

LEGISLATIVE BILL 301

Approved by the Governor March 9, 2005

Introduced by Health and Human Services Committee: Jensen, 20, Chairperson;
Byars, 30; Cunningham, 40; Erdman, 47; Howard, 9; Johnson, 37;
Stuthman, 22

AN ACT relating to public health and welfare; to amend sections 68-156, 68-1017.02, 68-1020 to 68-1021.01, 68-1037, 68-1048, 68-1604, 71-147, 71-1,104.01, 71-501.02, 71-503.01, 71-505, 71-519 to 71-523, 71-529, 71-601, 71-601.01, 71-605, 71-613, 71-640.01, 71-642, 71-649, 71-701, 71-703, 71-705 to 71-707, 71-1628.05 to 71-1628.07, 71-1913.01 to 71-1913.03, 71-2081, 71-3503, 71-3524, 71-4737 to 71-4744, 71-5647, 71-5649, 71-5655, 71-5714, 71-7617 to 71-7622, 79-217 to 79-219, 81-656, and 81-6,101, Reissue Revised Statutes of Nebraska, and sections 71-1,155, 71-5653, 81-3004, 81-3102, and 81-3202, Revised Statutes Supplement, 2004; to change and eliminate provisions relating to reports, food stamp and medical assistance benefits, homeless shelter assistance, death certificates, newborn screening tests, and temporary veterinarian licenses; to transfer responsibility for the immunodeficiency syndrome program, disease prevention and immunization programs, the Women's Health Initiative of Nebraska, state public health personnel, the Infant Hearing Act, the Office of Rural Health, the tobacco-related public health program, and the Native American public health program; to name the Vital Statistics Act; to change and provide penalties; to redefine transuranic waste; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 68-1064, 68-1716, and 71-1,161, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 68-156, Reissue Revised Statutes of Nebraska, is amended to read:

68-156. Any county utilizing a community service program for employable recipients as outlined in sections 68-151 to 68-155 shall file an annual written report which shall include the number of persons placed through the community service program, the numbers of hours of experience provided, the duration and location of each placement including the name and address of the business or agency accepting the placement, and the specific skills learned in the placement.

~~Commencing in 1992,~~ The report shall be filed with the Department of Health and Human Services by October 1 of each year for the fiscal year ending the preceding June 30.

~~The department shall annually compile the written reports from each county and summarize the findings in a written report to the Legislature by December 31. The report shall include the status of the number and use of community service placements, the locations of the placements, the number of hours worked, and the work skills addressed in the placements.~~

Sec. 2. Section 68-1017.02, Reissue Revised Statutes of Nebraska, is amended to read:

68-1017.02. (1) Within the limits specified in this section, the State of Nebraska opts out of the provision of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, section 115, that eliminates eligibility for food stamps for any person convicted of a felony involving the possession, use, or distribution of a controlled substance.

(2) A person shall be ineligible for food stamp benefits under this section if he or she ~~(1)~~ (a) has had three or more felony convictions for the possession or use of a controlled substance or ~~(2)~~ (b) has been convicted of a felony involving the sale or distribution of a controlled substance ~~under section 28-416~~ or the intent to sell or distribute a controlled substance. A person with one or two felony convictions for the possession or use of a controlled substance shall only be eligible to receive food stamp benefits under this section if he or she is participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the date of conviction. The determination of such participation or completion shall be made by the treatment provider administering the program.

Sec. 3. Section 68-1020, Reissue Revised Statutes of Nebraska, is

amended to read:

68-1020. (1) Medical assistance shall be paid on behalf of (a) dependent children, (b) aged, blind, and disabled persons, as defined in sections 43-504 and 68-1002 to 68-1005, and (c) all persons less than nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act. ~~as such section existed on January 1, 2002.~~

(2) The Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations governing provision of such medical assistance benefits to qualified persons:

(a) Who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act; ~~as such sections existed on January 1, 2002.~~

(b) Who have a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, ~~as such titles existed on January 1, 2002,~~ without regard to resources, including all children under nineteen years of age and pregnant women as allowed under 42 U.S.C. 1396a, ~~as such section existed on January 1, 2002,~~ and section 2110 of the federal Social Security Act. ~~as such section existed on January 1, 2002.~~ Children described in this subdivision shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. Such rules and regulations shall specify the nature of such reviews and the information upon which such reviews will be based and shall require the consideration of variations in family income and other relevant factors in conducting such reviews. The department may determine upon such review that a child is ineligible for medical assistance benefits if such child no longer meets eligibility standards established by the department. All children currently eligible on August 16, 2002, shall have their initial period of continuous eligibility reduced to six months and shall have their eligibility redetermined pursuant to subsection (5) of this section and subdivision (1)(s) of section 68-1713. Beginning on August 16, 2002, the department shall report to the Legislature and the Governor on a quarterly basis until November 3, 2003, and each December 1 thereafter through December 1, 2005. The report shall include, but shall not be limited to, the number of monthly reviews conducted, the number of children determined to be ineligible under this subdivision, and demographic information concerning the reviews, including family income, county of residence, ages of children, and reasons for ineligibility;

(c) Who, for purposes of Title XIX of the federal Social Security Act as provided in subdivision (b) of this subsection, are children in families with income as follows:

(i) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(ii) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(iii) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age; or

(d) Who are medically needy caretaker relatives as allowed under 42 U.S.C. 1396d(a)(ii). ~~section 1905(a)(ii) of the federal Social Security Act,~~ ~~as such section existed on January 1, 2002.~~ The department shall provide medical assistance until June 30, 2003, to caretaker relatives with family incomes equal to or less than fifty percent of the Office of Management and Budget income poverty guideline and who would otherwise be ineligible for medical assistance on and after August 16, 2002.

(3) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii), ~~as such section existed on January 1, 2002,~~ medical assistance shall be paid on behalf of disabled persons as defined in section 68-1005 who are in families whose net income is less than two hundred fifty percent of the Office of Management and Budget income poverty guideline applicable to a family of the size involved and who but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B) ~~of the federal Social Security Act,~~ ~~as such section existed on January 1, 2002,~~ would be considered to be receiving federal Supplemental Security Income. The Department of Health and Human Services shall apply for a waiver to disregard any unearned income that is contingent upon a trial work period in applying the Supplemental Security Income standard. Such disabled persons shall be subject to payment of premiums as a percentage of the family's net income beginning at not less than two hundred

percent of the Office of Management and Budget net income poverty guideline. Such premiums shall be graduated based on family income and shall not be less than two percent or more than ten percent of family net income.

(4) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii), ~~as such section existed on January 1, 2002,~~ medical assistance shall be paid on behalf of persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., ~~as such sections existed on January 1, 2002,~~ in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, ~~as such section existed on January 1, 2002,~~ and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage, as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg(c); ~~as such section existed on January 1, 2002,~~

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medicaid under any mandatory categorically needy eligibility group.

(5) Eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. ~~Beginning on August 16, 2002,~~ ~~the~~ The department shall redetermine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(s) of section 68-1713.

(6) The department shall adopt and promulgate rules and regulations to implement this section.

Sec. 4. Section 68-1021, Reissue Revised Statutes of Nebraska, is amended to read:

68-1021. For the purpose of paying medical assistance as defined in sections 68-1002, 68-1006, and 68-1018 to 68-1025, the State of Nebraska hereby accepts and assents to all applicable provisions of Title XIX and Title XXI of the federal Social Security Act. ~~as amended as of April 14, 2000, and Title XXI of the federal Social Security Act, as amended as of April 14, 2000.~~ The Director of Finance and Support is authorized to adopt and promulgate rules and regulations, to enter into agreements, to adopt fee schedules with regard to medical assistance benefits, rehabilitation services, and any other remedial services, and to adopt copayments and deductibles with respect to such benefits and services if the requirements of subsection (4) of section 68-1019 are met.

Sec. 5. Section 68-1021.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-1021.01. ~~The Department of Health and Human Services Finance and Support shall report to the Clerk of the Legislature, the Legislative Fiscal Analyst, and the Governor on July 1, 2002, on the status of the federal substance abuse and alcohol treatment plan amendment or waiver being pursued under the medicaid program.~~ All references to federal law adopted by reference in sections 68-1020, 68-1021, and 68-1037 to 68-1039 refer to the law as it existed on January 1, 2005.

Sec. 6. Section 68-1037, Reissue Revised Statutes of Nebraska, is amended to read:

68-1037. The Legislature finds that it is in the best interests of the State of Nebraska to have health care services available to as many Nebraskans as possible. The Legislature further finds that the medical assistance program established in sections 68-1018 to 68-1025, also known as medicaid, and Title XXI of the federal Social Security Act, ~~as amended as of September 1, 1998,~~ should be utilized to the extent possible under federal law in order to provide health care for low-income children and families in Nebraska. The Legislature further finds this goal can be met in part by providing prenatal care to pregnant women and care to infants at the maximum level allowed by federal law. It is the intent of this section and section 68-1020 to provide such health care services.

Sec. 7. Section 68-1048, Reissue Revised Statutes of Nebraska, is amended to read:

68-1048. Sections 68-1048 to ~~68-1064~~ 68-1063 shall be known and may be cited as the Managed Care Plan Act.

Sec. 8. Section 68-1604, Reissue Revised Statutes of Nebraska, is amended to read:

68-1604. The Homeless Shelter Assistance Trust Fund is hereby created. The fund shall include the proceeds raised from the documentary stamp tax and remitted for such fund pursuant to section 76-903. Money remitted to such fund shall be used by the department (1) for grants to eligible shelter providers as set out in section 68-1605 for the purpose of assisting in the alleviation of homelessness, to provide temporary and permanent shelters for homeless persons, to encourage the development of projects which link housing assistance to programs promoting the concept of self-sufficiency, and to address the needs of the migrant farmworker and (2) to aid in defraying the expenses of administering the Homeless Shelter Assistance Trust Fund Act, which shall not exceed ~~fifty~~ seventy-five thousand dollars in any fiscal year.

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. 9. Section 71-147, Reissue Revised Statutes of Nebraska, is amended to read:

71-147. A license, certificate, or registration to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant, licensee, certificate holder, or registrant is guilty of any of the following acts or offenses:

(1) Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;

(2) Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;

(3) Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to section 71-172.01;

(4) Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;

(5) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct shall mean a continued course of negligent conduct in performing the duties of the profession;

(6) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;

(7) Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;

(8) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;

(9) Having had his or her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with section 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence;

(10) Unprofessional conduct;

(11) Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities, in advertisements;

(12) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

(13) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;

(14) Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the department relating to the licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection;

(15) Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice;

(16) Failure to comply with sections 71-604, 71-605, and 71-606 and section 22 of this act relating to the signing of birth and death certificates;

(17) Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;

(18) Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing Act;

(19) Violation of the Emergency Box Drug Act;

(20) Failure to file a report required by section 71-168;

(21) Failure to disclose the information required by section 71-1,314.01;

(22) Failure to disclose the information required by section 71-1,319.01; or

(23) Failure to disclose the information required by section 71-1,206.34.

A license, certificate, or registration to practice a profession may also be refused renewal or revoked when the licensee, certificate holder, or registrant is guilty of practicing such profession while his or her license, certificate, or registration to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license, certificate, or registration.

This section shall not apply to revocation for nonrenewal as set out in subsection (1) of section 71-149 and sections 71-110 and 71-161.10.

Sec. 10. Section 71-1,104.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,104.01. (1) Except as provided in section 71-519 and except for newborn screening tests ordered by physicians to comply with the law of the state in which the infant was born, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function shall not order a predictive genetic test without first obtaining the written informed consent of the patient to be tested. Written informed consent consists of a signed writing executed by the patient or the representative of a patient lacking decisional capacity that confirms that the physician or individual acting under the delegated authority of the physician has explained, and the patient or his or her representative understands:

(a) The nature and purpose of the predictive genetic test;

(b) The effectiveness and limitations of the predictive genetic test;

(c) The implications of taking the predictive genetic test, including the medical risks and benefits;

(d) The future uses of the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test;

(e) The meaning of the predictive genetic test results and the procedure for providing notice of the results to the patient; and

(f) Who will have access to the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test, and the patient's right to confidential treatment of the sample and the genetic information.

(2) The Department of Health and Human Services shall develop and distribute a model informed consent form for purposes of this section. The department shall include in the model form all of the information required under subsection (1) of this section. The department shall distribute the model form and all revisions to the form to physicians and other individuals subject to this section upon request and at no charge. The department shall review the model form at least annually for five years after the first model form is distributed and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics. The department may also develop and distribute a pamphlet that provides further explanation of the information included in the model form.

(3) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the physician or individual acting under the delegated authority of the physician shall give the patient a copy of the signed informed consent form and shall include the original signed informed consent form in the patient's medical record.

(4) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the patient is barred from subsequently bringing a civil action

for damages against the physician, or an individual to whom the physician delegated authority to perform a selected act, task, or function, who ordered the predictive genetic test, based upon failure to obtain informed consent for the predictive genetic test.

(5) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a physician reasonably well-qualified to order and interpret the predictive genetic test would know. A person acting under the delegated authority of a physician shall understand and be qualified to provide the information required by subsection (1) of this section.

(6) For purposes of this section:

(a) Genetic information means information about a gene, gene product, or inherited characteristic derived from a genetic test;

(b) Genetic test means the analysis of human DNA, RNA, chromosomes, epigenetic status, and those tissues, proteins, and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. Tests of tissues, proteins, and metabolites are included only when generally accepted in the scientific and medical communities as being specifically determinative of a heritable or somatic disease-related genetic condition. Genetic test does not include a routine analysis, including a chemical analysis, of body fluids or tissues unless conducted specifically to determine a heritable or somatic disease-related genetic condition. Genetic test does not include a physical examination or imaging study. Genetic test does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed on January 1, 2003; and

(c) Predictive genetic test means a genetic test for an otherwise undetectable genotype or karyotype relating to the risk for developing a genetically related disease or disability, the results of which can be used to substitute a patient's prior risk based on population data or family history with a risk based on genotype or karyotype. Predictive genetic test does not include diagnostic testing conducted on a person exhibiting clinical signs or symptoms of a possible genetic condition. Predictive genetic testing does not include prenatal genetic diagnosis, unless the prenatal testing is conducted for an adult-onset condition not expected to cause clinical signs or symptoms before the age of majority.

Sec. 11. Section 71-1,155, Revised Statutes Supplement, 2004, is amended to read:

71-1,155. No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian. ~~or the holder of a valid temporary license issued by the board.~~ The Nebraska Veterinary Practice Act shall not be construed to prohibit:

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

(2) A person who is a regular student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period;

(3) A person who is a regular student in a veterinary technician school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian during a school vacation period;

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

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

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

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

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

activity;

(9) Any person from selling or applying any pesticide, insecticide, or herbicide;

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

(11) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Nebraska Veterinary Practice Act; or

(12) Any person from performing dehorning or castrating livestock, not to include equidae.

For purposes of the Nebraska Veterinary Practice Act, castration shall be limited to the removal or destruction of male testes.

Sec. 12. Section 71-501.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-501.02. The Department of Health and Human Services Regulation and Licensure may establish and administer a statewide acquired immunodeficiency syndrome program for the purpose of providing education, prevention, detection, and counseling services to protect the public health. In order to implement the program, the department may:

(1) Apply for, receive, and administer federal and other public and private funds and contract for services, equipment, and property as necessary to use such funds for the purposes specified in section 71-501.01 and this section;

(2) Provide education and training regarding acquired immunodeficiency syndrome and its related diseases and conditions to the general public and to health care providers. The department may charge fees based on administrative costs for such services. Any fees collected shall be deposited in the state treasury and shall be credited to the Department of Health and Human Services Regulation and Licensure Cash Fund;

(3) Provide resource referrals for medical care and social services to persons affected by acquired immunodeficiency syndrome and its related diseases and conditions;

(4) Contract or provide for voluntary, anonymous, or confidential screening, testing, and counseling services. All sites providing such services pursuant to a contract with the department shall provide services on an anonymous basis if so requested by the individual seeking such services. The department may charge and permit its contractors to charge an administrative fee or may request donations to defer the cost of the services but shall not deny the services for failure to pay any administrative fee or for failure to make a donation;

(5) Cooperate with the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor for the purposes of research into and investigation of acquired immunodeficiency syndrome and its related diseases and conditions; and

(6) To the extent funds are available, offer services that are culturally and language specific upon request to persons identified as having tested positive for the human immunodeficiency virus infection. Such services shall include, but not be limited to, posttest counseling, partner notification, and such early intervention services as case management, behavior modification and support services, laboratory quantification of lymphocyte subsets, immunizations, Mantoux testing for tuberculosis, prophylactic treatment, and referral for other medical and social services.

Sec. 13. Section 71-503.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-503.01. Whenever any statute of the state, any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency adopted and promulgated pursuant to statute requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health and Human Services Regulation and Licensure or any county or city board of health, local health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications and the resulting investigations shall be confidential except as provided in this section, shall not be subject to subpoena, and shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character and shall not be disclosed to any other department or agency of the State of Nebraska. ~~except that such information shall be shared with the immunization program~~

within the Department of Health and Human Services which maintains staff and programs specifically designed for the surveillance, prevention, education, and outbreak control of diseases preventable through immunization.

In order to further the protection of public health, such reports and notifications may be disclosed by the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making such reports or notifications to the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained. To further protect the public health, the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identification and information so as to ensure that such investigations as deemed necessary are made.

The appropriate board, health department, agency, or official may: (1) Publish analyses of such reports and information for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (2) discuss the report or notification with the attending physician; and (3) make such investigation as deemed necessary.

Any medical practitioner, any official health department, the Department of Health and Human Services Regulation and Licensure, or any other person making such reports or notifications shall be immune from suit for slander or libel or breach of privileged communication based on any statements contained in such reports and notifications.

Sec. 14. Section 71-505, Reissue Revised Statutes of Nebraska, is amended to read:

71-505. (1) ~~It shall be the duty of the The~~ Department of Health and Human Services Regulation and Licensure, ~~in addition to other duties provided by law, to~~ shall secure and maintain in all parts of the state an official record and notification of reportable diseases, illnesses, or poisonings, ~~It shall be the duty of the Department of Health and Human Services, in addition to other duties provided by law, to~~ provide popular literature upon the different branches of public health and distribute the same free throughout the state in a manner best calculated to promote that interest, ~~to~~ prepare and exhibit in the different communities of the state public health demonstrations accompanied by lectures and audiovisual aids, ~~to~~ provide preventive services to protect the public, and in all other effective ways ~~to~~ prevent the origin and spread of disease and promote the public health.

(2) ~~The Department of Health and Human Services department~~ may provide technical services to and on behalf of health care providers and may charge fees for such services in an amount sufficient to recover the administrative costs of such services. Such fees shall be paid into the state treasury and credited to the Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 15. Section 71-519, Reissue Revised Statutes of Nebraska, is amended to read:

71-519. (1) All infants born in the State of Nebraska shall be screened for phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, medium-chain acyl co-a dehydrogenase (MCAD) deficiency, and such other metabolic diseases as the Department of Health and Human Services Regulation and Licensure may from time to time specify. Confirmatory tests shall be performed if a presumptive positive result on the screening test is obtained.

(2) The attending physician shall collect or cause to be collected the prescribed blood specimen or specimens and shall submit or cause to be submitted the same to the laboratory designated by the department for the performance of such tests within the period and in the manner prescribed by the department. If a birth is not attended by a physician and the infant does not have a physician, the person registering the birth shall cause such tests to be performed within the period and in the manner prescribed by the department. The laboratory shall within the period and in the manner prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, the hospital or other birthing facility or other submitter, and the department. The laboratory shall report to the department the results of such tests that are presumptive positive or confirmed positive within the period and in the manner prescribed by the

department.

(3) The hospital or other birthing facility shall record the collection of specimens for tests for metabolic diseases and the report of the results of such tests or the absence of such report. For purposes of tracking, monitoring, and referral, the hospital or other birthing facility shall provide from its records, upon the department's request, information about the infant's and mother's location and contact information, and care and treatment of the infant.

(4) (a) The department shall have authority over the use, retention, and disposal of blood specimens and all related information collected in connection with metabolic disease testing conducted under subsection (1) of this section.

(b) The department shall adopt and promulgate rules and regulations relating to the retention and disposal of such specimens. The rules and regulations shall: (i) Be consistent with nationally recognized standards for laboratory accreditation and shall comply with all applicable provisions of federal law; (ii) require that the disposal be conducted in the presence of a witness who may be an individual involved in the disposal or any other individual; and (iii) provide for maintenance of a written or electronic record of the disposal, verified by such witness.

(c) The department shall adopt and promulgate rules and regulations relating to the use of such specimens and related information. Such use shall only be made for public health purposes and shall comply with all applicable provisions of federal law. The department may charge a reasonable fee for evaluating proposals relating to the use of such specimens for public health research and for preparing and supplying specimens for research proposals approved by the department.

(5) The department shall prepare written materials explaining the requirements of this section. The department shall include the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1) of this section;

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (6) of this section in a safe place;

(c) The department's procedures for retaining and disposing of blood specimens developed under subsection (4) of this section; and

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) of this section may be used for research pursuant to subsection (4) of this section.

(6) In addition to the requirements of subsection (1) of this section, the attending physician or person registering the birth may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1) of this section. If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques, including, but not limited to, lamination. The attending physician or person making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The attending physician or person making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

(7) The person responsible for causing the tests to be performed under subsection (2) of this section shall inform the parent or legal guardian of the infant of the tests and of the results of the tests and provide, upon any request for further information, at least a copy of the written materials prepared under subsection (5) of this section.

(8) Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, MCAD deficiency, or such other metabolic diseases as the department may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

(9) Except for acts of gross negligence or willful or wanton conduct, any physician, hospital or other birthing facility, laboratory, or other submitter making reports or notifications under sections 71-519 to 71-524 shall be immune from criminal or civil liability of any kind or character based on any statements contained in such reports or notifications.

Sec. 16. Section 71-520, Reissue Revised Statutes of Nebraska, is amended to read:

71-520. The Department of Health and Human Services Regulation and Licensure shall establish a program to provide food supplements and treatment services to individuals suffering from the metabolic diseases set forth in section 71-519. To defray or help defray the costs of any program which may be established by the department under this section, the department may prescribe and assess a scale of fees for the food supplements. The maximum prescribed fee for food supplements shall be no more than the actual cost of providing such supplements. No fees may be charged for formula, and up to two thousand dollars of pharmaceutically manufactured food supplements shall be available to an individual without fees each year.

Sec. 17. Section 71-521, Reissue Revised Statutes of Nebraska, is amended to read:

71-521. The Department of Health and Human Services Regulation and Licensure shall prescribe the tests, the test methods and techniques, and such reports and reporting procedures as are necessary to implement sections 71-519 to 71-524.

Sec. 18. Section 71-522, Reissue Revised Statutes of Nebraska, is amended to read:

71-522. The Department of Health and Human Services Regulation and Licensure shall establish and maintain a central data registry for the collection and storage of reported data concerning metabolic diseases. The department shall use reported data to ensure that all infants born in the State of Nebraska are tested for diseases set forth in section 71-519 or by rule and regulation. The department shall also use reported data to evaluate the quality of the statewide system of newborn screening and develop procedures for quality assurance. Reported data in anonymous or statistical form may be made available by the department for purposes of research.

Sec. 19. Section 71-523, Reissue Revised Statutes of Nebraska, is amended to read:

71-523. (1) The Department of Health and Human Services Regulation and Licensure shall provide educational and resource services regarding metabolic diseases to persons affected by sections 71-519 to 71-524 and to the public generally.

(2) The Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the Department of Health and Human Services Regulation and Licensure may apply for, receive, and administer assessed fees and federal or other funds which are available for the purpose of implementing sections 71-519 to 71-524 and may contract for or provide services as may be necessary to implement such sections.

(3) The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations to implement sections 71-519 to 71-524.

(4) The Department of Health and Human Services Regulation and Licensure shall contract, following competitive bidding, with a single laboratory to perform tests, report results, set forth the fee the laboratory will charge for testing, and collect and submit fees pursuant to sections 71-519 to 71-524. The department shall require the contracting laboratory to: (a) Perform testing for all of the diseases pursuant to section 71-519 and in accordance with rules and regulations adopted and promulgated pursuant to this section, (b) maintain certification under the federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C. 263a, as such act and section existed on July 20, 2002, (c) participate in appropriate quality assurance proficiency testing programs offered by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or other professional laboratory organization, as determined by the Department of Health and Human Services Regulation and Licensure, (d) maintain sufficient contingency arrangements to ensure testing delays of no longer than twenty-four hours in the event of natural disaster or laboratory equipment failure, and (e) charge to the hospital, other birthing facility, or other submitter the fee provided in the contract for laboratory testing costs and the administration fee specified in subsection (5) of this section. The administration fee collected pursuant to such subsection shall be remitted to the Department of Health and Human Services Finance and Support.

(5) The Department of Health and Human Services Regulation and Licensure shall set an administration fee of not more than ten dollars. The department may use the administration fee to pay for the costs of the central data registry, tracking, monitoring, referral, quality assurance, program operation, program development, program evaluation, and treatment services authorized under sections 71-519 to 71-523. The fee shall be collected by the contracting laboratory as provided in subdivision (4)(e) of this section.

(6) Fees collected for the department pursuant to sections 71-519 to 71-523 shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund.

Sec. 20. Section 71-529, Reissue Revised Statutes of Nebraska, is amended to read:

71-529. The ~~Nebraska~~ Department of Health and Human Services Regulation and Licensure may participate in the national efforts described in sections 71-527 and 71-528 and may develop a statewide immunization action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide immunization action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately immunized;

(2) Apply for and receive public and private awards to purchase vaccines and to administer a statewide comprehensive program;

(3) Provide immunization information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness and demand for immunization by parents;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize well-child care and the use of private practitioners and which improve the availability of immunization and improve management of immunization delivery so as to ensure the adequacy of the vaccine delivery system;

(5) Evaluate the effectiveness of these statewide efforts, conduct ongoing measurement of children's immunization status, identify children at special risk for deficiencies in immunization, and report on the activities of the statewide immunization program annually to the Legislature and the citizens of Nebraska;

(6) Recognize persons who volunteer their efforts towards achieving the goal of providing immunization of the children of Nebraska and in meeting the Healthy People 2000 objective of series-complete immunization coverage for ninety percent or more of United States children by their second birthday;

(7) Establish a statewide program to immunize Nebraska children from birth up to six years of age against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis B, and haemophilus influenzae type B. The program shall serve children who are not otherwise eligible for childhood immunization coverage with medicaid or other federal funds or are not covered by private third-party payment; and

(8) Contract to provide vaccine under the statewide program authorized under subdivision (7) of this section without cost to health care providers subject to the following conditions:

(a) In order to receive vaccine without cost, health care providers shall not charge for the cost of the vaccine. Health care providers may charge a fee for the administration of the vaccine but may not deny service because of the parent's or guardian's inability to pay such fee. Fees for administration of the vaccines shall be negotiated between the department and the health care provider, shall be uniform among participating providers, and shall be no more than the cost ceiling for the region in which Nebraska is included as set by the Secretary of the United States Department of Health and Human Services for the Vaccines for Children Program authorized by the Omnibus Budget Reconciliation Act of 1993;

(b) Health care providers shall administer vaccines according to the schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention or by the American Academy of Pediatrics unless in the provider's medical judgment, subject to accepted medical practice, such compliance is medically inappropriate; and

(c) Health care providers shall maintain records on immunizations as prescribed by this section for inspection and audit by the ~~Nebraska~~ Department of Health and Human Services Regulation and Licensure or the Auditor of Public Accounts, including responses by parents or guardians to simple screening questions related to payment coverage by public or private third-party payors, identification of the administration fee as separate from any other cost charged for other services provided at the same time the vaccination service is provided, and other information as determined by the department to be necessary to comply with subdivision (5) of this section. Such immunization records may also be used for information exchange as provided in sections 71-539 to 71-544.

Sec. 21. This section, section 22 of this act, and sections 71-601 to 71-649 shall be known and may be cited as the Vital Statistics Act.

Sec. 22. The department shall provide for an electronic means of receiving electronic signatures as provided in section 86-611 for purposes of filing and amending death and fetal death certificates under the Vital Statistics Act.

Sec. 23. Section 71-601, Reissue Revised Statutes of Nebraska, is amended to read:

71-601. ~~The Department of Health and Human Services Finance and Support department~~ shall provide for the registration of vital events and shall adopt, promulgate, and enforce such rules and regulations as are necessary to carry out the purposes of ~~sections 71-601 to 71-649~~ the Vital Statistics Act.

Sec. 24. Section 71-601.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-601.01. For purposes of ~~sections 71-601 to 71-649~~ the Vital Statistics Act:

- (1) Certificate ~~shall mean~~ means the record of a vital event; ~~and~~
- (2) Certification ~~shall mean~~ means the process of recording, filing, amending, or preserving a certificate, which process may be by any means, including, but not limited to, microfilm, electronic, imaging, photographic, typewritten, or other means designated by the department; and
- (3) Department means the Department of Health and Human Services Finance and Support.

Sec. 25. Section 71-605, Reissue Revised Statutes of Nebraska, is amended to read:

71-605. (1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the ~~Department of Health and Human Services Finance and Support~~ department. Such standard form shall include a space for certificate of veteran status and the period of service in the armed forces of the United States as defined in section 80-401.01 and a statement of the cause of death made by a person holding a valid license as a physician who last attended the deceased. The standard form shall also include the deceased's social security number. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician shall have the responsibility and duty to complete and sign in his or her own handwriting or by electronic means pursuant to section 22 of this act, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician was in attendance, the funeral director and embalmer shall refer the case to the county attorney for a death certificate who shall have the responsibility and duty to complete and sign the death certificate in his or her own handwriting or by electronic means pursuant to section 22 of this act.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

- (3) A completed death certificate shall be filed with the ~~Department~~

of Health and Human Services Finance and Support department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the Department of Health and Human Services Finance and Support department.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the Department of Health and Human Services Finance and Support department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the next of kin of the deceased, as listed in section 71-1339, or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the Department of Health and Human Services Finance and Support department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the Department of Health and Human Services Finance and Support department within five business days after the interment takes place.

Sec. 26. Section 71-613, Reissue Revised Statutes of Nebraska, is amended to read:

71-613. ~~Any~~ Except as otherwise provided in section 71-649, any person violating any of the provisions of sections 71-601 to 71-616 and section 22 of this act shall be deemed guilty of a Class III misdemeanor.

Sec. 27. Section 71-640.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-640.01. The information pertaining to the identification of the father at the time of birth of an infant born in this state and reported on a birth certificate, filled out and filed pursuant to ~~sections 71-601 to 71-649~~ the Vital Statistics Act, shall comply with the following:

(1) If the mother was married at the time of either conception or birth or at any time between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless (a) paternity has been determined otherwise by a court of competent jurisdiction, (b) the mother and the mother's husband execute affidavits attesting that the husband is not the father of the child, in which case information about the father shall be omitted from the certificate, or (c) the mother executes an affidavit attesting that the husband is not the father and that the putative father is the father, the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. In such event, the putative father shall be shown as the father on the certificate. For affidavits executed under subdivision (b) or (c) of this subdivision, each signature shall be individually notarized;

(2) If the mother was not married at the time of either conception or birth or at any time between conception and birth, the name of the father shall not be entered on the certificate without the written consent of the mother and the person named as the father;

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father shall be entered on the certificate in accordance with the finding of the court; and

(4) If the father is not named on the certificate, no other information about the father shall be entered thereon.

The identification of the father as provided in this section shall not be deemed to affect the legitimacy of the child or duty to support as set forth in sections 42-377 and 43-1401.

Sec. 28. Section 71-642, Reissue Revised Statutes of Nebraska, is amended to read:

71-642. All items in the medical certification or of a medical nature in a vital record may be amended only upon receipt of a signed statement from those responsible for completion of the entries involved as provided in the Vital Statistics Act. The Department of Health and Human Services Finance and Support department may, at its discretion, require documentary evidence to substantiate the requested amendment.

Sec. 29. Section 71-649, Reissue Revised Statutes of Nebraska, is amended to read:

71-649. (1) Any person who (a) willfully and knowingly makes any false statement in a certificate, record, or report required to be filed pursuant to ~~sections 71-601 to 71-648~~ the Vital Statistics Act, in an application for an amendment thereof, or in an application for a certified copy of a vital record or willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record, certificate, or amendment thereof; (b) without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required to be filed pursuant to ~~such sections~~ the act or a certified copy of such certificate, record, or report; (c) willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, report, or certified copy thereof so made, counterfeited, altered, amended, or mutilated; (d) with the intention to deceive, willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another any certificate of birth or certified copy of a certificate of birth knowing that such certificate or certified copy was issued upon a certificate which is false in whole or in part or which relates to the birth of another person, whether living or deceased; (e) willfully and knowingly furnishes or possesses a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it be used for the purposes of deception by a person other than the person to whom the certificate of birth relates; ~~or~~ (f) without lawful authority possesses any certificate, record, or report required by ~~such sections~~ the act or a copy or certified copy of such certificate, record, or report knowing the same to have been stolen or otherwise unlawfully obtained; or (g) willfully and knowingly tampers with an electronic signature authorized under section 22 of this act shall be guilty of a Class IV felony.

(2) Any person who (a) willfully and knowingly refuses to provide information required by ~~such sections~~ the Vital Statistics Act or rules and regulations adopted under ~~this section and section 71-640.01~~ the act or (b) willfully and knowingly neglects or violates any of the provisions of ~~sections 71-601 to 71-648~~ the act or refuses to perform any of the duties imposed upon him or her under ~~such sections~~ the act shall be guilty of a Class I misdemeanor.

(3) The Department of Health and Human Services Finance and Support department may include on any appropriate certificate or document a statement warning of the consequences for any ~~such violation~~ of this section.

Sec. 30. Section 71-701, Reissue Revised Statutes of Nebraska, is amended to read:

71-701. The Women's Health Initiative of Nebraska is created within the Department of Health and Human Services Regulation and Licensure. The Women's Health Initiative of Nebraska shall strive to improve the health of women in Nebraska by fostering the development of a comprehensive system of coordinated services, policy development, advocacy, and education. The initiative shall:

(1) Serve as a clearinghouse for information regarding women's health issues, including pregnancy, breast and cervical cancers, acquired immunodeficiency syndrome, osteoporosis, menopause, heart disease, smoking, and mental health issues as well as other issues that impact women's health,

including substance abuse, domestic violence, teenage pregnancy, sexual assault, adequacy of health insurance, access to primary and preventative health care, and rural and ethnic disparities in health outcomes;

(2) Perform strategic planning within the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support to develop department-wide plans for implementation of goals and objectives for women's health;

(3) Conduct department-wide policy analysis on specific issues related to women's health;

(4) Coordinate pilot projects and planning projects funded by the state that are related to women's health;

(5) Communicate and disseminate information and perform a liaison function within the departments and to providers of health, social, educational, and support services to women;

(6) Provide technical assistance to communities, other public entities, and private entities for initiatives in women's health, including, but not limited to, community health assessment and strategic planning and identification of sources of funding and assistance with writing of grants; and

(7) Encourage innovative responses by public and private entities that are attempting to address women's health issues.

Sec. 31. Section 71-703, Reissue Revised Statutes of Nebraska, is amended to read:

71-703. The Director of Health and Human Services Regulation and Licensure will determine how the Department of Health and Human Services Regulation and Licensure will provide personnel to carry out the Women's Health Initiative of Nebraska. The Director of Health and Human Services Regulation and Licensure shall employ personnel, including an executive director, necessary to carry out the powers and duties of the initiative. The Governor's Policy Research Office, the Department of Health and Human Services Finance and Support, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services, and other state agencies as necessary may provide administrative and technical support under the direct supervision of the Governor. The initiative may secure cooperation and assistance of other appropriate government and private-sector entities for women's health issues, programs, and educational materials.

Sec. 32. Section 71-705, Reissue Revised Statutes of Nebraska, is amended to read:

71-705. The Women's Health Initiative Fund is created. The fund shall consist of money received as gifts or grants or collected as fees or charges from any federal, state, public, or private source. Money in the fund shall be used to reimburse the expenses of the Women's Health Initiative of Nebraska and expenses of members of the Women's Health Initiative Advisory Council. Nothing in sections 71-701 to 71-707 requires the Women's Health Initiative of Nebraska to accept any private donations that are not in keeping with the goals and objectives set forth by the initiative and the Department of Health and Human Services Regulation and Licensure. No funds expended or received by or through the initiative shall pay for abortion referral or abortion services. 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. 33. Section 71-706, Reissue Revised Statutes of Nebraska, is amended to read:

71-706. The Department of Health and Human Services Regulation and Licensure shall have all powers necessary to implement the purposes and intent of sections 71-701 to 71-707, including applying for, receiving, and administering federal and other public and private funds credited to the Women's Health Initiative Fund. Any funds obtained for the Women's Health Initiative of Nebraska shall be remitted to the State Treasurer for credit to the Women's Health Initiative Fund.

Sec. 34. Section 71-707, Reissue Revised Statutes of Nebraska, is amended to read:

71-707. The Department of Health and Human Services Regulation and Licensure shall issue an annual report to the Governor and the Legislature on September 1 for the preceding fiscal year's activities of the Women's Health Initiative of Nebraska. The report shall include progress reports on any programs, activities, or educational promotions that were undertaken by the initiative. The report shall also include a status report on women's health in Nebraska and any results achieved by the initiative.

Sec. 35. Section 71-1628.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-1628.05. Each local public health department shall prepare an annual report regarding the core public health functions carried out by the department in the prior fiscal year. The report shall be submitted to the Department of Health and Human Services Regulation and Licensure by October 1. ~~The department~~ Department of Health and Human Services Regulation and Licensure shall compile the reports and submit the results to the Health and Human Services Committee of the Legislature by December 1.

Sec. 36. Section 71-1628.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-1628.06. The Department of Health and Human Services Regulation and Licensure shall employ two full-time persons with expertise in the public health field to provide technical expertise in carrying out core public health functions and essential elements and coordinate the dissemination of materials to the local public health departments.

Sec. 37. Section 71-1628.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-1628.07. (1) The Department of Health and Human Services Regulation and Licensure shall establish a satellite office of minority health in each congressional district to coordinate and administer state policy relating to minority health. Each office shall implement a minority health initiative in counties with a minority population of at least five percent of the total population of the county as determined by the most recent federal decennial census which shall target, but not be limited to, infant mortality, cardiovascular disease, obesity, diabetes, and asthma.

(2) Each office shall prepare an annual report regarding minority health initiatives implemented in the immediately preceding fiscal year. The report shall be submitted to the department by October 1. The department shall submit such reports to the Health and Human Services Committee of the Legislature by December 1.

Sec. 38. Section 71-1913.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913.01. (1) Each program shall require the parent or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter (a) proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and haemophilus influenzae type B and such other diseases as the Department of Health and Human Services Regulation and Licensure may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, an advanced practice registered nurse, or a physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each program shall keep the written record of immunization, the certification, or the written statement of the parent or guardian. Such record, certification, or statement shall be kept by the program as part of the child's file, shall be available onsite to the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure, and shall be filed with the Department of Health and Human Services for review and inspection. Each program shall report to the Department of Health and Human Services by November 1 of each year the status of immunization for children enrolled as of September 30 of that year, and children who have reached kindergarten age and who are enrolled in public or private school need not be included in the report.

Sec. 39. Section 71-1913.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913.02. (1) The Department of Health and Human Services Regulation and Licensure shall perform annually a random audit of the reports submitted under section 71-1913.01 to check for compliance with such section on an annual basis and such other audits and inspections as are necessary to prevent the introduction or spread of disease. Audit results shall be reported to the Department of Health and Human Services. ~~Regulation and Licensure.~~

(2) If the Department of Health and Human Services or the Department of Health and Human Services Regulation and Licensure discovers noncompliance with section 71-1913.01, the Department of Health and Human Services Regulation and Licensure shall allow a noncomplying program thirty days to correct deficiencies.

(3) The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall develop and provide educational and other materials to programs and the public as may be necessary to implement section 71-1913.01.

Sec. 40. Section 71-1913.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913.03. The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the recommendations of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, Public Health Service, and the methods, manner, and frequency of reporting of each child's immunization status. The Department of Health and Human Services Regulation and Licensure shall furnish each program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

Sec. 41. Section 71-2081, Reissue Revised Statutes of Nebraska, is amended to read:

71-2081. For each hospital uniform billing form on which a diagnosis code for the external cause of an injury, poisoning, or adverse effect is entered pursuant to section 71-2080, each hospital in this state may submit data to the Department of Health and Human Services Regulation and Licensure beginning January 1, 1994, and shall submit data to the department beginning January 1, 1995. Such data shall be submitted quarterly and shall include, but not be limited to, the diagnosis code for the external cause of an injury, poisoning, or adverse effect, other diagnosis codes, the procedure codes, admission date, discharge date, disposition code, and demographic data to include, but not be limited to, the birthdate, sex, city and county of residence, and zip code of residence for every patient discharged from a hospital, receiving outpatient services, or released from observation for whom a diagnosis code for the external cause of an injury, poisoning, or adverse effect is recorded pursuant to section 71-2080. This data shall be submitted to the department in written or computer form. The data provided to the department under this section shall be classified for release as determined by the department only in aggregate data reports created by the department. ~~on a periodic basis or at the request of an individual.~~ Such aggregate data reports shall be considered public documents.

Sec. 42. Section 71-3503, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited

liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

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

(8) Department means the Department of Health and Human Services Regulation and Licensure;

(9) Coordinator means the Director of Regulation and Licensure;

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

(11) License means:

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

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

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; or

(d) A license issued to a medical radiographer or limited radiographer;

(12) Byproduct material means:

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

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

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

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

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

(15) Users of sources of radiation means:

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

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

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

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

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

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

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

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

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

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

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

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

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

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner, except the commercial disposal of low-level radioactive waste in a disposal facility, designated by the Central Interstate Low-Level Radioactive Waste Compact Commission;

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

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

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

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

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

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

(30) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;

(31) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01;

(32) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients;

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

(34) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an

intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Sec. 43. Section 71-3524, Reissue Revised Statutes of Nebraska, is amended to read:

71-3524. For purposes of sections 71-3523 to 71-3528:

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

(2) High-level radioactive waste has the definition found in section 81-1589; and

(3) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations greater than ten in excess of one hundred nanocuries per gram.

Sec. 44. Section 71-4737, Reissue Revised Statutes of Nebraska, is amended to read:

71-4737. The Legislature recognizes that it is necessary to track newborns and infants identified with a potential hearing loss or who have been evaluated and have been found to have a hearing loss for a period of time in order to render appropriate followup care. The Department of Health and Human Services Regulation and Licensure shall, ~~on or before December 1, 2000,~~ determine and implement the most appropriate system for this state which is available to track newborns and infants identified with a hearing loss. It is the intent of the Legislature that the tracking system provide the department and Legislature with the information necessary to effectively plan and establish a comprehensive system of developmentally appropriate services for newborns and infants who have a potential hearing loss or who have been found to have a hearing loss and shall reduce the likelihood of associated disabling conditions for such newborns and infants.

Sec. 45. Section 71-4738, Reissue Revised Statutes of Nebraska, is amended to read:

71-4738. The Department of Health and Human Services Regulation and Licensure shall apply for all available federal funding to implement the Infant Hearing Act.

Sec. 46. Section 71-4739, Reissue Revised Statutes of Nebraska, is amended to read:

71-4739. (1) ~~Beginning December 1, 2000, and annually thereafter, every~~ Every birthing facility shall annually report to the Department of Health and Human Services Regulation and Licensure the number of:

- (a) Newborns born;
- (b) Newborns and infants recommended for a hearing screening test;
- (c) Newborns who received a hearing screening test during birth admission;
- (d) Newborns who passed a hearing screening test during birth admission if administered;
- (e) Newborns who did not pass a hearing screening test during birth admission if administered; and
- (f) Newborns recommended for monitoring, intervention, and followup care.

(2) ~~Beginning December 1, 2000, and annually thereafter, every~~ Every confirmatory testing facility shall annually report to the Department of Health and Human Services Regulation and Licensure the number of:

- (a) Newborns and infants who return for a followup hearing test;
- (b) Newborns and infants who do not have a hearing loss based upon the followup hearing test; and
- (c) Newborns and infants who are shown to have a hearing loss based upon the followup hearing test.

Sec. 47. Section 71-4740, Reissue Revised Statutes of Nebraska, is amended to read:

71-4740. (1) ~~Beginning January 1, 2001, every~~ Every birthing facility shall educate the parents of newborns born in such facilities of the importance of receiving a hearing screening test and any necessary followup care. This educational information shall explain, in lay terms, the hearing screening test, the likelihood of the newborn having a hearing loss, followup procedures, and community resources, including referral for early intervention services under the Early Intervention Act. The educational information shall also include a description of the normal auditory, speech, and language developmental process in children. Education shall not be considered a substitute for the hearing screening test.

(2) If a newborn is not born in a birthing facility, the Department

of Health and Human Services Regulation and Licensure shall educate the parents of such newborns of the importance of receiving a hearing screening test and any necessary followup care. The department shall also give parents information to assist them in having the test performed within three months after the date of the child's birth.

Sec. 48. Section 71-4741, Reissue Revised Statutes of Nebraska, is amended to read:

71-4741. (1) The Department of Health and Human Services Regulation and Licensure shall determine which birthing facilities are administering hearing screening tests to newborns and infants on a voluntary basis and the number of newborns and infants screened. The department shall annually report to the Legislature ~~by January 1, 2002, and annually thereafter,~~ the number of:

(a) Birthing facilities administering voluntary hearing screening tests during birth admission;

(b) Newborns screened as compared to the total number of newborns born in such facilities;

(c) Newborns who passed a hearing screening test during birth admission if administered;

(d) Newborns who did not pass a hearing screening test during birth admission if administered; and

(e) Newborns recommended for followup care.

(2) The department, in consultation with the State Department of Education, birthing facilities, and other providers, shall develop approved screening methods and protocol for statewide hearing screening tests of substantially all newborns and infants. ~~by December 1, 2002.~~

(3) Subject to available appropriations, the Department of Health and Human Services Regulation and Licensure shall make the report described in this section available.

Sec. 49. Section 71-4742, Reissue Revised Statutes of Nebraska, is amended to read:

71-4742. (1) ~~By December 1, 2003,~~ Each birthing facility shall include a hearing screening test as part of its standard of care for newborns and shall establish a mechanism for compliance review. ~~By December 1, 2003,~~ A hearing screening test shall be conducted on no fewer than ninety-five percent of the newborns born in this state.

(2) If the number of newborns receiving a hearing screening test does not equal or exceed ninety-five percent of the total number of newborns born in this state on or before December 1, 2003, or falls below ninety-five percent at any time thereafter, the Department of Health and Human Services Regulation and Licensure shall immediately adopt and promulgate rules and regulations implementing a hearing screening program. The hearing screening program shall provide for a hearing screening test that every newborn born in this state shall undergo and shall provide that the hearing screening test be completed during birth admission or, if that is not possible, no later than three months after birth. Notwithstanding this section, it is the goal of this state to achieve a one-hundred-percent screening rate.

Sec. 50. Section 71-4743, Reissue Revised Statutes of Nebraska, is amended to read:

71-4743. The Department of Health and Human Services Regulation and Licensure and the State Department of Education shall establish guidelines for when a referral shall be made for early intervention services under the Early Intervention Act. The guidelines shall include a request for an individual evaluation of a child suspected of being deaf or hard of hearing as defined in section 79-1118.01.

Sec. 51. Section 71-4744, Reissue Revised Statutes of Nebraska, is amended to read:

71-4744. The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations necessary to implement the Infant Hearing Act.

Sec. 52. Section 71-5647, Reissue Revised Statutes of Nebraska, is amended to read:

71-5647. The Office of Rural Health is hereby created within the Department of Health and Human Services Regulation and Licensure. The office shall have the following powers and duties:

(1) To assist rural residents in obtaining high quality health care which includes the following:

(a) Assist in the recruitment and retention of health care professionals to rural areas, including specifically physicians and nurses;

(b) Assist rural communities in maintaining the viability of hospital services whenever feasible or, for communities in transition, in developing alternative systems to provide equivalent quality care to their residents;

(c) Assist rural communities in planning to meet changes needed due to the changing rural economy and demographics or new technology;

(d) Assist in the development of health care networks or cooperative ventures among rural communities or health care providers;

(e) Assist in promoting or developing demonstration projects to identify and establish alternative health care systems; and

(f) Assist rural communities in developing and identifying leaders and leadership skills among their residents to enable such communities to work toward appropriate and cost-effective solutions to the health care issues that confront them;

(2) To develop a comprehensive rural health policy to serve as a guide for the development of programs of the department aimed at improving health care in rural Nebraska and a rural health action plan to guide implementation of the policy;

(3) To establish liaison with other state agency efforts in the area of rural development and human services delivery to ensure that the programs of the office are appropriately coordinated with these efforts and to encourage use of the comprehensive rural health policy by other agencies as a guide to their plans and programs affecting rural health;

(4) To develop and maintain an appropriate data system to identify present and potential rural health issues and to evaluate the effectiveness of programs and demonstration projects;

(5) To encourage and facilitate increased public awareness of issues affecting rural health care;

(6) To carry out its duties under the Rural Health Systems and Professional Incentive Act;

(7) To carry out the duties required by section 71-5206.01; and

(8) To carry out related duties as directed by the Director of ~~Health and Human Services~~ Regulation and Licensure.

Sec. 53. Section 71-5649, Reissue Revised Statutes of Nebraska, is amended to read:

71-5649. The Legislature shall appropriate sufficient funds to the Department of Health and Human Services Regulation and Licensure to enable the Office of Rural Health to carry out its duties pursuant to section 71-5647.

Sec. 54. Section 71-5653, Revised Statutes Supplement, 2004, is amended to read:

71-5653. For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Approved medical specialty means family practice, general practice, general internal medicine, general pediatrics, general surgery, obstetrics/gynecology, and psychiatry;

(2) Approved dental specialty means general practice, pediatric dentistry, and oral surgery;

(3) Approved mental health practice program means an approved educational program consisting of a master's or doctorate degree with the focus being primarily therapeutic mental health and meeting the educational requirements for licensure in mental health practice or psychology by the ~~Department of Health and Human Services~~ Regulation and Licensure department;

(4) Commission means the Nebraska Rural Health Advisory Commission;

(5) Department means the Department of Health and Human Services Regulation and Licensure;

(6) Doctorate-level mental health student means a graduate student enrolled in or accepted for enrollment in an approved mental health practice program leading to a doctorate degree and meeting the educational requirements for licensure in psychology by the ~~Department of Health and Human Services~~ Regulation and Licensure department;

(7) Full-time practice means a minimum of forty hours per week;

(8) Health care means both somatic and mental health care services;

(9) Master's level mental health student means a graduate student enrolled in or accepted for enrollment in an approved mental health practice program leading to a master's degree and meeting the educational requirements for licensure in mental health practice by the ~~Department of Health and Human Services~~ Regulation and Licensure department;

(10) Office means the Office of Rural Health;

(11) Qualified educational debts means government and commercial loans obtained by students for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the ~~Department of Health and Human Services~~ Regulation and Licensure department, but does not include loans received under the act or the Nebraska Medical Student Assistance Act; and

(12) Rural means located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a metropolitan statistical area as defined by the United States Department of

Commerce, Bureau of the Census.

Sec. 55. Section 71-5655, Reissue Revised Statutes of Nebraska, is amended to read:

71-5655. The purpose of the commission shall be to advise the Department of Health and Human Services Regulation and Licensure, the Legislature, the Governor, the University of Nebraska, and the citizens of Nebraska regarding all aspects of rural health care and to advise the office regarding the administration of the Rural Health Systems and Professional Incentive Act.

Sec. 56. Section 71-5714, Reissue Revised Statutes of Nebraska, is amended to read:

71-5714. The Tobacco Prevention and Control Cash Fund is created. The fund shall be used for a comprehensive statewide tobacco-related public health program administered by the Department of Health and Human Services Regulation and Licensure which includes, but is not limited to (1) community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, and (9) administration. Any money in the Tobacco Prevention and Control 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. 57. Section 71-7617, Reissue Revised Statutes of Nebraska, is amended to read:

71-7617. The Department of Health and Human Services Regulation and Licensure shall contract with the health clinics of Nebraska's federally recognized Native American tribes, Indian health organizations, or other public health organizations that have a substantial Native American clientele to provide educational and public health services targeted to Native American populations. The following educational and public health services may be considered by the department for such contracts:

- (1) Identification and enrollment of children in state and federal programs providing access to health insurance or health care;
- (2) Efforts to educate children and adults about the health risks associated with smoking and tobacco use, alcohol abuse, and other substances that threaten health and well-being and other activities designed to reduce the rate of substance abuse;
- (3) Prenatal care education for women and notification of programs that improve prenatal care;
- (4) Education focusing on proper diet and the importance of physical activity to good health;
- (5) Blood pressure and cholesterol screenings;
- (6) Support of efforts to identify children and adults at risk for depression and other mental health conditions and provide mental health counseling to prevent suicide;
- (7) Parenting classes and the promotion of such programs;
- (8) Efforts to discourage drinking and driving and to encourage the use of seat belts;
- (9) Tests and education for acquired immunodeficiency syndrome and other sexually transmitted diseases;
- (10) Tests for pregnancy and referrals to prenatal care when directed;
- (11) Educational efforts aimed at reducing teen pregnancies and other unintended pregnancies;
- (12) Case management for pregnant women, children, or adults with special health care needs;
- (13) Efforts to make health care prevention services more affordable or accessible;
- (14) Matching funds for state and federal programs designed to address public health needs;
- (15) Staffing needs for public health services or education including the recruitment and training of Native American providers;
- (16) Cervical and breast cancer detection services and other prevention components of comprehensive women's health services;
- (17) Education to prevent and reduce the occurrence of diabetes; and
- (18) Other prevention or educational activities or programs that address the health, safety, or self-sufficiency of Native American persons.

Sec. 58. Section 71-7618, Reissue Revised Statutes of Nebraska, is amended to read:

71-7618. During each fiscal year, the Director of ~~Health and Human Services~~ Regulation and Licensure shall contract with the health clinics of Nebraska's federally recognized Native American tribes as approved by the tribal councils, Indian health organizations, or other public health

organizations that have a substantial Native American clientele to provide educational and public health services pursuant to section 71-7617. The director shall fund all eligible contracts until the appropriation to this program is depleted, but shall give priority to contracts which meet the following criteria:

(1) Programs or activities that directly impact the health and well-being of children;

(2) Programs or activities which serve the greater number of people over the longest period of time;

(3) Programs or activities that are part of a larger plan for strategic public health planning and implementation;

(4) Current programs or activities that have demonstrated success in improving public health or new programs or activities modeled on successful programs and activities; and

(5) Programs or activities that focus on primary prevention and show promise in reducing future health care expenditures.

Sec. 59. Section 71-7619, Reissue Revised Statutes of Nebraska, is amended to read:

71-7619. The Department of Health and Human Services Regulation and Licensure shall provide technical assistance and assessment of needs evaluations upon request to aid tribal councils in the development of contract proposals.

Sec. 60. Section 71-7620, Reissue Revised Statutes of Nebraska, is amended to read:

71-7620. The recipients of funds under the Native American Public Health Act shall submit a report on the activities funded each fiscal year. The report shall provide information as required by the Director of ~~Health and Human Services~~ Regulation and Licensure to determine the effectiveness of the contract in meeting the goals of the Native American Public Health Act.

Sec. 61. Section 71-7621, Reissue Revised Statutes of Nebraska, is amended to read:

71-7621. If the Director of ~~Health and Human Services~~ Regulation and Licensure determines that services are not being delivered in accordance with the contract, the director may seek to recapture all or a portion of funds expended.

Sec. 62. Section 71-7622, Reissue Revised Statutes of Nebraska, is amended to read:

71-7622. The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations to carry out the Native American Public Health Act and shall adhere to already established or adopted and promulgated rules and regulations for contracted services under the act.

Sec. 63. Section 79-217, Reissue Revised Statutes of Nebraska, is amended to read:

79-217. Except as provided in sections 79-221 and 79-222, the school board or board of education of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment. Any student who does not comply with this section shall not be permitted to continue in school until he or she so complies, except as provided by section 79-222. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health and Human Services Regulation and Licensure for those students whose parent or guardian is financially unable to meet such cost.

Sec. 64. Section 79-218, Reissue Revised Statutes of Nebraska, is amended to read:

79-218. Any school board or board of education of a school district or the governing authority of a private, denominational, or parochial school in this state may request assistance from the Department of Health and Human Services Regulation and Licensure in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the Director of Health and Human Services.

Sec. 65. Section 79-219, Reissue Revised Statutes of Nebraska, is amended to read:

79-219. The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of

section 79-222, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-217. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-214 and 79-217 to 79-223.

Sec. 66. Section 81-656, Reissue Revised Statutes of Nebraska, is amended to read:

81-656. In order to implement the intent and purposes of section 81-653, the department shall:

(1) Adopt and promulgate necessary rules and regulations, including a uniform system of classification of brain or head injury which is consistent with medically and clinically accepted standards and definitions for use in reporting by treating medical personnel and hospitals. The department shall be guided by the standards and definitions of the International Classification of Disease, Clinical Modification Coding System of the World Health Organization; and

(2) ~~Compile and publish a statistical report annually or at reasonable intervals containing information obtained from patient data pursuant to sections 81-653 to 81-661 in order to provide accessible information useful to medical personnel and the public. Such report shall be Class I data as described in section 81-667 and shall comply with sections 81-663 to 81-675; and~~

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

Sec. 67. Section 81-6,101, Reissue Revised Statutes of Nebraska, is amended to read:

81-6,101. The department shall:

(1) Adopt and promulgate rules and regulations, including a uniform system of classification of Parkinson's disease which is consistent with medically and clinically accepted standards and definitions for use in reporting by medical personnel treating the disease;

(2) Execute any contracts that the department deems necessary to carry out the Parkinson's Disease Registry Act;

(3) Receive and record the data obtained from reports filed under sections 81-6,102 and 81-6,103; and

~~(4) Compile and publish a statistical report annually or at reasonable intervals containing information obtained from patient data to provide accessible information useful to medical personnel, approved researchers, and the public; and~~

~~(5) Comply with all necessary requirements to obtain funds or grants.~~

Sec. 68. Section 81-3004, Revised Statutes Supplement, 2004, is amended to read:

81-3004. The Department of Health and Human Services Finance and Support shall establish a position with responsibility to respond to questions, concerns, and complaints from consumers, service providers, elected officials, and interested citizens in order to ensure high levels of accountability under the Nebraska Health and Human Services System Act. A toll-free telephone number shall also be made available and be made public for these purposes. The person in the position shall submit a ~~quarterly~~ annual report to the Governor, Policy Cabinet, and Legislature.

Sec. 69. Section 81-3102, Revised Statutes Supplement, 2004, is amended to read:

81-3102. The powers and duties of the Department of Health and Human Services shall include, but are not limited to, the following:

(1) To operate in coordination with the Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate

with the Department of Health and Human Services Finance and Support to provide services and manage funds as provided under the Nebraska Health and Human Services System Act, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services;

(6) To enter into such agreements with and among the Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support as may be necessary or appropriate to carry out the intent and purposes of the act, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out certain services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and the missions and purposes of the Department of Health and Human Services and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To act as the agent of the federal government in matters of mutual concern in conformity with the act and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To manage ~~all~~ services and programs of the Nebraska Department of Health and Human Services, System, whether contracted or delivered directly by the state, including, but not limited to: (a) Providing services in accordance with established policies, desired outcomes, priorities, and goals; (b) identifying strategies jointly with communities for accomplishing identified goals and outcomes; and (c) assuring service coordination and access through public education and information, community resource development, technical assistance, and coordinated service management;

(11) To adopt and promulgate confidentiality rules and regulations as provided in section 81-3007.01; and

(12) To perform such other duties as are provided by law.

Sec. 70. Section 81-3202, Revised Statutes Supplement, 2004, is amended to read:

81-3202. The powers and duties of the Department of Health and Human Services Regulation and Licensure shall include, but are not limited to, the following:

(1) To operate in coordination with the Department of Health and Human Services and the Department of Health and Human Services Finance and Support;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services Regulation and Licensure;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate with the Department of Health and Human Services Finance and Support to provide services and manage funds as provided under the Nebraska Health and Human Services System Act, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services Regulation and Licensure;

(6) To enter into such agreements with and among the Department of Health and Human Services and the Department of Health and Human Services Finance and Support as may be necessary or appropriate to carry out the intent and purposes of the act, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and the missions and purposes of the Department of Health and Human Services Regulation and Licensure and to accept and administer programs or resources delegated,

designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To contract with and act as the agent of the federal government in matters of mutual concern in conformity with the act and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To manage services and programs of the Department of Health and Human Services Regulation and Licensure, whether contracted or delivered directly by the state, including, but not limited to: (a) Providing services in accordance with established policies, desired outcomes, priorities, and goals; (b) identifying strategies jointly with communities for accomplishing identified goals and outcomes; and (c) assuring service coordination and access through public education and information, community resource development, technical assistance, and coordinated service management;

(11) To ensure the quality of statewide health and human services based on outcomes and performance measures, including, but not limited to: (a) Developing evaluation measurements and analyzing results; (b) certifying and licensing facilities and professionals; (c) evaluating services or programs to determine compliance with state, federal, or other contractual requirements; (d) developing, reviewing, and revising rules and regulations in accordance with established systemwide policies and objectives; (e) coordinating with the Department of Health and Human Services to develop appropriate technical assistance, education, training, and joint problem-solving; and (f) providing a common-sense approach to regulation and licensure that focuses on the outcomes and assures compliance consistent with those outcomes;

~~(11)~~ (12) To adopt and promulgate confidentiality rules and regulations as provided in section 81-3007.01; and

~~(12)~~ (13) To perform such other duties as are provided by law.

Sec. 71. On and after July 1, 2005, positions of employment in the Department of Health and Human Services related to the powers, duties, and functions transferred to the Department of Health and Human Services Regulation and Licensure pursuant to this legislative bill are transferred to the Department of Health and Human Services Regulation and Licensure. For purposes of the transition, employees of the Department of Health and Human Services shall be considered employees of the department to which their positions were transferred 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 or the Director of Regulation and Licensure 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. 72. On July 1, 2005, 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 Health and Human Services Regulation and Licensure by this legislative bill shall become the property of such department.

Sec. 73. On and after July 1, 2005, 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 Health and Human Services Regulation and Licensure by this legislative bill, such reference or designation shall apply to such department. All contracts entered into by the Department of Health and Human Services prior to July 1, 2005, in connection with the duties and functions transferred to the Department of Health and Human Services Regulation and Licensure are hereby recognized, with such department 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 the succeeding department for the payments of such obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the Department of Health and Human Services in accordance with functions or duties transferred to the Department of Health and Human Services Regulation and Licensure shall remain valid as issued under the name of the original department unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of the same, may be authenticated or certified

by the Department of Health and Human Services Regulation and Licensure for all legal purposes.

Sec. 74. All rules, regulations, and orders of the Department of Health and Human Services adopted prior to July 1, 2005, in connection with the powers, duties, and functions transferred to the Department of Health and Human Services Regulation and Licensure under this legislative bill shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2005, or which could have been commenced prior to that date, by or against the Department of Health and Human Services, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such department to the Department of Health and Human Services Regulation and Licensure.

Sec. 75. Sections 8, 12 to 20, 30 to 40, 44 to 65, 69 to 74, and 77 of this act become operative on July 1, 2005. Sections 1 to 7, 9 to 11, 21 to 29, 41 to 43, 66 to 68, 76, and 78 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 76. Original sections 68-156, 68-1017.02, 68-1020 to 68-1021.01, 68-1037, 68-1048, 71-147, 71-1,104.01, 71-601, 71-601.01, 71-605, 71-613, 71-640.01, 71-642, 71-649, 71-2081, 71-3503, 71-3524, 81-656, and 81-6,101, Reissue Revised Statutes of Nebraska, and sections 71-1,155 and 81-3004, Revised Statutes Supplement, 2004, are repealed.

Sec. 77. Original sections 68-1604, 71-501.02, 71-503.01, 71-505, 71-519 to 71-523, 71-529, 71-701, 71-703, 71-705 to 71-707, 71-1628.05 to 71-1628.07, 71-1913.01 to 71-1913.03, 71-4737 to 71-4744, 71-5647, 71-5649, 71-5655, 71-5714, 71-7617 to 71-7622, and 79-217 to 79-219, Reissue Revised Statutes of Nebraska, and sections 71-5653, 81-3102, and 81-3202, Revised Statutes Supplement, 2004, are repealed.

Sec. 78. The following sections are outright repealed: Sections 68-1064, 68-1716, and 71-1,161, Reissue Revised Statutes of Nebraska.

Sec. 79. Since an emergency exists, this act takes effect when passed and approved according to law.