

AMENDMENTS TO LB 265

(Amendments to Final Reading copy)

Introduced by Cook

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Sections 1 to 28 of this act shall be known
4 and may be cited as the Children's Residential Facilities and
5 Placing Licensure Act.

6 Sec. 2. The purpose of the Children's Residential
7 Facilities and Placing Licensure Act is to protect the public
8 health and the health, safety, and welfare of children who
9 reside in or who are placed in settings other than the home of
10 their parent or legal guardian by providing for the licensing
11 of residential child-caring agencies and child-placing agencies
12 in the State of Nebraska. The act provides for the development,
13 establishment, and enforcement of basic standards for residential
14 child-caring agencies and child-placing agencies.

15 Sec. 3. For purposes of the Children's Residential
16 Facilities and Placing Licensure Act:

17 (1) Care means the provision of room and board and the
18 exercise of concern and responsibility for the safety and welfare
19 of children on a twenty-four-hour-per-day basis in settings that
20 serve as the out-of-home placement for children;

21 (2) Child means a minor less than nineteen years of age;

22 (3) Child-placing agency means any person other than the

1 parent or legal guardian of a child that receives the child for
2 placement and places or arranges for the placement of a child in a
3 foster family home, adoptive home, residential child-caring agency,
4 or independent living;

5 (4) Department means the Division of Public Health of the
6 Department of Health and Human Services;

7 (5) Director means the Director of Public Health of the
8 Division of Public Health;

9 (6) Person includes bodies politic and corporate,
10 societies, communities, the public generally, individuals,
11 partnerships, limited liability companies, joint-stock companies,
12 and associations; and

13 (7) Residential child-caring agency means a person that
14 provides care for four or more children and that is not a foster
15 family home as defined in section 71-1901.

16 Sec. 4. (1) Except as provided in subsection (2) of
17 this section, a residential child-caring agency or child-placing
18 agency shall not be established, operated, or maintained in this
19 state without first obtaining a license issued by the department
20 under the Children's Residential Facilities and Placing Licensure
21 Act. No person shall hold itself out as a residential child-caring
22 agency or child-placing agency or as providing such services unless
23 licensed under the act. The department shall issue a license to
24 a residential child-caring agency or a child-placing agency that
25 satisfies the requirements for licensing under the act.

26 (2) A group home, child-caring agency, or child-placing
27 agency licensed under sections 71-1901 to 71-1906.01 on the

1 effective date of this act shall be deemed licensed under the
2 Children's Residential Facilities and Placing Licensure Act until
3 the license under such sections expires, and renewal shall be under
4 the act.

5 (3) For purposes of requiring licensure, a residential
6 child-caring agency or child-placing agency does not include
7 an individual licensed as a foster family home under sections
8 71-1901 to 71-1906.01, a person licensed under the Health Care
9 Facility Licensure Act, a person operating a juvenile detention
10 facility as defined in section 83-4,125, a staff secure youth
11 confinement facility operated by a county, or a person providing
12 only casual care for children at irregular intervals. Such persons
13 may voluntarily apply for a license.

14 Sec. 5. (1) An applicant for an initial or renewal
15 license to operate a residential child-caring agency or a
16 child-placing agency shall file a written application with the
17 department. To be licensed as a child-placing agency, an applicant
18 must be a corporation, nonprofit corporation, or limited liability
19 company. The application shall be accompanied by the applicable
20 fees under section 6 of this act and shall set forth the full
21 name and address of the agency to be licensed, the full name and
22 address of the owner of the agency, the names of all persons in
23 control of the agency, and additional information as required by
24 the department, including sufficient affirmative evidence of the
25 applicant's ability to comply with rules and regulations adopted
26 and promulgated under the Children's Residential Facilities and
27 Placing Licensure Act and evidence of adequate liability insurance

1 or, if self-insured, of sufficient funds to pay liability claims.
2 The application shall include the applicant's social security
3 number if the applicant is an individual. The social security
4 number shall not be public record and may only be used for
5 administrative purposes.

6 (2) The application shall be signed by:

7 (a) The owner, if the applicant for licensure as a
8 residential child-caring agency is an individual or partnership;

9 (b) Two of its members, if the applicant for licensure as
10 a residential child-caring agency or as a child-placing agency is
11 a limited liability company;

12 (c) Two of its officers who have the authority to
13 bind the corporation to the terms of the application, if the
14 applicant for licensure as a residential child-caring agency or as
15 a child-placing agency is a corporation or a nonprofit corporation;
16 or

17 (d) The head of the governmental unit having jurisdiction
18 over the residential child-caring agency or child-placing agency to
19 be licensed, if the applicant is a governmental unit.

20 Sec. 6. Fees applicable to an applicant for an initial
21 or renewal license under the Children's Residential Facilities and
22 Placing Licensure Act include:

23 (1) A nonrefundable license fee of twenty-five dollars;

24 (2) A nonrefundable renewal license fee of twenty-five
25 dollars;

26 (3) A reinstatement fee of twenty-five dollars if the
27 license has lapsed or has been suspended or revoked; and

1 (4) A duplicate original license fee of ten dollars when
2 a duplicate is requested.

3 Sec. 7. (1) Except as otherwise provided in the
4 Children's Residential Facilities and Placing Licensure Act:

5 (a) Licenses issued under the act shall expire on uniform
6 annual dates established by the department specified in rules and
7 regulations; and

8 (b) Licenses shall be issued only for the premises and
9 individuals named in the application and shall not be transferable
10 or assignable.

11 (2) Licenses, license record information, and inspection
12 reports shall be made available by the licensee for public
13 inspection upon request and may be displayed in a conspicuous
14 place on the licensed premises.

15 Sec. 8. (1) An applicant for licensure under the
16 Children's Residential Facilities and Placing Licensure Act shall
17 obtain a separate license for each type of residential child-caring
18 agency or child-placing agency that the applicant seeks to operate.
19 A single license may be issued for a residential child-caring
20 agency operating in separate buildings or structures on the same
21 premises under one management.

22 (2) An applicant for licensure shall obtain a separate
23 license for each type of placement service the applicant seeks
24 to provide. When a child-placing agency has more than one office
25 location, the child-placing agency shall inform the department of
26 each office location and the services provided at each location. A
27 single license may be issued for multiple offices, or the applicant

1 may apply for individual licenses for each office location.

2 Sec. 9. A provisional license may be issued to an
3 applicant for an initial residential child-caring agency or
4 child-placing agency that substantially complies with requirements
5 for licensure under the Children's Residential Facilities and
6 Placing Licensure Act and the rules and regulations adopted and
7 promulgated under the act if the failure to fully comply with such
8 requirements does not pose a danger to the children residing in
9 or served by the residential child-caring agency or child-placing
10 agency. Such provisional license shall be valid for a period of
11 up to one year, shall not be renewed, and may be converted to
12 a regular license upon a showing that the agency fully complies
13 with the requirements for licensure under the act and rules and
14 regulations.

15 Sec. 10. The department may inspect or provide for the
16 inspection of residential child-caring agencies or child-placing
17 agencies licensed under the Children's Residential Facilities and
18 Placing Licensure Act in such manner and at such times as provided
19 in rules and regulations adopted and promulgated by the department.
20 The department shall issue an inspection report and provide a copy
21 of the report to the agency within ten working days after the
22 completion of an inspection.

23 Sec. 11. (1) The department may request the State Fire
24 Marshal to inspect any residential child-caring agency for fire
25 safety under section 81-502. The State Fire Marshal shall assess
26 a fee for such inspection under section 81-505.01 payable by
27 the applicant or licensee. The State Fire Marshal may delegate

1 the authority to make such inspections to qualified local fire
2 prevention personnel under section 81-502.

3 (2) The department may investigate any residential
4 child-caring agency to determine if the place or places to be
5 covered by the license meet standards of sanitation and physical
6 well-being set by the department for the care and protection of
7 the children who may be placed with the residential child-caring
8 agency. The department may delegate this authority to qualified
9 local environmental health personnel.

10 Sec. 12. If the inspection report issued under section
11 10 of this act contains findings of noncompliance by a licensed
12 residential child-caring agency or child-placing agency with any
13 applicable provisions of the Children's Residential Facilities
14 and Placing Licensure Act or rules and regulations adopted and
15 promulgated under the act, the department shall review such
16 findings within twenty working days after such inspection. If
17 the findings are supported by the evidence, the department shall
18 proceed under sections 16 to 23 of this act, except that if the
19 findings indicate one or more violations that create no imminent
20 danger of death or serious physical harm and no direct or immediate
21 adverse relationship to the health, safety, or welfare of the
22 children residing in or served by the residential child-caring
23 agency or child-placing agency, the department may send a letter
24 to the agency requesting a statement of compliance. The letter
25 shall include a description of each violation, a request that
26 the residential child-caring agency or child-placing agency submit
27 a statement of compliance within ten working days, and a notice

1 that the department may take further steps if the statement of
2 compliance is not submitted. The statement of compliance shall
3 indicate any steps which have been or will be taken to correct
4 each violation and the period of time estimated to be necessary
5 to correct each violation. If the residential child-caring agency
6 or child-placing agency fails to submit and implement a statement
7 of compliance which indicates a good faith effort to correct the
8 violations, the department may proceed under sections 16 to 23 of
9 this act.

10 Sec. 13. (1) Any person may submit a complaint to the
11 department and request investigation of an alleged violation of
12 the Children's Residential Facilities and Placing Licensure Act
13 or rules and regulations adopted and promulgated under the act.
14 The department shall review all complaints and determine whether
15 to conduct an investigation. In making such determination, the
16 department may consider factors such as:

17 (a) Whether the complaint pertains to a matter within the
18 authority of the department to enforce;

19 (b) Whether the circumstances indicate that a complaint
20 is made in good faith;

21 (c) Whether the complaint is timely or has been delayed
22 too long to justify present evaluation of its merit;

23 (d) Whether the complainant may be a necessary witness if
24 action is taken and is willing to identify himself or herself and
25 come forward to testify if action is taken; or

26 (e) Whether the information provided or within the
27 knowledge of the complainant is sufficient to provide a reasonable

1 basis to believe that a violation has occurred or to secure
2 necessary evidence from other sources.

3 (2) A complaint submitted to the department shall be
4 confidential. An individual submitting a complaint shall be immune
5 from criminal or civil liability of any nature, whether direct
6 or derivative, for submitting a complaint or for disclosure of
7 documents, records, or other information to the department.

8 Sec. 14. Licensees shall not discriminate or retaliate
9 against an individual or the family of an individual residing
10 in, served by, or employed at the residential child-caring agency
11 or child-placing agency who has initiated or participated in any
12 proceeding authorized by the Children's Residential Facilities and
13 Placing Licensure Act or who has presented a complaint or provided
14 information to the administrator of the residential child-caring
15 agency or child-placing agency or the department. Such individual
16 may maintain an action for any type of relief, including injunctive
17 and declaratory relief, permitted by law.

18 Sec. 15. (1) Whenever the department finds that an
19 emergency exists requiring immediate action to protect the health,
20 safety, or welfare of a child in a residential child-caring
21 agency or child-placing agency, the department may, without notice
22 or hearing, issue an order declaring the existence of such an
23 emergency and requiring that such action be taken as the department
24 deems necessary to meet the emergency. The order may include an
25 immediate prohibition on the care or placement of children by
26 the licensee. An order under this subsection shall be effective
27 immediately. Any person to whom the order is directed shall comply

1 immediately, and upon application to the department, the person
2 shall be afforded a hearing as soon as possible and not later than
3 ten days after his or her application for the hearing. On the basis
4 of such hearing, the department shall continue to enforce such
5 order or rescind or modify it.

6 (2) A copy of the order shall also be mailed to the
7 holder of the license if the holder is not actually involved
8 in the daily operation of the residential child-caring agency
9 or child-placing agency. If the holder of the license is a
10 corporation, a copy of the order shall be sent to the corporation's
11 registered agent.

12 (3) The department may petition the appropriate district
13 court for an injunction whenever there is the belief that any
14 person is violating the Children's Residential Facilities and
15 Placing Licensure Act, an order issued under the act, or any rule
16 or regulation adopted and promulgated under the act. It shall be
17 the duty of each county attorney or the Attorney General to whom
18 the department reports a violation to cause appropriate proceedings
19 to be instituted without delay to ensure compliance with the act,
20 rules, regulations, and orders. In charging any defendant in a
21 complaint in such action, it shall be sufficient to charge that
22 such defendant did, upon a certain day and in a certain county,
23 establish, operate, or maintain a residential child-caring agency
24 or a child-placing agency without obtaining a license to do so,
25 without alleging any further or more particular facts concerning
26 the charge.

27 Sec. 16. The department may deny or refuse to renew

1 a license under the Children's Residential Facilities and
2 Placing Licensure Act to any residential child-caring agency or
3 child-placing agency that fails to meet the requirements for
4 licensure provided in the act or in rules and regulations adopted
5 and promulgated under the act, including:

- 6 (1) Failing an inspection under section 10 of this act;
7 (2) Having had a license revoked within the two-year
8 period preceding application; or
9 (3) Any of the grounds listed in section 17 of this act.

10 Sec. 17. The department may deny, refuse to renew,
11 or take disciplinary action against a license issued under the
12 Children's Residential Facilities and Placing Licensure Act on any
13 of the following grounds:

- 14 (1) Failure to meet or violation of any of the
15 requirements of the act or the rules and regulations adopted and
16 promulgated under the act;
17 (2) Violation of an order of the department under the
18 act;
19 (3) Conviction, admission, or substantial evidence of
20 committing or permitting, aiding, or abetting another to commit
21 any unlawful act, including, but not limited to, unlawful acts
22 committed by an applicant or licensee under the act, household
23 members who reside at the place where children's residential
24 care or child-placing services are provided, or employees of the
25 applicant or licensee that involve:

- 26 (a) Physical abuse of children or vulnerable adults as
27 defined in section 28-371;

1 (b) Endangerment or neglect of children or vulnerable
2 adults;

3 (c) Sexual abuse, sexual assault, or sexual misconduct;

4 (d) Homicide;

5 (e) Use, possession, manufacturing, or distribution of a
6 controlled substance listed in section 28-405;

7 (f) Property crimes, including, but not limited to,
8 fraud, embezzlement, and theft by deception; or

9 (g) Use of a weapon in the commission of an unlawful act;

10 (4) Conduct or practices detrimental to the health,
11 safety, or welfare of any individual residing in, served by, or
12 employed at the residential child-caring agency or child-placing
13 agency;

14 (5) Failure to allow an agent or employee of the
15 department access to the residential child-caring agency or
16 child-placing agency for the purposes of inspection, investigation,
17 or other information collection activities necessary to carry out
18 the duties of the department;

19 (6) Failure to allow local or state inspectors,
20 investigators, or law enforcement officers access to the
21 residential child-caring agency or child-placing agency for the
22 purposes of investigation necessary to carry out their duties;

23 (7) Failure to meet requirements relating to sanitation,
24 fire safety, and building codes;

25 (8) Failure to comply with or violation of the Medication
26 Aide Act;

27 (9) Failure to file a report of suspected abuse or

1 neglect as required by sections 28-372 and 28-711;

2 (10) Violation of any city, village, or county rules,
3 regulations, resolutions, or ordinances regulating licensees;

4 (11) A history of misconduct or violations by an
5 applicant or licensee involving children or vulnerable adults;
6 or

7 (12) Violation of any federal, state, or local law
8 involving care of children.

9 Sec. 18. (1) The department may impose any one or a
10 combination of the following types of disciplinary actions against
11 the license of a residential child-caring agency or child-placing
12 agency:

13 (a) A fine not to exceed ten thousand dollars per
14 violation;

15 (b) A period of probation not to exceed two years, during
16 which time the residential child-caring agency or child-placing
17 agency may continue to operate under terms and conditions fixed by
18 the order of probation;

19 (c) Restrictions on new admissions to a residential
20 child-caring agency or acceptance of new referrals by a
21 child-placing agency;

22 (d) Restrictions or other limitations on the number,
23 gender, or age of children served by the residential child-caring
24 agency or child-placing agency;

25 (e) Other restrictions or limitations on the type
26 of service provided by the residential child-caring agency or
27 child-placing agency;

1 (f) Suspension of the license for a period not to exceed
2 three years, during which time the licensee shall not operate a
3 residential child-caring agency or child-placing agency; or

4 (g) Revocation of the license. A former licensee whose
5 license has been revoked shall not apply for a license for a
6 minimum of two years after the date of revocation.

7 (2) Any fine imposed and unpaid under the Children's
8 Residential Facilities and Placing Licensure Act shall constitute a
9 debt to the State of Nebraska which may be collected in the manner
10 of a lien foreclosure or sued for and recovered in any proper form
11 of action in the name of the State of Nebraska in the district
12 court of the county in which the residential child-caring agency
13 or child-placing agency is located. The department shall, within
14 thirty days after receipt, remit fines to the State Treasurer for
15 distribution in accordance with Article VII, section 5, of the
16 Constitution of Nebraska.

17 Sec. 19. In determining what type of disciplinary action
18 to impose, the department may consider:

19 (1) The gravity of the violation, including the
20 probability that death or serious physical or mental harm will
21 result, the severity of the actual or potential harm, and the
22 extent to which the provisions of applicable statutes, rules, and
23 regulations were violated;

24 (2) The reasonableness of the diligence exercised by the
25 licensee in identifying or correcting the violation;

26 (3) The degree of cooperation exhibited by the licensee
27 in the identification, disclosure, and correction of the violation;

1 (4) Any previous violations committed by the licensee;
2 and

3 (5) The financial benefit to the licensee of committing
4 or continuing the violation.

5 Sec. 20. (1) Except as provided in section 15 of this
6 act, if the department determines to deny, refuse renewal of,
7 or take disciplinary action against a license, the department
8 shall send to the applicant or licensee, by certified mail to
9 the last-known address shown on the records of the department, a
10 notice setting forth the determination, the particular reasons for
11 the determination, including a specific description of the nature
12 of the violation and the statute, rule, or regulation violated,
13 and the type of disciplinary action which is pending. The denial,
14 refusal to renew, or disciplinary action shall become final fifteen
15 days after the mailing of the notice unless the applicant or
16 licensee, within such fifteen-day period, makes a written request
17 for a hearing under section 21 of this act.

18 (2) A copy of the notice in subsection (1) of this
19 section shall also be mailed to the holder of the license if the
20 holder is not actually involved in the daily operation of the
21 residential child-caring agency or child-placing agency. If the
22 holder of the license is a corporation, a copy of the notice shall
23 be sent to the corporation's registered agent.

24 Sec. 21. (1) Within fifteen days after the mailing of a
25 notice under section 20 of this act, an applicant or licensee shall
26 notify the department in writing that the applicant or licensee:

27 (a) Desires to contest the notice and requests a hearing;

1 or

2 (b) Does not contest the notice.

3 (2) If the department does not receive notification
4 within the fifteen-day period, the action of the department shall
5 be final.

6 Sec. 22. (1) If the applicant or licensee requests a
7 hearing under section 21 of this act, the department shall hold a
8 hearing and give the applicant or licensee the right to present
9 such evidence as may be proper. On the basis of such evidence,
10 the director shall affirm, modify, or set aside the determination.
11 A copy of such decision setting forth the findings of facts and
12 the particular reasons upon which the decision is based shall be
13 sent by either registered or certified mail to the applicant or
14 licensee.

15 (2) The procedure governing hearings authorized by this
16 section shall be in accordance with rules and regulations adopted
17 and promulgated by the department. A full and complete record shall
18 be kept of all proceedings. Witnesses may be subpoenaed by either
19 party and shall be allowed fees at a rate prescribed by rule and
20 regulation.

21 Sec. 23. Any party to a decision of the department under
22 the Children's Residential Facilities and Placing Licensure Act may
23 appeal such decision. The appeal shall be in accordance with the
24 Administrative Procedure Act.

25 Sec. 24. (1) A license issued under the Children's
26 Residential Facilities and Placing Licensure Act that has lapsed
27 for nonpayment of fees is eligible for reinstatement at any time

1 by applying to the department and paying the fees as provided in
2 section 6 of this act.

3 (2) A license that has been disciplined by being placed
4 on suspension is eligible for reinstatement at the end of the
5 period of suspension upon successful completion of an inspection
6 and payment of the fees as provided in section 6 of this act.

7 (3) A license that has been disciplined by being placed
8 on probation is eligible for reinstatement at the end of the period
9 of probation upon successful completion of an inspection if the
10 department determines an inspection is warranted.

11 (4) A license that has been disciplined by being
12 placed on probation or suspension may be reinstated prior to
13 the completion of the term of such probation or suspension as
14 provided in this subsection. Upon petition from a licensee and
15 after consideration of materials submitted with such petition, the
16 director may order an inspection or other investigation of the
17 licensee. On the basis of material submitted by the licensee and
18 the results of any inspection or investigation by the department,
19 the director shall determine whether to grant full reinstatement of
20 the license, to modify the probation or suspension, or to deny the
21 petition for reinstatement. The director's decision shall become
22 final fifteen days after mailing the decision to the licensee
23 unless the licensee requests a hearing within such fifteen-day
24 period. Any requested hearing shall be held according to rules
25 and regulations of the department for administrative hearings in
26 contested cases. Any party to the decision shall have a right to
27 judicial review under the Administrative Procedure Act.

1 (5) A license that has been disciplined by being revoked
2 is not eligible for relicensure until two years after the date of
3 such revocation. An application for an initial license may be made
4 at the end of such two-year period.

5 Sec. 25. A licensee may voluntarily surrender a license
6 issued under the Children's Residential Facilities and Placing
7 Licensure Act at any time, except that the department may refuse
8 to accept a voluntary surrender of a license if the licensee is
9 under investigation or if the department has initiated disciplinary
10 action against the licensee.

11 Sec. 26. (1) To protect the health, safety, and welfare
12 of the public and to insure to the greatest extent possible the
13 efficient, adequate, and safe care of children, the department
14 may adopt and promulgate rules and regulations consistent with
15 the Children's Residential Facilities and Placing Licensure Act as
16 necessary for:

17 (a) The proper care and protection of children in
18 residential child-caring agencies and child-placing agencies
19 regulated under the act;

20 (b) The issuance, discipline, and reinstatement of
21 licenses; and

22 (c) The proper administration of the act.

23 (2) Such rules and regulations shall establish standards
24 for levels of care and services which may include, but are
25 not limited to, supervision and structured activities designed
26 to address the social, emotional, educational, rehabilitative,
27 medical, and physical needs of children residing in or being placed

1 by a residential child-caring agency or child-placing agency and
2 may include the use of community resources to meet the needs of
3 children and qualifications of staff.

4 (3) Contested cases of the department under the act shall
5 be in accordance with the Administrative Procedure Act.

6 Sec. 27. Any person who establishes, operates, or
7 maintains a residential child-caring agency or child-placing agency
8 subject to the Children's Residential Facilities and Placing
9 Licensure Act without first obtaining a license as required under
10 the act or who violates any of the provisions of the act shall
11 be guilty of a Class I misdemeanor. Each day such person operates
12 after a first conviction shall be considered a subsequent offense.

13 Sec. 28. (1) All rules and regulations adopted and
14 promulgated prior to the effective date of this act under sections
15 71-1901 to 71-1906.01 or other statutes amended by this legislative
16 bill may continue to be effective under the Children's Residential
17 Facilities and Placing Licensure Act to the extent not in conflict
18 with the act.

19 (2) All licenses issued prior to the effective date of
20 this act in accordance with sections 71-1901 to 71-1906.01 or other
21 statutes amended by this legislative bill shall remain valid as
22 issued for purposes of the Children's Residential Facilities and
23 Placing Licensure Act unless revoked or otherwise terminated by
24 law.

25 (3) Any suit, action, or other proceeding, judicial or
26 administrative, which was lawfully commenced prior to the effective
27 date of this act under sections 71-1901 to 71-1906.01 or other

1 statutes amended by this legislative bill shall be subject to the
2 provisions of sections 71-1901 to 71-1906.01 or such other statutes
3 as they existed prior to the effective date of this act.

4 Sec. 29. Section 28-710, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 28-710 (1) Sections 28-710 to 28-727 shall be known and
7 may be cited as the Child Protection Act.

8 (2) For purposes of the Child Protection Act:

9 (a) Child abuse or neglect means knowingly,
10 intentionally, or negligently causing or permitting a minor
11 child to be:

12 (i) Placed in a situation that endangers his or her life
13 or physical or mental health;

14 (ii) Cruelly confined or cruelly punished;

15 (iii) Deprived of necessary food, clothing, shelter, or
16 care;

17 (iv) Left unattended in a motor vehicle if such minor
18 child is six years of age or younger;

19 (v) Sexually abused; or

20 (vi) Sexually exploited by allowing, encouraging, or
21 forcing such person to solicit for or engage in prostitution,
22 debauchery, public indecency, or obscene or pornographic
23 photography, films, or depictions;

24 (b) Department means the Department of Health and Human
25 Services;

26 (c) Law enforcement agency means the police department
27 or town marshal in incorporated municipalities, the office of the

1 sheriff in unincorporated areas, and the Nebraska State Patrol;

2 (d) Out-of-home child abuse or neglect means child abuse
3 or neglect occurring in day care homes, foster homes, day care
4 centers, ~~group homes,~~ residential child-caring agencies as defined
5 in section 3 of this act, and other child care facilities or
6 institutions; and

7 (e) Subject of the report of child abuse or neglect means
8 the person or persons identified in the report as responsible for
9 the child abuse or neglect.

10 Sec. 30. Section 29-2264, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 29-2264 (1) Whenever any person is placed on probation
13 by a court and satisfactorily completes the conditions of his or
14 her probation for the entire period or is discharged from probation
15 prior to the termination of the period of probation, the sentencing
16 court shall issue an order releasing the offender from probation.
17 Such order in all felony cases shall provide notice that the
18 person's voting rights are restored two years after completion of
19 probation. The order shall include information on restoring other
20 civil rights through the pardon process, including application to
21 and hearing by the Board of Pardons.

22 (2) Whenever any person is convicted of a misdemeanor or
23 felony and is placed on probation by the court or is sentenced to
24 a fine only, he or she may, after satisfactory fulfillment of the
25 conditions of probation for the entire period or after discharge
26 from probation prior to the termination of the period of probation
27 and after payment of any fine, petition the sentencing court to set

1 aside the conviction.

2 (3) In determining whether to set aside the conviction,
3 the court shall consider:

4 (a) The behavior of the offender after sentencing;

5 (b) The likelihood that the offender will not engage in
6 further criminal activity; and

7 (c) Any other information the court considers relevant.

8 (4) The court may grant the offender's petition and issue
9 an order setting aside the conviction when in the opinion of the
10 court the order will be in the best interest of the offender and
11 consistent with the public welfare. The order shall:

12 (a) Nullify the conviction; and

13 (b) Remove all civil disabilities and disqualifications
14 imposed as a result of the conviction.

15 (5) The setting aside of a conviction in accordance with
16 the Nebraska Probation Administration Act shall not:

17 (a) Require the reinstatement of any office, employment,
18 or position which was previously held and lost or forfeited as a
19 result of the conviction;

20 (b) Preclude proof of a plea of guilty whenever such plea
21 is relevant to the determination of an issue involving the rights
22 or liabilities of someone other than the offender;

23 (c) Preclude proof of the conviction as evidence of the
24 commission of the misdemeanor or felony whenever the fact of its
25 commission is relevant for the purpose of impeaching the offender
26 as a witness, except that the order setting aside the conviction
27 may be introduced in evidence;

1 (d) Preclude use of the conviction for the purpose of
2 determining sentence on any subsequent conviction of a criminal
3 offense;

4 (e) Preclude the proof of the conviction as evidence
5 of the commission of the misdemeanor or felony in the event an
6 offender is charged with a subsequent offense and the penalty
7 provided by law is increased if the prior conviction is proved;

8 (f) Preclude the proof of the conviction to determine
9 whether an offender is eligible to have a subsequent conviction set
10 aside in accordance with the Nebraska Probation Administration Act;

11 (g) Preclude use of the conviction as evidence of
12 commission of the misdemeanor or felony for purposes of determining
13 whether an application filed or a license issued under sections
14 71-1901 to 71-1906.01, ~~or~~ the Child Care Licensing Act, or the
15 Children's Residential Facilities and Placing Licensure Act or
16 a certificate issued under sections 79-806 to 79-815 should be
17 denied, suspended, or revoked;

18 (h) Preclude use of the conviction as evidence of
19 incompetence, neglect of duty, physical, mental, or emotional
20 incapacity, or final conviction of or pleading guilty or nolo
21 contendere to a felony for purposes of determining whether an
22 application filed or a certificate issued under sections 81-1401 to
23 81-1414.10 should be denied, suspended, or revoked;

24 (i) Preclude proof of the conviction as evidence whenever
25 the fact of the conviction is relevant to a determination of the
26 registration period under section 29-4005; or

27 (j) Relieve a person who is convicted of an offense for

1 which registration is required under the Sex Offender Registration
2 Act of the duty to register and to comply with the terms of the
3 act.

4 (6) Except as otherwise provided for the notice in
5 subsection (1) of this section, changes made to this section by
6 Laws 2005, LB 713, shall be retroactive in application and shall
7 apply to all persons, otherwise eligible in accordance with the
8 provisions of this section, whether convicted prior to, on, or
9 subsequent to September 4, 2005.

10 Sec. 31. Section 43-2,108.05, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 43-2,108.05 (1) If the court orders the record of a
13 juvenile sealed pursuant to section 43-2,108.04, the court shall:

14 (a) Order that all records, including any information
15 or other data concerning any proceedings relating to the offense,
16 including the arrest, taking into custody, petition, complaint,
17 indictment, information, trial, hearing, adjudication, correctional
18 supervision, dismissal, or other disposition or sentence, be deemed
19 never to have occurred;

20 (b) Send notice of the order to seal the record (i) to
21 the Nebraska Commission on Law Enforcement and Criminal Justice,
22 (ii) if the record includes impoundment or prohibition to obtain
23 a license or permit pursuant to section 43-287, to the Department
24 of Motor Vehicles, (iii) if the juvenile whose record has been
25 ordered sealed was a ward of the state at the time the proceeding
26 was initiated or if the Department of Health and Human Services
27 was a party in the proceeding, to such department, and (iv) to

1 law enforcement agencies, county attorneys, and city attorneys
2 referenced in the court record;

3 (c) Order all notified under subdivision (1)(b) of this
4 section to seal all records pertaining to the offense;

5 (d) If the case was transferred from district court to
6 juvenile court or was transferred under section 43-282, send notice
7 of the order to seal the record to the transferring court; and

8 (e) Explain to the juvenile what sealing the record means
9 verbally if the juvenile is present in the court at the time the
10 court issues the sealing order or by written notice sent by regular
11 mail to the juvenile's last-known address if the juvenile is not
12 present in the court at the time the court issues the sealing
13 order.

14 (2) The effect of having a record sealed under section
15 43-2,108.04 is that thereafter no person is allowed to release
16 any information concerning such record, except as provided by
17 this section. After a record is sealed, the person whose record
18 was sealed can respond to any public inquiry as if the offense
19 resulting in such record never occurred. A government agency and
20 any other public office or agency shall reply to any public
21 inquiry that no information exists regarding a sealed record.
22 Except as provided in subsection (3) of this section, an order
23 to seal the record applies to every government agency and any
24 other public office or agency that has a record relating to the
25 offense, regardless of whether it receives notice of the hearing
26 on the sealing of the record or a copy of the order. Upon the
27 written request of a person whose record has been sealed and the

1 presentation of a copy of such order, a government agency or any
2 other public office or agency shall seal all records pertaining to
3 the offense.

4 (3) A sealed record is accessible to law enforcement
5 officers, county attorneys, and city attorneys in the
6 investigation, prosecution, and sentencing of crimes, to the
7 sentencing judge in the sentencing of criminal defendants, and
8 to any attorney representing the subject of the sealed record.
9 Inspection of records that have been ordered sealed under section
10 43-2,108.04 may be made by the following persons or for the
11 following purposes:

12 (a) By the court or by any person allowed to inspect such
13 records by an order of the court for good cause shown;

14 (b) By the court, city attorney, or county attorney
15 for purposes of collection of any remaining parental support or
16 obligation balances under section 43-290;

17 (c) By the Nebraska Probation System for purposes of
18 juvenile intake services, for presentence and other probation
19 investigations, and for the direct supervision of persons placed
20 on probation and by the Department of Correctional Services,
21 the Office of Juvenile Services, a juvenile assessment center, a
22 criminal detention facility, or a juvenile detention facility, for
23 an individual committed to it, placed with it, or under its care;

24 (d) By the Department of Health and Human Services for
25 purposes of juvenile intake services, the preparation of case
26 plans and reports, the preparation of evaluations, compliance with
27 federal reporting requirements, or the supervision and protection

1 of persons placed with the department or for licensing or
2 certification purposes under sections 71-1901 to 71-1906.01, ~~or~~ the
3 Child Care Licensing Act, or the Children's Residential Facilities
4 and Placing Licensure Act;

5 (e) Upon application, by the person who is the subject of
6 the sealed record and by persons authorized by the person who is
7 the subject of the sealed record who are named in that application;

8 (f) At the request of a party in a civil action that is
9 based on a case that has a sealed record, as needed for the civil
10 action. The party also may copy the sealed record as needed for the
11 civil action. The sealed record shall be used solely in the civil
12 action and is otherwise confidential and subject to this section;

13 (g) By persons engaged in bona fide research, with
14 the permission of the court, only if the research results
15 in no disclosure of the person's identity and protects the
16 confidentiality of the sealed record; or

17 (h) By a law enforcement agency if a person whose record
18 has been sealed applies for employment with the law enforcement
19 agency.

20 (4) Nothing in this section prohibits the Department of
21 Health and Human Services from releasing information from sealed
22 records in the performance of its duties with respect to the
23 supervision and protection of persons served by the department.

24 (5) In any application for employment, bonding, license,
25 education, or other right or privilege, any appearance as a
26 witness, or any other public inquiry, a person cannot be questioned
27 with respect to any offense for which the record is sealed. If

1 an inquiry is made in violation of this subsection, the person
2 may respond as if the offense never occurred. Applications for
3 employment shall contain specific language that states that the
4 applicant is not obligated to disclose a sealed record. Employers
5 shall not ask if an applicant has had a record sealed. The
6 Department of Labor shall develop a link on the department's web
7 site to inform employers that employers cannot ask if an applicant
8 had a record sealed and that an application for employment shall
9 contain specific language that states that the applicant is not
10 obligated to disclose a sealed record.

11 (6) Any person who violates this section may be held in
12 contempt of court.

13 Sec. 32. Section 43-1301, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 43-1301 For purposes of the Foster Care Review Act,
16 unless the context otherwise requires:

17 (1) Local board means a local foster care review board
18 created pursuant to section 43-1304;

19 (2) Office means the Foster Care Review Office created
20 pursuant to section 43-1302;

21 (3) Foster care facility means any foster family home
22 as defined in section 71-1901, residential child-caring agency as
23 defined in section 3 of this act, group home, child care facility,
24 public agency, private agency, or any other person or entity
25 receiving and caring for foster children;

26 (4) Foster care placements means all placements of
27 juveniles as described in ~~subdivision (3)(b) of~~ section 43-247,

1 placements of neglected, dependent, or delinquent children,
2 including those made directly by parents or by third parties,
3 and placements of children who have been voluntarily relinquished
4 pursuant to section 43-106.01 to the Department of Health and Human
5 Services or any ~~child placement~~ child-placing agency as defined in
6 section 3 of this act licensed by the Department of Health and
7 Human Services;

8 (5) Person or court in charge of the child means (a)
9 the Department of Health and Human Services, an association, or
10 an individual who has been made the guardian of a neglected,
11 dependent, or delinquent child by the court and has the
12 responsibility of the care of the child and has the authority
13 by and with the assent of the court to place such a child in a
14 suitable family home or institution or has been entrusted with
15 the care of the child by a voluntary placement made by a parent
16 or legal guardian, (b) the court which has jurisdiction over
17 the child, or (c) the entity having jurisdiction over the child
18 pursuant to the Nebraska Indian Child Welfare Act;

19 (6) Voluntary placement means the placement by a parent
20 or legal guardian who relinquishes the possession and care of a
21 child to a third party, individual, or agency;

22 (7) Family unit means the social unit consisting of the
23 foster child and the parent or parents or any person in the
24 relationship of a parent, including a grandparent, and any siblings
25 with whom the foster child legally resided prior to placement
26 in foster care, except that for purposes of potential sibling
27 placement, the child's family unit also includes the child's

1 siblings even if the child has not resided with such siblings prior
2 to placement in foster care;

3 (8) ~~Child-caring~~ Residential child-caring agency has the
4 definition found in section ~~71-1902,~~ 3 of this act;

5 (9) Child-placing agency has the definition found in
6 section ~~71-1902,~~ 3 of this act; and

7 (10) Siblings means biological siblings and legal
8 siblings, including, but not limited to, half-siblings and
9 stepsiblings.

10 Sec. 33. Section 43-1302, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 43-1302 (1) (a) The Foster Care Review Office is hereby
13 established. The purpose of the office is to provide information
14 and direct reporting to the courts, the Department of Health and
15 Human Services, and the Legislature regarding the foster care
16 system in Nebraska; to provide oversight of the foster care
17 system; and to make recommendations regarding foster care policy
18 to the Legislature. The executive director of the office shall
19 provide information and reporting services, provide analysis of
20 information obtained, and oversee foster care file audit case
21 reviews and tracking of cases of children in the foster care
22 system. The executive director of the office shall, through
23 information analysis and with the assistance of the Foster Care
24 Advisory Committee, (i) determine key issues of the foster care
25 system and ways to resolve the issues and to otherwise improve the
26 system and (ii) make policy recommendations.

27 (b) All equipment and effects of the State Foster Care

1 Review Board on July 1, 2012, shall be transferred to the
2 Foster Care Review Office, and all staff of the board, except
3 the executive director and interim executive director, shall be
4 transferred to the office. The State Foster Care Review Board shall
5 terminate on July 1, 2012. Beginning on July 1, 2012, the data
6 coordinator of the board, as such position existed prior to such
7 date, shall serve as the executive director of the office until
8 the Foster Care Advisory Committee hires an executive director as
9 prescribed by this section. It is the intent of the Legislature
10 that the staff of the board employed prior to July 1, 2012, shall
11 continue to be employed by the office until such time as the
12 executive director is hired by the committee.

13 (c) It is the intent of the Legislature that the funds
14 appropriated to the State Foster Care Review Board be transferred
15 to the Foster Care Review Office for FY2012-13.

16 (2) (a) The Foster Care Advisory Committee is created. The
17 committee shall have five members appointed by the Governor. The
18 members shall have no pecuniary interest in the foster care system
19 and shall not be employed by the office, the Department of Health
20 and Human Services, a county, a residential child-caring agency, a
21 child-placing agency, or a court.

22 (b) The Governor shall appoint three members from a list
23 of twelve local board members submitted by the Health and Human
24 Services Committee of the Legislature, one member from a list of
25 four persons with data analysis experience submitted by the Health
26 and Human Services Committee of the Legislature, and one member
27 from a list of four persons who are residents of the state and are

1 representative of the public at large submitted by the Health and
2 Human Services Committee of the Legislature. The Health and Human
3 Services Committee of the Legislature shall hold a confirmation
4 hearing for the appointees, and the appointments shall be subject
5 to confirmation by the Legislature, except that the initial members
6 and members appointed while the Legislature is not in session shall
7 serve until the next session of the Legislature, at which time
8 a majority of the members of the Legislature shall approve or
9 disapprove of the appointments.

10 (c) The terms of the members shall be for three years,
11 except that the Governor shall designate two of the initial
12 appointees to serve initial terms ending on March 1, 2014, and
13 three of the initial appointees to serve initial terms ending on
14 March 1, 2015. The Governor shall make the initial appointments
15 within thirty days after July 1, 2012. Members shall not serve more
16 than two consecutive terms, except that members shall serve until
17 their successors have been appointed and qualified. The Governor
18 shall appoint members to fill vacancies in the same manner as the
19 original appointments to serve for the remainder of the unexpired
20 term.

21 (d) The Foster Care Advisory Committee shall meet at
22 least four times each calendar year. Each member shall attend at
23 least two meetings each calendar year and shall be subject to
24 removal for failure to attend at least two meetings unless excused
25 by a majority of the members of the committee. Members shall be
26 reimbursed for their actual and necessary expenses as provided in
27 sections 81-1174 to 81-1177.

1 (e) The duties of the Foster Care Advisory Committee are
2 to:

3 (i) Hire and fire an executive director for the office
4 who has training and experience in foster care; and

5 (ii) Support and facilitate the work of the office,
6 including the tracking of children in foster care and reviewing
7 foster care file audit case reviews.

8 (3) The executive director of the office shall hire,
9 fire, and supervise office staff and shall be responsible for the
10 duties of the office as provided by law, including the annual
11 report and other reporting, review, tracking, data collection and
12 analysis, and oversight and training of local boards.

13 Sec. 34. Section 43-1304, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 43-1304 There shall be local foster care review boards
16 to conduct the foster care file audit case reviews of children
17 in foster care placement and carry out other powers and duties
18 given to such boards under the Foster Care Review Act. Members of
19 local boards serving on July 1, 2012, shall continue to serve the
20 unexpired portion of their terms. The executive director of the
21 office shall select members to serve on local boards from a list
22 of applications submitted to the office. Each local board shall
23 consist of not less than four and not more than ten members as
24 determined by the executive director. The members of the local
25 board shall reasonably represent the various social, economic,
26 racial, and ethnic groups of the county or counties from which
27 its members may be appointed. A person employed by the office, the

1 Department of Health and Human Services, a residential child-caring
2 agency, a child-placing agency, or a court shall not be appointed
3 to a local board. A list of the members of each local board shall
4 be sent to the department.

5 Sec. 35. Section 43-1503, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-1503 For ~~the~~ purposes of the Nebraska Indian Child
8 Welfare Act, except as may be specifically provided otherwise, the
9 term:

10 (1) Child custody proceeding shall mean and include:

11 (a) Foster care placement which shall mean any action
12 removing an Indian child from ~~its~~ his or her parent or Indian
13 custodian for temporary placement in a foster home or institution
14 or the home of a guardian or conservator where the parent or Indian
15 custodian cannot have the child returned upon demand, but where
16 parental rights have not been terminated;

17 (b) Termination of parental rights which shall mean
18 any action resulting in the termination of the parent-child
19 relationship;

20 (c) Preadoptive placement which shall mean the temporary
21 placement of an Indian child in a foster home or institution after
22 the termination of parental rights, but prior to or in lieu of
23 adoptive placement; and

24 (d) Adoptive placement which shall mean the permanent
25 placement of an Indian child for adoption, including any action
26 resulting in a final decree of adoption.

27 Such term or terms shall not include a placement based

1 upon an act which, if committed by an adult, would be deemed a
2 crime or upon an award, in a divorce proceeding, of custody to one
3 of the parents;

4 (2) Extended family member shall be as defined by the
5 law or custom of the Indian child's tribe or, in the absence of
6 such law or custom, shall be a person who has reached the age of
7 eighteen and who is the Indian child's parent, grandparent, aunt
8 or uncle, ~~brother or sister,~~ clan member, band member, sibling,
9 brother-in-law or sister-in-law, niece or nephew, ~~first or second~~
10 cousin, or stepparent;

11 (3) Indian means any person who is a member of an Indian
12 tribe, or who is an Alaska Native and a member of a regional
13 corporation defined in section 7 of the Alaska Native Claims
14 Settlement Act, 43 U.S.C. 1606;

15 (4) Indian child means any unmarried person who is under
16 age eighteen and is either (a) a member of an Indian tribe or (b)
17 is eligible for membership in an Indian tribe and is the biological
18 child of a member of an Indian tribe;

19 (5) Indian child's tribe means (a) the Indian tribe in
20 which an Indian child is a member or eligible for membership or (b)
21 in the case of an Indian child who is a member of or eligible for
22 membership in more than one tribe, the Indian tribe with which the
23 Indian child has the more significant contacts;

24 (6) Indian custodian means any Indian person who has
25 legal custody of an Indian child under tribal law or custom or
26 under state law or to whom temporary physical care, custody, and
27 control has been transferred by the parent of such child;

1 (7) Indian organization means any group, association,
2 partnership, limited liability company, corporation, or other legal
3 entity owned or controlled by Indians or a majority of whose
4 members are Indians;

5 (8) Indian tribe means any Indian tribe, band, nation,
6 or other organized group or community of Indians recognized as
7 eligible for the services provided to Indians by the secretary
8 because of their status as Indians, including any Alaska Native
9 village as defined in section 3(c) of the Alaska Native Claims
10 Settlement Act, as amended, 43 U.S.C. 1602(c);

11 (9) Parent means any biological parent or parents of an
12 Indian child or any Indian person who has lawfully adopted an
13 Indian child, including adoptions under tribal law or custom. It
14 does not include the unwed father when paternity has not been
15 acknowledged or established;

16 (10) Reservation means Indian country as defined in 18
17 U.S.C. 1151 and any lands, not covered under such section, title to
18 which is either held by the United States in trust for the benefit
19 of any Indian tribe or individual or held by any Indian tribe or
20 individual subject to a restriction by the United States against
21 alienation;

22 (11) Secretary means the Secretary of the Interior;

23 (12) Tribal court means a court with jurisdiction over
24 child custody proceedings and which is either a Court of Indian
25 Offenses, a court established and operated under the code or custom
26 of an Indian tribe, or any other administrative body of a tribe
27 which is vested with authority over child custody proceedings; and

1 (13) Tribal service area means a geographic area in
2 which tribal services and programs are provided to Native American
3 people.

4 Sec. 36. Section 43-4308, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 43-4308 Licensed child care facility means a facility or
7 program licensed under the Child Care Licensing Act, the Children's
8 Residential Facilities and Placing Licensure Act, or sections
9 71-1901 to 71-1906.01.

10 Sec. 37. Section 68-1006.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 68-1006.01 The Department of Health and Human Services
13 shall include in the standard of need for eligible aged, blind, and
14 disabled persons at least fifty dollars per month for a personal
15 needs allowance if such persons reside in an alternative living
16 arrangement.

17 For purposes of this section, an alternative living
18 arrangement shall include board and room, a boarding home, a
19 certified adult family home, a licensed assisted-living facility, a
20 licensed ~~group home for children or~~ residential child-caring agency
21 as defined in section 3 of this act, a licensed center for the
22 developmentally disabled, and a long-term care facility.

23 Sec. 38. Section 68-1207, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 68-1207 (1) The Department of Health and Human Services
26 shall supervise all public child welfare services as described
27 by law. The department and the pilot project described in

1 section 68-1212 shall maintain caseloads to carry out child
2 welfare services which provide for adequate, timely, and indepth
3 investigations and services to children and families. Caseloads
4 shall range between twelve and seventeen cases as determined
5 pursuant to subsection (2) of this section. In establishing the
6 specific caseloads within such range, the department and the pilot
7 project shall (a) include the workload factors that may differ
8 due to geographic responsibilities, office location, and the travel
9 required to provide a timely response in the investigation of
10 abuse and neglect, the protection of children, and the provision
11 of services to children and families in a uniform and consistent
12 statewide manner and (b) utilize the workload criteria of the
13 standards established as of January 1, 2012, by the Child Welfare
14 League of America. The average caseload shall be reduced by the
15 department in all service areas as designated pursuant to section
16 81-3116 and by the pilot project to comply with the caseload
17 range described in this subsection by September 1, 2012. Beginning
18 September 15, 2012, the department shall include in its annual
19 report required pursuant to section 68-1207.01 a report on the
20 attainment of the decrease according to such caseload standards.
21 The department's annual report shall also include changes in the
22 standards of the Child Welfare League of America or its successor.

23 (2) Caseload size shall be determined in the following
24 manner: (a) If children are placed in the home, the family shall
25 count as one case regardless of how many children are placed in
26 the home; (b) if a child is placed out of the home, the child
27 shall count as one case; (c) if, within one family, one or more

1 children are placed in the home and one or more children are placed
2 out of the home, the children placed in the home shall count as
3 one case and each child placed out of the home shall count as one
4 case; and (d) any child receiving services from the department or a
5 private entity under contract with the department shall be counted
6 as provided in subdivisions (a) through (c) of this subsection
7 whether or not such child is a ward of the state. For purposes of
8 this subsection, a child is considered to be placed in the home if
9 the child is placed with his or her biological or adoptive parent
10 or a legal guardian and a child is considered to be placed out
11 of the home if the child is placed in a foster care, group home
12 care, family home as defined in section 71-1901, a residential
13 child-caring agency as defined in section 3 of this act, or any
14 other setting which is not the child's planned permanent home.

15 (3) To insure appropriate oversight of noncourt and
16 voluntary cases when any child welfare services are provided,
17 either by the department or by a lead agency participating in
18 the pilot project, as a result of a child safety assessment, the
19 department or lead agency shall develop a case plan that specifies
20 the services to be provided and the actions to be taken by the
21 department or lead agency and the family in each such case.

22 (4) To carry out the provisions of this section, the
23 Legislature shall provide funds for additional staff.

24 Sec. 39. Section 71-428, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-428 (1) Respite care service means a person or
27 any legal entity that provides short-term temporary care on an

1 intermittent basis to persons with special needs when the person's
2 primary caregiver is unavailable to provide such care.

3 (2) Respite care service does not include:

4 (a) A person or any legal entity which is licensed under
5 the Health Care Facility Licensure Act and which provides respite
6 care services at the licensed location;

7 (b) A person or legal entity which is licensed to provide
8 child care to thirteen or more children under the Child Care
9 Licensing Act or which is licensed as a ~~group home~~ or residential
10 child-caring agency under sections 71-1901 to 71-1906.01; the
11 Children's Residential Facilities and Placing Licensure Act;

12 (c) An agency that recruits, screens, or trains a person
13 to provide respite care;

14 (d) An agency that matches a respite care service or
15 other providers of respite care with a person with special needs,
16 or refers a respite care service or other providers of respite
17 care to a person with special needs, unless the agency receives
18 compensation for such matching or referral from the service or
19 provider or from or on behalf of the person with special needs;

20 (e) A person who provides respite care to fewer than
21 eight unrelated persons in any seven-day period in his or her home
22 or in the home of the recipient of the respite care; or

23 (f) A nonprofit agency that provides group respite care
24 for no more than eight hours in any seven-day period.

25 Sec. 40. Section 71-1901, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-1901 For purposes of sections 71-1901 to 71-1906.01:

1 (1) Person includes a partnership, limited liability
2 company, firm, agency, association, or corporation;

3 (2) Child means an unemancipated minor;

4 (3) Child-placing agency has the definition found in
5 section 3 of this act;

6 ~~(3)~~ (4) Department means the Division of Public Health of
7 the Department of Health and Human Services;

8 ~~(4)~~ (5) Foster care means engaged in the service of
9 exercising twenty-four-hour daily care, supervision, custody, or
10 control over children, for compensation or hire, in lieu of
11 the care or supervision normally exercised by parents in their
12 own home. Foster care does not include casual care at irregular
13 intervals or programs as defined in section 71-1910; and

14 (6) Foster family home means a home which provides foster
15 care to a child or children pursuant to a foster care placement
16 as defined in section 43-1301. Foster family homes include
17 licensed homes where the primary caretaker has no significant
18 prior relationship with the child or children in his or her care
19 and both licensed and unlicensed relative and kinship homes;

20 (7) Kinship home means a home where a child or children
21 receive foster care and at least one of the primary caretakers has
22 previously lived with or is a trusted adult that has a preexisting,
23 significant relationship with the child or children or a sibling of
24 such child or children pursuant to section 43-1311.02;

25 ~~(5)~~ (8) Native American means a person who is a member of
26 an Indian tribe or eligible for membership in an Indian tribe;:-

27 (9) Relative home means a home where a child or children

1 receive foster care and at least one of the primary caretakers is
2 related to the child or children, or to a sibling of such child
3 or children pursuant to section 43-1311.02, in his or her care by
4 blood, marriage, or adoption or, in the case of an Indian child, at
5 least one of the primary caretakers is an extended family member as
6 defined in section 43-1503; and

7 (10) Residential child-caring agency has the definition
8 found in section 3 of this act.

9 Sec. 41. Section 71-1902, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 71-1902 (1) The department shall adopt and promulgate
12 rules and regulations on requirements for licenses, waivers,
13 variances, and approval of foster family homes taking into
14 consideration the health, safety, well-being, and best interests of
15 the child. An initial assessment of a foster family home shall be
16 completed and shall focus on the safety, protection, and immediate
17 health, educational, developmental, and emotional needs of the
18 child and the willingness and ability of the foster home, relative
19 home, or kinship home to provide a safe, stable, and nurturing
20 environment for a child for whom the department or child-placing
21 agency has assumed responsibility.

22 ~~(1)~~ (2) (a) Except as otherwise provided in this section,
23 no person shall furnish or offer to furnish foster care for one
24 or more children not related to such person by blood, marriage, or
25 adoption without having in full force and effect a written license
26 issued by the department upon such terms and conditions as may be
27 prescribed by general rules and regulations adopted and promulgated

1 by the department. The terms and conditions for licensure may allow
2 foster family homes to meet licensing standards through variances
3 equivalent to the established standards.

4 (b) The department may issue a time-limited, nonrenewable
5 provisional license to an applicant who is unable to comply
6 with all licensure requirements and standards, is making a good
7 faith effort to comply, and is capable of compliance within the
8 time period stated in the license. The department may issue a
9 time-limited, nonrenewable probationary license to a licensee who
10 agrees to establish compliance with rules and regulations that,
11 when violated, do not present an unreasonable risk to the health,
12 safety, or well-being of the foster children in the care of the
13 applicant. No license shall be issued pursuant to this section
14 unless the applicant has completed the required hours of training
15 in foster care as prescribed by the department.

16 (3) Kinship homes and relative homes are exempt from
17 licensure, however, such homes should make efforts to be licensed
18 if such license will facilitate the permanency plan of the
19 child. The department and child-placing agencies shall, when
20 requested or as part of the child's permanency plan, provide
21 resources for and assistance with licensure, including, but
22 not limited to, information on licensure, waivers for relative
23 homes, kinship-specific and relative-specific foster care training,
24 referral to local service providers and support groups, and funding
25 and resources available to address home safety or other barriers
26 to licensure.

27 (4) Prior to placement in a nonlicensed relative home

1 or kinship home, approval shall be obtained from the department.
2 Requirements for initial approval shall include, but not be limited
3 to, the initial assessment provided for in subsection (1) of this
4 section, a home visit to assure adequate and safe housing, and a
5 criminal background check of all adult residents. Final approval
6 shall include, but not be limited to, requirements as appropriate
7 under section 71-1903. The department or child-placing agency shall
8 provide assistance to an approved relative home or kinship home to
9 support the care, protection, and nurturing of the child. Support
10 may include, but not be limited to, information on licensure,
11 waivers, and variances, kinship-specific and relative-specific
12 foster care training, mental and physical health care, options
13 for funding for needs of the child, and service providers and
14 support groups to address the needs of relative and kinship
15 parents, families, and children.

16 ~~(2)~~ (5) All nonprovisional and nonprobationary licenses
17 issued under sections 71-1901 to 71-1906.01 shall expire two years
18 from the date of issuance and shall be subject to renewal under the
19 same terms and conditions as the original license, except that if
20 a licensee submits a completed renewal application thirty days or
21 more before the license's expiration date, the license shall remain
22 in effect until the department either renews the license or denies
23 the renewal application. No license issued pursuant to this section
24 shall be renewed unless the licensee has completed the required
25 hours of training in foster care in the preceding twelve months as
26 prescribed by the department. ~~For the issuance or renewal of each~~
27 ~~nonprovisional and nonprobationary license, the department shall~~

1 charge a fee of fifty dollars for a group home, fifty dollars for a
2 child-caring agency, and fifty dollars for a child-placing agency.
3 For the issuance of each provisional license and each probationary
4 license, the department shall charge a fee of twenty-five dollars
5 for a group home, twenty-five dollars for a child-caring agency,
6 and twenty-five dollars for a child-placing agency. A license may
7 be revoked for cause, after notice and hearing, in accordance with
8 rules and regulations adopted and promulgated by the department.

9 ~~(3) For purposes of this section:~~

10 ~~(a) Foster family home means any home which provides~~
11 ~~twenty-four-hour care to children who are not related to the foster~~
12 ~~parent by blood, marriage, or adoption;~~

13 ~~(b) Group home means a home which is operated under the~~
14 ~~auspices of an organization which is responsible for providing~~
15 ~~social services, administration, direction, and control for the~~
16 ~~home and which is designed to provide twenty-four-hour care for~~
17 ~~children and youth in a residential setting;~~

18 ~~(c) Child-caring agency means an organization which is~~
19 ~~organized as a corporation or a limited liability company for the~~
20 ~~purpose of providing care for children in buildings maintained by~~
21 ~~the organization for that purpose; and~~

22 ~~(d) Child-placing agency means an organization which is~~
23 ~~authorized by its articles of incorporation and by its license to~~
24 ~~place children in foster family homes.~~

25 Sec. 42. Section 71-1903, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-1903 (1) Before issuance of a license under

1 sections 71-1901 to 71-1906.01, the department shall cause such
2 investigation to be made as it deems necessary to determine if
3 the character of the applicant, any member of the applicant's
4 household, or the person in charge of the service and the place
5 where the foster care is to be furnished are such as to ensure
6 the proper care and treatment of children. The department may
7 request the State Fire Marshal to inspect such places for fire
8 safety pursuant to section 81-502. The State Fire Marshal shall
9 assess a fee for such inspection pursuant to section 81-505.01,
10 payable by the licensee or applicant for a license, except that the
11 department may pay the fee for inspection for fire safety of ~~foster~~
12 family homes where foster care is provided, as defined in section
13 ~~71-1902~~. The department may conduct sanitation and health standards
14 investigations pursuant to subsection (2) of this section. The
15 department may also, at any time it sees fit, cause an inspection
16 to be made of the place where any licensee is furnishing foster
17 care to see that such service is being properly conducted.

18 (2) The department shall make an investigation and report
19 of all ~~facilities and programs of licensed~~ foster care providers
20 ~~of foster care programs~~ subject to this section or applicants
21 for licenses to provide such ~~programs~~ care to determine if the
22 ~~place or places to be covered by such licenses meet~~ standards
23 of health and sanitation set by the department for the care and
24 protection of the child or children who may be placed in such
25 ~~facilities and programs~~. foster family homes are being met. The
26 department may delegate the investigation authority to qualified
27 local environmental health personnel.

1 (3) Before the foster care placement of any child in
2 Nebraska by the department, the department shall require a national
3 criminal history record information check of the prospective foster
4 parent of such child and each member of such prospective foster
5 parent's household who is eighteen years of age or older. The
6 department shall provide two sets of legible fingerprints for such
7 persons to the Nebraska State Patrol for submission to the Federal
8 Bureau of Investigation. The Nebraska State Patrol shall conduct a
9 criminal history record information check of such persons and shall
10 submit such fingerprints to the Federal Bureau of Investigation
11 for a national criminal history record information check. The
12 criminal history record information check shall include information
13 from federal repositories of such information and repositories of
14 such information in other states if authorized by federal law.
15 The Nebraska State Patrol shall issue a report of the results of
16 such criminal history record information check to the department.
17 The department shall pay a fee to the Nebraska State Patrol
18 for conducting such check. Information received from the criminal
19 history record information check required under this subsection
20 shall be used solely for the purpose of evaluating and confirming
21 information provided by such persons for providing foster care or
22 for the finalization of an adoption. A child may be placed in
23 foster care by the department prior to the completion of a criminal
24 history record information check under this subsection in emergency
25 situations as determined by the department.

26 Sec. 43. Section 71-1904, Revised Statutes Cumulative
27 Supplement, 2012, is amended to read:

1 71-1904 (1) The department shall adopt and promulgate
2 rules and regulations pursuant to sections 71-1901 to 71-1906.01
3 for (a) the proper care and protection of children by licensees
4 under such sections, (b) the issuance, suspension, and revocation
5 of licenses to provide foster care, (c) the issuance, suspension,
6 and revocation of probationary licenses to provide foster care, (d)
7 the issuance, suspension, and revocation of provisional licenses to
8 provide foster care, (e) the provision of training in foster care,
9 which training shall be directly related to the skills necessary
10 to care for children in need of out-of-home care, including,
11 but not limited to, abused, neglected, dependent, and delinquent
12 children, and (f) the proper administration of sections 71-1901 to
13 71-1906.01.

14 (2) ~~The training required by subdivision (1)(e) of this~~
15 ~~section may be waived in whole or in part by the department for~~
16 ~~persons operating foster homes providing care only to relatives~~
17 ~~of the foster care provider. The department may issue a waiver~~
18 ~~for any licensing standard not related to children's safety for a~~
19 ~~relative home that is pursuing licensure.~~ Such waivers shall be
20 granted on a case-by-case basis upon assessment by the department
21 ~~of the appropriateness of the relative foster care placement.~~
22 ~~based upon the best interests of the child. A relative home that~~
23 ~~receives a waiver pursuant to this subsection shall be considered~~
24 ~~fully licensed for purposes of federal reimbursement under the~~
25 ~~federal Fostering Connections to Success and Increasing Adoptions~~
26 ~~Act of 2008, Public Law 110-351.~~ The department shall submit
27 electronically an annual report to the Health and Human Services

1 Committee of the Legislature on the number of waivers granted
2 under this subsection and the total number of children placed in
3 relative ~~foster~~ homes. For 2012, 2013, and 2014, the department
4 shall provide the report to the Health and Human Services Committee
5 of the Legislature on or before September 15.

6 Sec. 44. Section 71-1907, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-1907 Any person furnishing foster care who is subject
9 to licensure under section 71-1902 or the Children's Residential
10 Facilities and Placing Licensure Act, when transporting in a motor
11 vehicle any children for whom care is being furnished, shall use
12 an approved child passenger restraint system for each child, except
13 that an occupant protection system as defined in section 60-6,265
14 may be used for any child six years of age or older.

15 Any person violating this section shall be guilty of an
16 infraction as defined in section 29-431 and shall have his or
17 her license to furnish foster care revoked or suspended by the
18 Department of Health and Human Services.

19 For purposes of this section, approved child passenger
20 restraint system shall mean a restraint system which meets Federal
21 Motor Vehicle Safety Standard 213 as developed by the National
22 Highway Traffic Safety Administration, as such standard existed on
23 July 20, 2002.

24 Sec. 45. Section 75-302, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

26 75-302 For purposes of sections 75-301 to 75-322 and in
27 all rules and regulations adopted and promulgated by the commission

1 pursuant to such sections, unless the context otherwise requires:

2 (1) Attended services means an attendant or caregiver
3 accompanying a minor or ~~persons who are physically, mentally, or~~
4 ~~developmentally disabled and~~ a person who has a physical, mental,
5 or developmental disability and is unable to travel or wait without
6 assistance or supervision;

7 (2) Carrier enforcement division means the carrier
8 enforcement division of the Nebraska State Patrol or the Nebraska
9 State Patrol;

10 (3) Certificate means a certificate of public convenience
11 and necessity issued under Chapter 75, article 3, to common
12 carriers by motor vehicle;

13 (4) Civil penalty means any monetary penalty assessed by
14 the commission or carrier enforcement division due to a violation
15 of Chapter 75, article 3, or section 75-126 as such section applies
16 to any person or carrier specified in Chapter 75, article 3; any
17 term, condition, or limitation of any certificate or permit issued
18 pursuant to Chapter 75, article 3; or any rule, regulation, or
19 order of the commission, the Division of Motor Carrier Services,
20 or the carrier enforcement division issued pursuant to Chapter 75,
21 article 3;

22 (5) Commission means the Public Service Commission;

23 (6) Common carrier means any person who or which
24 undertakes to transport passengers or household goods for the
25 general public in intrastate commerce by motor vehicle for hire,
26 whether over regular or irregular routes, upon the highways of this
27 state;

1 (7) Contract carrier means any motor carrier which
2 transports passengers or household goods for hire other than
3 as a common carrier designed to meet the distinct needs of each
4 individual customer or a specifically designated class of customers
5 without any limitation as to the number of customers it can serve
6 within the class;

7 (8) Division of Motor Carrier Services means the Division
8 of Motor Carrier Services of the Department of Motor Vehicles;

9 (9) Highway means the roads, highways, streets, and ways
10 in this state;

11 (10) Household goods means personal effects and property
12 used or to be used in a dwelling, when a part of the equipment
13 or supply of such dwelling, and similar property as the commission
14 may provide by regulation if the transportation of such effects or
15 property, is:

16 (a) Arranged and paid for by the householder, including
17 transportation of property from a factory or store when the
18 property is purchased by the householder with the intent to use in
19 his or her dwelling; or

20 (b) Arranged and paid for by another party;

21 (11) Intrastate commerce means commerce between any place
22 in this state and any other place in this state and not in part
23 through any other state;

24 (12) Licensed care transportation services means
25 transportation provided by an entity licensed by the Department
26 of Health and Human Services as a residential child-caring agency
27 as defined in section ~~71-1902~~ 3 of this act or child-placing

1 agency as defined in ~~such~~ section 3 of this act or a child care
2 facility licensed under the Child Care Licensing Act to a client
3 of the entity or facility when the person providing transportation
4 services also assists and supervises the passenger or, if the
5 client is a minor, to a family member of a minor when it is
6 necessary for agency or facility staff to accompany or facilitate
7 the transportation in order to provide necessary services and
8 support to the minor. Licensed care transportation services must be
9 incidental to and in furtherance of the social services provided by
10 the entity or facility to the transported client;

11 (13) Motor carrier means any person other than a
12 regulated motor carrier who or which owns, controls, manages,
13 operates, or causes to be operated any motor vehicle used to
14 transport passengers or property over any public highway in this
15 state;

16 (14) Motor vehicle means any vehicle, machine, tractor,
17 trailer, or semitrailer propelled or drawn by mechanical power
18 and used upon the highways in the transportation of passengers
19 or property but does not include any vehicle, locomotive, or car
20 operated exclusively on a rail or rails;

21 (15) Permit means a permit issued under Chapter 75,
22 article 3, to contract carriers by motor vehicle;

23 (16) Person means any individual, firm, partnership,
24 limited liability company, corporation, company, association,
25 or joint-stock association and includes any trustee, receiver,
26 assignee, or personal representative thereof;

27 (17) Private carrier means any motor carrier which

1 owns, controls, manages, operates, or causes to be operated a
2 motor vehicle to transport passengers or property to or from
3 its facility, plant, or place of business or to deliver to
4 purchasers its products, supplies, or raw materials (a) when such
5 transportation is within the scope of and furthers a primary
6 business of the carrier other than transportation and (b) when
7 not for hire. Nothing in sections 75-301 to 75-322 shall apply to
8 private carriers;

9 (18) Regulated motor carrier means any person who or
10 which owns, controls, manages, operates, or causes to be operated
11 any motor vehicle used to transport passengers, other than those
12 excepted under section 75-303, or household goods over any public
13 highway in this state;

14 (19) Residential care means care for a minor or a
15 person who is physically, mentally, or developmentally disabled
16 who resides in a residential home or facility regulated by the
17 Department of Health and Human Services, including, but not limited
18 to, a foster home, treatment facility, ~~group home,~~ residential
19 child-caring agency, or shelter;

20 (20) Residential care transportation services means
21 transportation services to persons in residential care when such
22 residential care transportation services and residential care are
23 provided as part of a services contract with the Department of
24 Health and Human Services or pursuant to a subcontract entered into
25 incident to a services contract with the department; and

26 (21) Supported transportation services means
27 transportation services to a minor or for a person who is

1 physically, mentally, or developmentally disabled when the person
2 providing transportation services also assists and supervises the
3 passenger or transportation services to a family member of a minor
4 when it is necessary for provider staff to accompany or facilitate
5 the transportation in order to provide necessary services and
6 support to the minor. Supported transportation services must be
7 provided as part of a services contract with the Department of
8 Health and Human Services or pursuant to a subcontract entered into
9 incident to a services contract with the department, and the driver
10 must meet department requirements for (a) training or experience
11 working with minors or persons who are physically, mentally, or
12 developmentally disabled, (b) training with regard to the specific
13 needs of the client served, (c) reporting to the department,
14 and (d) age. Assisting and supervising the passenger shall not
15 necessarily require the person providing transportation services
16 to stay with the passenger after the transportation services have
17 been provided.

18 Sec. 46. Section 77-2704.12, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 77-2704.12 (1) Sales and use taxes shall not be imposed
21 on the gross receipts from the sale, lease, or rental of
22 and the storage, use, or other consumption in this state of
23 purchases by (a) any nonprofit organization created exclusively
24 for religious purposes, (b) any nonprofit organization providing
25 services exclusively to the blind, (c) any nonprofit private
26 educational institution established under sections 79-1601 to
27 79-1607, (d) any regionally or nationally accredited, nonprofit,

1 privately controlled college or university with its primary campus
2 physically located in Nebraska, (e) any nonprofit (i) hospital,
3 (ii) health clinic when one or more hospitals or the parent
4 corporations of the hospitals own or control the health clinic
5 for the purpose of reducing the cost of health services or when
6 the health clinic receives federal funds through the United States
7 Public Health Service for the purpose of serving populations
8 that are medically underserved, (iii) skilled nursing facility,
9 (iv) intermediate care facility, (v) assisted-living facility,
10 (vi) intermediate care facility for the mentally retarded, (vii)
11 nursing facility, (viii) home health agency, (ix) hospice or
12 hospice service, (x) respite care service, or (xi) mental health
13 center licensed under the Health Care Facility Licensure Act, (f)
14 any nonprofit licensed residential child-caring agency, (g) any
15 nonprofit licensed ~~child placement~~ child-placing agency, or (h) any
16 nonprofit organization certified by the Department of Health and
17 Human Services to provide community-based services for persons with
18 developmental disabilities.

19 (2) Any organization listed in subsection (1) of this
20 section shall apply for an exemption on forms provided by the
21 Tax Commissioner. The application shall be approved and a numbered
22 certificate of exemption received by the applicant organization in
23 order to be exempt from the sales and use tax.

24 (3) The appointment of purchasing agents shall be
25 recognized for the purpose of altering the status of the
26 construction contractor as the ultimate consumer of building
27 materials which are physically annexed to the structure and

1 which subsequently belong to the owner of the organization or
2 institution. The appointment of purchasing agents shall be in
3 writing and occur prior to having any building materials annexed
4 to real estate in the construction, improvement, or repair. The
5 contractor who has been appointed as a purchasing agent may apply
6 for a refund of or use as a credit against a future use tax
7 liability the tax paid on inventory items annexed to real estate
8 in the construction, improvement, or repair of a project for a
9 licensed not-for-profit institution.

10 (4) Any organization listed in subsection (1) of this
11 section which enters into a contract of construction, improvement,
12 or repair upon property annexed to real estate without first
13 issuing a purchasing agent authorization to a contractor or
14 repairperson prior to the building materials being annexed to
15 real estate in the project may apply to the Tax Commissioner for
16 a refund of any sales and use tax paid by the contractor or
17 repairperson on the building materials physically annexed to real
18 estate in the construction, improvement, or repair.

19 (5) Any person purchasing, storing, using, or
20 otherwise consuming building materials in the performance of any
21 construction, improvement, or repair by or for any institution
22 enumerated in subsection (1) of this section which is licensed upon
23 completion although not licensed at the time of construction or
24 improvement, which building materials are annexed to real estate
25 and which subsequently belong to the owner of the institution,
26 shall pay any applicable sales or use tax thereon. Upon becoming
27 licensed and receiving a numbered certificate of exemption,

1 the institution organized not for profit shall be entitled to
2 a refund of the amount of taxes so paid in the performance
3 of such construction, improvement, or repair and shall submit
4 whatever evidence is required by the Tax Commissioner sufficient
5 to establish the total sales and use tax paid upon the building
6 materials physically annexed to real estate in the construction,
7 improvement, or repair.

8 Sec. 47. Section 81-502, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-502 (1) It shall be the duty of the State Fire
11 Marshal, under authority of the Governor:

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

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

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

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

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

24 (iii) ~~Licensed providers of programs or applicants for~~
25 ~~licenses to provide such programs, upon~~ Upon request of the
26 Department of Health and Human Services, licensed providers of
27 programs or applicants for licenses to provide such programs

1 pursuant to section 71-1913 and licensed residential child-caring
2 agencies or applicants for such licensure pursuant to section 11 of
3 this act. The State Fire Marshal shall report the results of the
4 investigation to the department within thirty days after receipt of
5 the request from the department;

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

12 (v) Mobile home parks for which a license or renewal of
13 a license is sought, upon request of the Department of Health and
14 Human Services, pursuant to section 71-4635; and

15 (d) After a careful study and investigation of relevant
16 data, to adopt, promulgate, alter, and enforce, through inspections
17 and code compliance, orders, rules, and regulations covering:

18 (i) The prevention of fires;

19 (ii) The storage, sale, and use of flammable liquids,
20 combustibles, and fireworks;

21 (iii) Electric wiring and heating, protection equipment
22 devices, materials, furnishings, and other safeguards within
23 the structure necessary to promote safety and reduce loss by
24 fire, and the means and adequacy of exits, in case of fire,
25 in assembly, educational, institutional, residential, mercantile,
26 office, storage, and industrial-type occupancies as such structures
27 are defined in the National Fire Protection Association, Pamphlet

1 Number 101, and associated pamphlets, and all other buildings,
2 structures, and enclosures in which numbers of persons congregate
3 from time to time for any purpose whether privately or publicly
4 owned;

5 (iv) Design, construction, location, installation, and
6 operation of equipment for storing, handling, and utilization of
7 liquefied petroleum gases, specifying the odorization of such gases
8 and the degree thereof;

9 (v) Chemicals, prozylin plastics, X-ray nitrocellulose
10 films, or any other hazardous material that may now or hereafter
11 exist;

12 (vi) Tanks used for the storage of regulated substances
13 pursuant to the Petroleum Products and Hazardous Substances Storage
14 and Handling Act; and

15 (vii) Accessibility standards and specifications adopted
16 pursuant to section 81-5,147.

17 (2) The State Fire Marshal may enter into contracts
18 with private individuals or other agencies, boards, commissions,
19 or governmental bodies for the purpose of carrying out his or
20 her duties and responsibilities pursuant to the Arson Reporting
21 Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of
22 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and
23 81-5,151 to 81-5,157.

24 (3) The State Fire Marshal may delegate the authority set
25 forth in this section to qualified local fire prevention personnel.
26 The State Fire Marshal may overrule a decision, act, or policy of
27 the local fire prevention personnel. When the State Fire Marshal

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

5 (4) The State Fire Marshal, first assistant fire marshal,
6 and deputies shall have such other powers and perform such other
7 duties as are set forth in sections 81-501.01 to 81-531 and
8 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

9 (5) The rules and regulations adopted and promulgated
10 pursuant to subdivision (1)(d) of this section may conform
11 generally to the standards recommended by the National Fire
12 Protection Association, Pamphlet Number 101, known as the Life
13 Safety Code, and associated pamphlets, but not when doing so would
14 impose an unduly severe or costly burden without substantially
15 contributing to the safety of persons or property. This section
16 and the rules and regulations adopted and promulgated pursuant
17 to subdivision (1)(d) of this section shall apply to existing as
18 well as new buildings, structures, and enclosures. Such rules and
19 regulations shall also apply to sites or structures in public
20 ownership listed on the National Register of Historic Places but
21 without destroying the historic quality thereof.

22 (6) Plans for compliance with the rules and regulations
23 adopted and promulgated pursuant to subdivision (1)(d) of this
24 section shall be reviewed by the State Fire Marshal. Plans
25 submitted after remodeling or construction has begun shall be
26 accompanied by a penalty of fifty dollars in addition to the plan
27 review fee set out in subdivision (4)(a) of section 81-505.01.

1 Sec. 48. Section 81-505.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-505.01 (1) The State Fire Marshal shall establish and
4 assess fees not to exceed the actual costs for the performance
5 of services by the State Fire Marshal or by qualified local fire
6 prevention personnel to whom the State Fire Marshal has delegated
7 authority to perform such services. Prior to establishing or
8 altering such fees, the State Fire Marshal shall hold a public
9 hearing on the question of the adoption of or change in fees.
10 Notice of such hearing shall be given at least thirty days
11 prior thereto (a) by publication in a newspaper having general
12 circulation in the state and (b) by notifying in writing the head
13 of any agency or department having jurisdiction over facilities
14 that would be subject to the fees. Fees for services performed by
15 the State Fire Marshal shall be paid to the State Fire Marshal and
16 shall be remitted to the State Treasurer for credit to the State
17 Fire Marshal Cash Fund. Fees for services performed by local fire
18 prevention personnel shall be paid directly to the office of the
19 local fire prevention personnel.

20 (2) The fee for inspection for fire safety of any
21 premises or facility pursuant to section 81-502 shall be not less
22 than twenty-five nor more than one hundred fifty dollars and shall
23 be paid by the licensee or applicant for a license. The fee for
24 inspection for fire safety of the same premises or facility made
25 within twelve months after the last prior inspection shall be not
26 less than twenty-five nor more than one hundred fifty dollars and
27 shall be paid by the licensee or applicant for a license. The fees

1 for inspection for fire safety of foster family homes as defined in
2 section ~~71-1902~~ 71-1901 may be paid by the Department of Health and
3 Human Services.

4 (3) The fee for providing investigation reports to
5 insurance companies shall not exceed three dollars for each report
6 provided. The State Fire Marshal may charge an amount not to exceed
7 the actual cost of preparation for any other approved information
8 release.

9 (4) (a) Except as provided in subdivision (b) of this
10 subsection, the fee for reviewing plans, blueprints, and shop
11 drawings to determine compliance with rules and regulations adopted
12 and promulgated pursuant to section 81-502 shall be assessed
13 according to the following schedule:

14	TOTAL VALUE OF PROPOSED	
15	STRUCTURE OR IMPROVEMENT FEE	
16	\$1 - \$5,000	\$5.00
17	\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus
18		\$2.00 for each additional \$5,000.00
19		or fraction thereof.
20	\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus
21		\$2.00 for each additional \$5,000.00
22		or fraction thereof.
23	\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus
24		\$1.00 for each additional \$5,000.00
25		or fraction thereof.
26	\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus
27		\$1.00 for each additional \$10,000.00
28		or fraction thereof.

1 \$200,001 or more \$50.00 for the first \$200,000.00 plus
2 \$1.00 for each additional \$10,000.00
3 or fraction thereof, except that the
4 total fee shall not exceed \$500.00.

5 (b) The fees set out in subdivision (a) of this
6 subsection shall not be assessed or collected by any political
7 subdivision to which the State Fire Marshal has delegated
8 the authority to conduct such review and which reviews plans,
9 blueprints, or shop drawings to determine compliance with such
10 political subdivision's own fire safety regulations. Nothing in
11 this subdivision shall be construed to prohibit such political
12 subdivision from assessing or collecting a fee set by its governing
13 board for such review.

14 (c) An additional fee equal to fifty percent of the
15 fee charged pursuant to subdivision (a) of this subsection shall
16 be assessed for reviewing plans, blueprints, and shop drawings
17 to determine compliance with the accessibility standards and
18 specifications adopted pursuant to section 81-5,147, except that
19 the additional fee assessed pursuant to this subdivision shall not
20 exceed two hundred fifty dollars.

21 Sec. 49. Section 83-108.04, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 83-108.04 (1) In addition to the institutions established
24 by law, the Department of Health and Human Services may maintain or
25 use the following facilities for the care of children in its legal
26 custody who have been adjudged to be as described in subdivision
27 (1), (2), (3)(b), or (4) of section 43-247: (a) Receiving homes

1 to be used for the temporary care of children; (b) foster homes;
2 (c) ~~group homes;~~ residential child-caring agencies as defined in
3 section 3 of this act; and (d) other facilities and services,
4 including forestry or conservation camps for the training and
5 treatment of children.

6 (2) The Department of Health and Human Services also may
7 use other public facilities or contract for the use of private
8 facilities for the care and treatment of children in its legal
9 custody. Placement of children in private or public facilities not
10 under its jurisdiction shall not terminate the legal custody of the
11 department. No state funds may be paid for care of a child in the
12 home of a parent.

13 Sec. 50. Original sections 28-710, 43-1503, 68-1006.01,
14 71-428, 71-1901, 71-1903, 71-1907, 81-502, 81-505.01, and
15 83-108.04, Reissue Revised Statutes of Nebraska, and sections
16 29-2264, 43-2,108.05, 43-1301, 43-1302, 43-1304, 43-4308, 68-1207,
17 71-1902, 71-1904, 75-302, and 77-2704.12, Revised Statutes
18 Cumulative Supplement, 2012, are repealed.

19 51. Since an emergency exists, this act takes effect when
20 passed and approved according to law.

21 2. On page 1, strike beginning with "43-1503" in line 1
22 through line 10 and insert "28-710, 43-1503, 68-1006.01, 71-428,
23 71-1901, 71-1903, 71-1907, 81-502, 81-505.01, and 83-108.04,
24 Reissue Revised Statutes of Nebraska, and sections 29-2264,
25 43-2,108.05, 43-1301, 43-1302, 43-1304, 43-4308, 68-1207, 71-1902,
26 71-1904, 75-302, and 77-2704.12, Revised Statutes Cumulative
27 Supplement, 2012; to adopt the Children's Residential Facilities

1 and Placing Licensure Act; to define and redefine terms; to
2 change provisions relating to Indian child welfare and foster
3 care placement and licensure; to provide requirements for kinship
4 homes and relative homes; to provide for rules and regulations;
5 to harmonize provisions; to repeal the original sections; and to
6 declare an emergency."