Fees may be established by regulation to defray no more than the actual costs of certifying laboratories, inspecting laboratories, and making laboratory agreements between the department and laboratories other than the Department of Health and Human Services, Division of Public Health, Environmental Laboratory for the purpose of conducting analyses of drinking water as prescribed in section 71 of this act ~~71-5306~~. For each laboratory applying for certification, fees shall include (a) an annual fee not to exceed one thousand eight hundred dollars per laboratory and (b) an inspection fee not to exceed three thousand dollars per certification period for each laboratory located in this state.

(9) All fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund.

Sec. 70. Section 71-2621, Reissue Revised Statutes of Nebraska, is amended to read:

71-2621 All fees collected for laboratory tests and services pursuant to sections 71-2619 and 71-2620 and section 71 of this act shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund, which shall be used to partially defray the costs of labor, operations, supplies, and materials in the operations of the Department of Health and Human Services, Division of Public Health, Environmental Laboratory.

Sec. 71. (1) For purposes of the Nebraska Safe Drinking Water Act, the Director of Public Health of the Department of Health and Human Services may establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2619 to 71-2621.

(2)(a) The Director of Public Health of the Department of Health and Human Services shall certify and enter into authorization agreements with laboratories to perform tests on water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes. The director shall establish, through rules and regulations,

standards for certification. Such standards (i) may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results, (ii) shall provide for certification of independent laboratories to test samples provided by public water systems for all acute toxins for which the department tests such samples, including, but not limited to, coliform, nitrates, inorganic chemicals, organic chemicals, radionuclides, and any other acute toxins for which the department tests such samples, and (iii) shall be consistent with requirements for performing laboratory tests established by the United States Environmental Protection Agency to the extent such requirements are consistent with state law. The director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification. Inspection fees and fees for certifying other laboratories shall be established and collected to defray the cost of the inspections and certification as provided in sections 71-2619 to 71-2621.

(b) Laboratories shall be allowed to test water samples which are not compliance samples by testing methods other than the methods and procedures required to be used on compliance samples by rules and regulations of the department. For purposes of this section, compliance sample means a water sample required under the Nebraska Safe Drinking Water Act and rules and regulations of the department to determine whether a public water system meets current drinking water standards.

(3) All rules and regulations adopted prior to the operative date of this act under subdivision (1)(b) or subsection (2) of section 71-5306 shall continue to be effective to the extent not in conflict with the changes made by this legislative bill and until amended or repealed by the department.

(4) All certifications, agreements, or other forms of approval issued prior to the operative date of this act in accordance with subdivision (1)(b) or subsection (2) of section 71-5306 shall remain valid as issued for purposes of the changes made by this legislative bill unless revoked or otherwise terminated by law.

(5) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this act under subdivision (1)(b) or subsection (2) of section 71-5306 shall be subject to the provisions of such section as they existed prior to the operative date of this act.

Sec. 72. Section 71-5301, Reissue Revised Statutes of Nebraska, is amended to read:

71-5301 For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council means the Advisory Council on Public Water Supply;

(2) Department means ~~the Division of Public Health of the Department of Environment and Energy Health and Human Services;~~

(3) Director means the Director of ~~Environment and Energy Public Health of the Division of Public Health~~ or his or her authorized representative;

(4) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the director has consummated a legal and binding contract covering specifically delegated responsibilities;

(5) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;

(6) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;

(7) Owner means any person owning or operating a public water system;

(8) Person means any individual, corporation, firm, partnership, limited liability company, association, company, trust, estate, public or private institution, group, agency, political subdivision, or other entity or any legal successor, representative, agent, or agency of any of such entities;

(9) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(10)(a) Public water system means a system for providing the public with water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. Public water system includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water system.

(b) Service connection does not include a connection to a system that

delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

(c) Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the residential or similar users of the system comply with exclusion provisions of subdivision (b)(ii) or (iii) of this subdivision;

(11) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the director, may have an adverse effect on the health of persons and (b) apply only to public water systems;

(12) Lead free means (a) not containing more than two-tenths percent lead when used with respect to solder and flux and (b) not containing more than a weighted average of twenty-five hundredths percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

(13) Community water system means a public water system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

(14) Noncommunity water system means a public water system that is not a community water system; ~~and~~

(15) Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least twenty-five of the same individuals over six months per year; ~~and -~~

(16) Federal Safe Drinking Water Act means the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021.

Sec. 73. Section 71-5301.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5301.01 The director may adopt and promulgate rules and regulations regarding the use of lead-free materials in public water systems in compliance with standards established in accordance with the federal Safe Drinking Water Act 42 U.S.C. 300g, as such section existed on January 1, 2016.

Sec. 74. Section 71-5302, Revised Statutes Cumulative Supplement, 2020, is amended to read:

71-5302 (1) The director shall adopt and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water supplied to consumers through all public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological material determined by the director to be harmful to human health.

(2) The director may adopt and promulgate rules and regulations to require the monitoring of drinking water supplied to consumers through public water systems for chemical, radiological, physical, or bacteriological material determined by the director to be potentially harmful to human health.

(3) In determining what materials are harmful or potentially harmful to human health and in setting maximum levels for such harmful materials, the director shall be guided by:

(a) General knowledge of the medical profession and related scientific fields as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(4) Subject to section 71-5310, state drinking water standards shall apply to each public water system in the state, except that such standards shall not apply to a public water system:

(a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(b) Which obtains all of its water from, but is not owned or operated by, a public water system to which such standards apply;

(c) Which does not sell water to any person; and

(d) Which is not a carrier which conveys passengers in interstate commerce.

(5) The director may adopt alternative monitoring requirements for public water systems in accordance with section 1418 of the federal Safe Drinking Water Act, ~~as such section existed on May 22, 2001.~~

(6) The director may adopt a system for the ranking of safe drinking water projects with known needs or for which loan applications have been received by the director ~~or the Department of Environment and Energy.~~ In establishing the ranking system the director shall consider, among other things, the risk to human health, compliance with the federal Safe Drinking Water Act, ~~as the act existed on May 22, 2001,~~ and assistance to systems most in need based upon

affordability criteria adopted by the director. This priority system shall be reviewed annually by the director.

Sec. 75. Section 71-5304, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304 (1) The director shall adopt and promulgate, as necessary, minimum rules and regulations governing the siting, design, construction, alteration, classification, and operation of public water systems to insure that such public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological materials which are determined by the director, pursuant to section 71-5302, to be harmful to the physical health of human beings. In adopting such rules and regulations, the director shall attempt to meet the following objectives:

(a) Insure that facilities are physically separated, to the greatest extent possible, from water or land areas which contain high levels of materials which are harmful to humans;

(b) Insure that such facilities, and all parts thereof, are physically sealed so that leakage of harmful materials into the public water system itself from sources outside the system shall not occur;

(c) Insure that all materials which are used in the construction of a system shall not place harmful materials into the public water system;

(d) Insure that all chemicals or other substances used to treat and purify water are free from harmful materials; and

(e) Insure, to the greatest extent possible, that such rules and regulations will allow uninterrupted and efficient operation of public water systems.

(2) The rules and regulations may contain differences and distinctions based on one or more of the following: Physical size of the facilities, number of persons served, system classification, source of water, treatment technique and purpose, and distribution complexity, so long as the objectives of this section are met.

Sec. 76. Section 71-5306, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(b) Require all laboratory analyses to be performed at the Department of Health and Human Services, Division of Public Health, Environmental Laboratory, or at any other certified laboratory which has entered into an agreement for such services with the Department of Health and Human Services pursuant to section 71 of this act ~~department therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2619 to 71-2621;~~

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

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

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

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

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

~~(2)(a) The director shall certify and enter into authorization agreements with laboratories to perform tests on water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes. The director shall establish, through rules and regulations, standards for certification. Such standards (i) may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results, (ii) shall provide for certification of independent laboratories to test samples provided by public water systems for all acute toxins for which the department tests such samples, including, but not limited to, coliform, nitrates, inorganic chemicals, organic chemicals, radionuclides, and any other acute toxins for which the department tests such samples, and (iii) shall be consistent with requirements for performing laboratory tests established by the United States Environmental Protection Agency to the extent such requirements are consistent with state law. The~~

~~director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification. Inspection fees and fees for certifying other laboratories shall be established and collected to defray the cost of the inspections and certification as provided in sections 71-2619 to 71-2621.~~

~~(b) Laboratories shall be allowed to test water samples which are not compliance samples by testing methods other than the methods and procedures required to be used on compliance samples by rules and regulations of the department. For purposes of this section, compliance sample means a water sample required under the Nebraska Safe Drinking Water Act and rules and regulations of the department to determine whether a public water system meets current drinking water standards.~~

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

Sec. 77. Section 71-5308, Reissue Revised Statutes of Nebraska, is amended to read:

71-5308 (1) An applicant shall submit an application and the applicable fees Application for a license to act as a licensed operator of a public water system to the department shall be made as provided in the Uniform Credentialing Act.

(2) The director shall adopt and promulgate rules and regulations to establish and collect fees to cover all reasonable and necessary costs of licensing activities, including a reasonable reserve. If an application for a license is denied or withdrawn, the department may retain a portion of the fee to cover the costs of the application process. The fees shall be waived for initial licenses for low-income individuals, military families, and young workers as those terms are defined in the Uniform Credentialing Act.

(3) The director shall remit fees collected under the Nebraska Safe Drinking Water Act to the State Treasurer for credit to the Safe Drinking Water Act Cash Fund.

(4) A license shall expire on December 31 of odd-numbered years. The director may renew a license upon application by the licensee, payment of the applicable fees, and a determination by the director that the licensee has complied with the act and the rules and regulations adopted and promulgated under the act.

Sec. 78. Section 71-5309, Reissue Revised Statutes of Nebraska, is amended to read:

71-5309 (1) The director shall adopt and promulgate, as minimum necessary, minimum rules and regulations governing the qualifications of operators of public water systems. In adopting such rules and regulations, the director shall give consideration to the levels of training and experience which are required, in the opinion of the director, to insure to the greatest extent possible that the public water systems shall be operated in such a manner that (a) maximum efficiency can be attained, (b) interruptions in service will not occur, (c) chemical treatment of the water will be adequate to maintain purity and safety, and (d) harmful materials will not enter the public water system.

(2) The director may require, by rule and regulation, that the applicant for a license successfully pass an examination on the subject of operation of a public water system. The rules and regulations, and any tests so administered, may set out different requirements for public water systems based on one or more of the following: Physical size of the facilities, number of persons served, system classification, source of water, treatment technique and purpose, and distribution complexity, so long as the criteria set forth in this section are followed.

(3) An applicant for a license as a public water system operator under the Nebraska Safe Drinking Water Act who previously held a license or certification as a public water system operator under the act and whose license or certification expired two years or more prior to the date of application shall take the examination required to be taken by an applicant for an initial license under the act. The department's review of the application for licensure by an applicant under this subsection shall include the results of such examination and the applicant's experience and training. The department may by rules and regulations establish requirements for relicensure under the act which are more stringent for applicants whose license is expired or has been revoked or suspended than those for applicants for initial licensure.

(4) The director may adopt and promulgate rules and regulations as necessary to establish procedures for licensing, including, but not limited to, issuance of temporary or emergency licenses, reinstatement of licenses, and reciprocal licensure agreements with other states.

(5) The director may deny, revoke, or suspend a license after notice and an opportunity for a hearing. Grounds for denial, revocation, or suspension include, but are not limited to, (a) fraud or deception by the applicant or licensee, (b) failure to use reasonable care in the performance of licensed activities, (c) inability of the applicant or licensee to perform licensed

activities properly, (d) failure to maintain the minimum requirements for licensure or operation established by the act or the rules and regulations adopted and promulgated under the act, or (e) any other violation of the act or the rules and regulations adopted and promulgated under the act.

Sec. 79. Section 71-5310, Reissue Revised Statutes of Nebraska, is amended to read:

71-5310 (1) The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 71-5302 under conditions and in such manner as they deem necessary and desirable. Such variances or exemptions shall be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the federal Safe Drinking Water Act ~~as the act existed on July 20, 2002.~~

(2) Prior to granting a variance or an exemption, the director shall provide notice, in a newspaper of general circulation serving the area served by the public water system, of the proposed exemption or variance and that interested persons may request a public hearing on the proposed exemption or variance. The director may require the system to provide other appropriate notice necessary to provide adequate notice to persons served by the system.

(3) If a public hearing is requested, the director shall set a time and place for the hearing and such hearing shall be held before the department prior to the variance or exemption being issued. Frivolous and insubstantial requests for a hearing may be denied by the director. An exemption or variance shall be conditioned on monitoring, testing, analyzing, or other requirements to insure the protection of the public health. A variance or an exemption granted shall include a schedule of compliance under which the public water system is required to meet each contaminant level or treatment technique requirement for which a variance or an exemption is granted within a reasonable time as specified by the director with the approval of the council.

Sec. 80. Section 71-5312.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5312.01 (1) All rules and regulations adopted prior to the operative date of this act December 1, 2008, under the Nebraska Safe Drinking Water Act shall continue to be effective to the extent not in conflict with the changes made by this legislative bill Laws 2007, LB 463.

(2) All licenses, certificates, or other forms of approval issued prior to the operative date of this act December 1, 2008, in accordance with the Nebraska Safe Drinking Water Act shall remain valid as issued for purposes of the changes made by this legislative bill Laws 2007, LB 463, unless revoked or otherwise terminated by law.

(3) Any suit, action, or other proceeding, judicial or administrative, which was lawfully commenced prior to the operative date of this act December 1, 2008, under the Nebraska Safe Drinking Water Act shall be subject to the provisions of the act as they existed prior to the operative date of this act December 1, 2008.

Sec. 81. Section 81-502, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-502 (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire; and

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Environment and Energy ~~Health and Human Services~~, pursuant to section 31 of this act 71-4635.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-538, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section and section 81-503.01 to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire

prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

Sec. 82. Section 81-2121, Reissue Revised Statutes of Nebraska, is amended to read:

81-2121 Nothing in the State Electrical Act shall be construed to:

(1) Require employees of municipal corporations, public power districts, public power and irrigation districts, electric membership or cooperative associations, public utility corporations, railroads, telephone or telegraph companies, or commercial or industrial companies performing manufacturing, installation, and repair work for such employer to hold licenses while acting within the scope of their employment;

(2) Require any person doing work for which a license would otherwise be required under the act to hold a license issued under the act if he or she is the holder of a valid license issued by any city or other political subdivision, so long as he or she makes electrical installations only in the jurisdictional limits of such city or political subdivision and such license issued by the city or political subdivision meets the requirements of the act;

(3) Cover the installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, moving walks, dumbwaiters, stagelifts, manlifts, or appurtenances thereto beyond the terminals of the controllers. The licensing of elevator contractors or constructors shall not be considered a part of the licensing requirements of the act;

(4) Require a license of any person who engages any electrical appliance where approved electrical outlets are already installed;

(5) Prohibit an owner of property from performing work on his or her principal residence, if such residence is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public-use buildings or facilities, or require such owner to be licensed under the act;

(6) Require that any person be a member of a labor union in order to be licensed; or

(7) Prohibit a pump installation contractor or pump installation supervisor licensed ~~credentialed~~ under the Water Well Standards and Contractors' Practice Act from wiring pumps and pumping equipment at a water well location to the first control.

Sec. 83. There is hereby created the Environmental Safety Cash Fund which shall be used to pay the expenses of the Department of Environment and Energy related to issuance and renewal of licenses and permits and annual inspections, including sections 8, 12, 22, and 32 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to sections 8, 12, 22, and 32 of this act, as such sections existed prior to the operative date of this act, to the Environmental Safety Cash Fund on July 1, 2021.

Sec. 84. There is hereby created the Engineering Plan Review Cash Fund which shall be used to pay the expenses of the Department of Environment and Energy related to engineering reviews of plans and specifications, including those under subsection (3) of section 8 of this act and subsection (2) of section 22 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to subsection (3) of section 8 of this act and subsection (2) of section 22 of this act, as such sections existed prior to the operative date of this act, to the Engineering Plan Review Cash Fund on July 1, 2021.

Sec. 85. This act becomes operative on July 1, 2021.

Sec. 86. Original sections 2-3254, 38-108, 38-157, 38-158, 38-167, 38-179, 38-1,107, 38-1,115, 38-1,119, 46-1011, 46-1201, 46-1204.01, 46-1207, 46-1227.01, 46-1229, 46-1231, 46-1235, 46-1238, 71-1910, 71-2619, 71-2621, 71-2622, 71-3101, 71-3102, 71-3103, 71-3104, 71-3105, 71-3106, 71-3107, 71-4301, 71-4302, 71-4303, 71-4304, 71-4305, 71-4306, 71-4307, 71-4621, 71-4622, 71-4623, 71-4624, 71-4625, 71-4626, 71-4627, 71-4629, 71-4630, 71-4631, 71-4632, 71-4633, 71-4634, 71-4635, 71-5301, 71-5301.01, 71-5304, 71-5306, 71-5308, 71-5309, 71-5310, 71-5312.01, and 81-2121, Reissue Revised Statutes of Nebraska, and sections 2-2626, 38-101, 38-121, 38-151, 38-155, 38-1,143, 46-602, 46-705, 46-1224, 71-5302, and 81-502, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 87. Since an emergency exists, this act takes effect when passed and approved according to law.