

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 154

Introduced by Government, Military and Veterans Affairs Committee
Avery, 28, Chairperson; Giese, 17; Janssen, 15;
Pahls, 31; Pirsch, 4; Price, 3; Sullivan, 41.

Read first time January 09, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to amend sections 29-3922,
2 29-3927, 38-2881, 38-2886, 38-2888, 42-917, 44-5230,
3 44-5255, 44-5263, 48-621, 66-1337, 66-1518, 81-1201.21,
4 81-15,124.01, 85-1501, 85-1503, 85-1511, 85-1515,
5 85-1516, 85-1521, 85-1535, 85-1655, 86-401, 86-593,
6 86-594, 86-597, and 86-598, Reissue Revised Statutes
7 of Nebraska, and sections 66-1519, 71-702, 71-801,
8 and 71-810, Revised Statutes Cumulative Supplement,
9 2008; to eliminate obsolete provisions; to repeal the
10 Small Business Development Authority Act, the Nebraska
11 State Airline Authority Act, the Nebraska Transit
12 and Rail Advisory Council Act, the Behavioral Health
13 Oversight Commission, the Biopower Steering Committee,

1 the Broadband Services Task Force, the Donor Registry
2 of Nebraska Advisory Board, the Health Benefit Plan
3 Committee, the Indigent Defense Standards Advisory
4 Council, the Nebraska Commission on the Status of
5 Women, the Nebraska Community College Aid, Grant,
6 and Contract Review Committee, the Nebraska Lewis
7 and Clark Bicentennial Commission, the Public Health
8 Clinic Formulary Advisory Committee, the Regional
9 Interoperability Advisory Board, the Special Education
10 Services Task Force, the Tax Policy Reform Commission,
11 the Teen Tobacco Education and Prevention Project
12 Committee, the Vote Nebraska Initiative, an ethanol
13 advisory committee, a postsecondary education advisory
14 committee, a technical advisory committee for petroleum
15 products, a working group studying sex offender
16 treatment, and certain funds; to name an act; to
17 harmonize provisions; to repeal the original sections;
18 and to outright repeal sections 3-801, 3-802, 3-803,
19 3-804, 3-805, 3-806, 29-3932, 32-1701, 44-5236, 44-5262,
20 58-301, 58-302, 58-303, 58-304, 58-305, 58-306, 58-307,
21 58-308, 58-309, 58-310, 58-311, 58-312, 58-313, 58-314,
22 58-315, 58-316, 58-317, 58-318, 58-319, 58-320, 58-321,
23 58-322, 58-323, 58-324, 58-325, 66-1701, 71-5715,
24 74-1501, 74-1502, 74-1503, 74-1504, 74-1505, 74-1506,
25 74-1507, 74-1508, 74-1509, 74-1510, 74-1511, 74-1512,

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1 74-1513, 74-1514, 77-2704.19, 79-11,151, 79-11,152,
2 79-11,153, 79-11,154, 81-8,255, 81-8,256, 81-8,257,
3 81-8,258, 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02,
4 81-8,307, 81-8,308, 81-15,189, 81-15,190, 85-1539,
5 85-1540, 86-418.01, and 86-599, Reissue Revised Statutes
6 of Nebraska, and sections 71-818, 71-1227, 71-1228,
7 71-4823, 77-6001, 77-6002, 77-6003, 77-6004, 77-6005,
8 77-6006, and 77-6007, Revised Statutes Cumulative
9 Supplement, 2008.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-3922, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-3922 For purposes of the County Revenue Assistance
4 Act:

5 (1) Chief counsel means an attorney appointed to be
6 the primary administrative officer of the commission pursuant to
7 section 29-3928;

8 (2) Commission means the Commission on Public Advocacy;

9 (3) Commission staff means attorneys, investigators, and
10 support staff who are performing work for the capital litigation
11 division, appellate division, DNA testing division, and major case
12 resource center;

13 (4) Contracting attorney means an attorney contracting to
14 act as a public defender pursuant to sections 23-3404 to 23-3408;

15 ~~(5) Council means the Indigent Defense Standards Advisory~~
16 ~~Council;~~

17 ~~(6)~~ (5) Court-appointed attorney means an attorney other
18 than a contracting attorney or a public defender appointed by the
19 court to represent an indigent person;

20 ~~(7)~~ (6) Indigent defense services means legal services
21 provided to indigent persons by an indigent defense system in
22 capital cases, felony cases, misdemeanor cases, juvenile cases,
23 mental health commitment cases, child support enforcement cases,
24 and paternity establishment cases;

25 ~~(8)~~ (7) Indigent defense system means a system of

1 providing services, including any services necessary for litigating
2 a case, by a contracting attorney, court-appointed attorney, or
3 public defender;

4 ~~(9)~~ (8) Indigent person means a person who is indigent
5 and unable to obtain legal counsel as determined pursuant to
6 subdivision (3) of section 29-3901; and

7 ~~(10)~~ (9) Public defender means an attorney appointed or
8 elected pursuant to sections 23-3401 to 23-3403.

9 Sec. 2. Section 29-3927, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 29-3927 (1) With respect to its duties under section
12 29-3923, the commission shall:

13 (a) Adopt and promulgate rules and regulations for its
14 organization and internal management and rules and regulations
15 governing the exercise of its powers and the fulfillment of its
16 purpose;

17 (b) Appoint and abolish such advisory committees as may
18 be necessary for the performance of its functions and delegate
19 appropriate powers and duties to them;

20 (c) Accept and administer loans, grants, and donations
21 from the United States and its agencies, the State of Nebraska and
22 its agencies, and other sources, public and private, for carrying
23 out the functions of the commission;

24 (d) Enter into contracts, leases, and agreements
25 necessary, convenient, or desirable for carrying out its purposes

1 and the powers granted under this section with agencies of state or
2 local government, corporations, or persons;

3 (e) Acquire, hold, and dispose of personal property in
4 the exercise of its powers;

5 (f) Provide legal services to indigent persons through
6 the divisions in section 29-3930; and

7 (g) Adopt guidelines and standards, ~~which are recommended~~
8 ~~to the commission by the council,~~ for county indigent defense
9 systems, including, but not limited to, standards relating to
10 the following: The use and expenditure of funds appropriated
11 by the Legislature to reimburse counties which qualify for
12 reimbursement; attorney eligibility and qualifications for court
13 appointments; compensation rates for salaried public defenders,
14 contracting attorneys, and court-appointed attorneys and overall
15 funding of the indigent defense system; maximum caseloads for
16 all types of systems; systems administration, including rules for
17 appointing counsel, awarding defense contracts, and reimbursing
18 defense expenses; conflicts of interest; continuing legal education
19 and training; and availability of supportive services and expert
20 witnesses.

21 (2) The standards adopted by the commission under
22 subdivision (1)(g) of this section are intended to be used as a
23 guide for the proper methods of establishing and operating indigent
24 defense systems. The standards are not intended to be used as
25 criteria for the judicial evaluation of alleged misconduct of

1 defense counsel to determine the validity of a conviction. They may
2 or may not be relevant in such judicial evaluation, depending upon
3 all the circumstances.

4 (3) With respect to its duties related to the provision
5 of civil legal services to eligible low-income persons, the
6 commission shall have such powers and duties as described in
7 sections 25-3001 to 25-3004.

8 (4) The commission may adopt and promulgate rules and
9 regulations governing the Legal Education for Public Service Loan
10 Repayment Act which are recommended by the Legal Education for
11 Public Service Loan Repayment Board pursuant to the act. The
12 commission shall have the powers and duties provided in the act.

13 Sec. 3. Section 38-2881, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 38-2881 (1) With the recommendation of the board, the
16 director shall approve a formulary to be used by individuals
17 dispensing pursuant to a delegated dispensing permit. A formulary
18 shall consist of a list of drugs or devices appropriate to
19 delegated dispensing activities authorized by the delegated
20 dispensing permit. Except as otherwise provided in this section, if
21 the board finds that a formulary would be unnecessary to protect
22 the public health and welfare and promote public convenience and
23 necessity, the board shall recommend that no formulary be approved.

24 (2)(a) With the recommendation of the board, ~~which shall~~
25 ~~be based on the recommendations of the Public Health Clinic~~

1 ~~Formulary Advisory Committee,~~ the director shall approve the
2 formulary to be used by public health clinics dispensing pursuant
3 to a delegated dispensing permit.

4 (b) The formulary for a public health clinic shall
5 consist of a list of drugs and devices for contraception,
6 sexually transmitted diseases, and vaginal infections which may
7 be dispensed and stored, patient instruction requirements which
8 shall include directions on the use of drugs and devices, potential
9 side effects and drug interactions, criteria for contacting the
10 on-call pharmacist, and accompanying written patient information.

11 (c) In no event shall the director ~~approve for inclusion~~
12 ~~in the formulary any drug or device not approved by the committee~~
13 ~~or~~ exclude any of the provisions for patient instruction approved
14 by the board.

15 (d) Drugs and devices with the following characteristics
16 shall not be eligible to be included in the formulary:

17 (i) Controlled substances;

18 (ii) Drugs with significant dietary interactions;

19 (iii) Drugs with significant drug-drug interactions; and

20 (iv) Drugs or devices with complex counseling profiles.

21 (3) (a) With the recommendation of the board, the director
22 shall approve a formulary to be used by dialysis drug or device
23 distributors.

24 (b) The formulary for a dialysis drug or device
25 distributor shall consist of a list of drugs, solutions, supplies,

1 and devices for the treatment of chronic kidney failure which may
2 be dispensed and stored.

3 (c) In no event shall the director approve for inclusion
4 in the formulary any drug or device not approved by the board.

5 (d) Controlled substances shall not be eligible to be
6 included in the formulary.

7 Sec. 4. Section 38-2886, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 38-2886 (1) A delegating pharmacist shall conduct the
10 training of public health clinic workers. The training shall be
11 approved in advance by the board. ~~The board shall base its approval~~
12 ~~upon the standards determined by the Public Health Clinic Formulary~~
13 ~~Advisory Committee.~~

14 (2) A delegating pharmacist shall conduct training of
15 dialysis drug or device distributor workers. The training shall be
16 based upon the standards approved by the board.

17 (3) The public health clinic, the dialysis drug or device
18 distributor, and the delegating pharmacist shall be responsible to
19 assure that approved training has occurred and is documented.

20 Sec. 5. Section 38-2888, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 38-2888 A delegating pharmacist shall conduct the
23 training of all licensed health care professionals specified in
24 subdivision (1) of section 38-2884 and who are dispensing pursuant
25 to the delegated dispensing permit of a public health clinic. The

1 training shall be approved in advance by the board. ~~The board~~
2 ~~shall base its approval upon the standards determined by the Public~~
3 ~~Health Clinic Formulary Advisory Committee.~~

4 Sec. 6. Section 42-917, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 42-917 The delivery of all services provided for under
7 the Protection from Domestic Abuse Act shall be done in cooperation
8 with existing public, private, state, and local programs whenever
9 possible to avoid duplication of services. Special effort shall
10 be taken to coordinate programs with the Department of Labor, ~~the~~
11 ~~Nebraska Commission on the Status of Women,~~ the State Department
12 of Education, the Department of Health and Human Services, and
13 other appropriate agencies, community service agencies, and private
14 sources.

15 Sec. 7. Section 44-5230, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 44-5230 Basic health benefit plan shall mean a lower
18 cost health benefit plan developed pursuant to ~~section 44-5262.~~
19 regulated by the board.

20 Sec. 8. Section 44-5255, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 44-5255 Standard health benefit plan shall mean a health
23 benefit plan developed pursuant to ~~section 44-5262.~~ regulated by
24 the board.

25 Sec. 9. Section 44-5263, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 44-5263 The board, ~~in consultation with members of the~~
3 ~~committee,~~ shall study and report at least every three years
4 to the director on the effectiveness of the Small Employer
5 Health Insurance Availability Act. The report shall analyze the
6 effectiveness of the act in promoting rate stability, product
7 availability, and coverage affordability. The report may contain
8 recommendations for actions to improve the overall effectiveness,
9 efficiency, and fairness of the small group health insurance
10 marketplace. The report shall address whether carriers, agents, and
11 brokers are fairly and actively marketing or issuing health benefit
12 plans to small employers in fulfillment of the purposes of the act.
13 The report may contain recommendations for market conduct or other
14 regulatory standards or action.

15 Sec. 10. Section 48-621, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 48-621 (1) The administrative fund shall consist of the
18 Employment Security Administration Fund and the Employment Security
19 Special Contingent Fund. Each fund shall be maintained as a
20 separate and distinct account in all respects, as follows:

21 (a) There is hereby created in the state treasury a
22 special fund to be known as the Employment Security Administration
23 Fund. All money credited to this fund is hereby appropriated and
24 made available to the Commissioner of Labor. All money in this
25 fund shall be expended solely for the purposes and in the amounts

1 found necessary as defined by the specific federal programs, state
2 statutes, and contract obligations for the proper and efficient
3 administration of all programs of the Department of Labor. The
4 fund shall consist of all money appropriated by this state and
5 all money received from the United States of America or any
6 agency thereof, including the Department of Labor and the Railroad
7 Retirement Board, or from any other source for such purpose.
8 Money received from any agency of the United States or any other
9 state as compensation for services or facilities supplied to
10 such agency, any amounts received pursuant to any surety bond or
11 insurance policy for losses sustained by the Employment Security
12 Administration Fund or by reason of damage to equipment or supplies
13 purchased from money in such fund, and any proceeds realized from
14 the sale or disposition of any equipment or supplies which may no
15 longer be necessary for the proper administration of such programs
16 shall also be credited to this fund. All money in this fund
17 shall be deposited, administered, and disbursed in the same manner
18 and under the same conditions and requirements as is provided by
19 law for other special funds in the state treasury. Any balances
20 in this fund, except balances of money therein appropriated from
21 the General Fund of this state, shall not lapse at any time but
22 shall be continuously available to the commissioner for expenditure
23 consistent with the Employment Security Law. Any money in the
24 Employment Security Administration Fund available for investment
25 shall be invested by the state investment officer pursuant to

1 the Nebraska Capital Expansion Act and the Nebraska State Funds
2 Investment Act; and

3 (b) There is hereby created in the state treasury a
4 special fund to be known as the Employment Security Special
5 Contingent Fund. Any money in the Employment Security Special
6 Contingent Fund available for investment shall be invested by
7 the state investment officer pursuant to the Nebraska Capital
8 Expansion Act and the Nebraska State Funds Investment Act. All
9 money collected under section 48-655 as interest on delinquent
10 contributions, less refunds, shall be credited to this fund from
11 the clearing account of the Unemployment Compensation Fund at the
12 end of each calendar quarter. Such money shall not be expended
13 or available for expenditure in any manner which would permit its
14 substitution for or a corresponding reduction in federal funds
15 which would in the absence of such money be available to finance
16 expenditures for the administration of the unemployment insurance
17 law, but nothing in this section shall prevent the money from being
18 used as a revolving fund to cover expenditures necessary and proper
19 under the law for which federal funds have been duly requested
20 but not yet received, subject to the charging of such expenditures
21 against such federal funds when received. The money in this fund
22 may be used by the Commissioner of Labor only as follows:

23 (i) To replace within a reasonable time any money
24 received by this state pursuant to section 302 of the federal
25 Social Security Act, as amended, and required to be paid under

1 section 48-622;

2 (ii) To meet special extraordinary and contingent
3 expenses which are deemed essential for good administration but
4 which are not provided in grants from the Secretary of Labor of the
5 United States and, for this purpose, no expenditures shall be made
6 from this fund except on written authorization by the Governor at
7 the request of the Commissioner of Labor; and

8 ~~(iii) To be transferred to the Nebraska Community College~~
9 ~~Aid Cash Fund; and~~

10 ~~(iv) (iii)~~ (iii) To be transferred to the Job Training Cash
11 Fund.

12 (2) (a) Money credited to the account of this state in
13 the Unemployment Trust Fund by the United States Secretary of the
14 Treasury pursuant to section 903 of the Social Security Act may
15 not be requisitioned from this state's account or used except for
16 the payment of benefits and for the payment of expenses incurred
17 for the administration of the Employment Security Law and public
18 employment offices. Such money may be requisitioned pursuant to
19 section 48-619 for the payment of benefits. Such money may also
20 be requisitioned and used for the payment of expenses incurred
21 for the administration of the Employment Security Law and public
22 employment offices but only pursuant to a specific appropriation
23 by the Legislature and only if the expenses are incurred and
24 the money is requisitioned after the date of enactment of an
25 appropriation law which specifies the purposes for which such

1 money is appropriated and the amounts appropriated therefor. Such
2 appropriation is subject to the following conditions:

3 (i) The period within which such money may be obligated
4 is limited to a period ending not more than two years after the
5 effective date of the appropriation law; and

6 (ii) The amount which may be obligated is limited to an
7 amount which does not exceed the amount by which the aggregate of
8 the amounts transferred to the account of this state pursuant to
9 section 903 of the Social Security Act exceeds the aggregate of the
10 amounts used by this state pursuant to the Employment Security Law
11 and charged against the amounts transferred to the account of this
12 state.

13 (b) For purposes of subdivision (2)(a)(ii) of this
14 section, the amounts obligated under an appropriation for the
15 administrative purposes described in such subdivision shall
16 be charged against transferred amounts at the exact time the
17 obligation is entered into.

18 (c) The appropriation, obligation, and expenditure or
19 other disposition of money appropriated under this subsection shall
20 be accounted for in accordance with standards established by the
21 United States Secretary of Labor.

22 (d) Money appropriated as provided in this subsection for
23 the payment of expenses of administration shall be requisitioned
24 as needed for the payment of obligations incurred under such
25 appropriation and, upon requisition, shall be credited to the

1 Employment Security Administration Fund from which such payments
2 shall be made. Money so credited shall, until expended, remain
3 a part of the Employment Security Administration Fund and, if it
4 will not be immediately expended, shall be returned promptly to the
5 account of this state in the Unemployment Trust Fund.

6 (e) Notwithstanding subdivision (2)(a) of this section,
7 money credited with respect to federal fiscal years 1999,
8 2000, and 2001 shall be used solely for the administration of
9 the unemployment compensation program and are not subject to
10 appropriation by the Legislature.

11 (3) There is hereby appropriated out of the funds made
12 available to this state in federal fiscal year 2002 under section
13 903(d) of the federal Social Security Act, as amended, the sum
14 of \$6,800,484, or so much thereof as may be necessary, to be
15 used, under the direction of the Department of Labor, for the
16 administration of the Employment Security Law and public employment
17 offices. The expenditure or other disposition of money appropriated
18 under this subsection shall be accounted for in accordance with
19 standards established by the United States Secretary of Labor.
20 Federal Reed Act distributions appropriated pursuant to this
21 subsection may be amortized with federal grant funds provided
22 pursuant to Title III of the federal Social Security Act and the
23 federal Wagner-Peyser Act for the purpose of administering the
24 state unemployment compensation and employment service programs
25 to the extent allowed under such acts and the regulations

1 adopted pursuant thereto. Except as specifically provided in this
2 subsection, all provisions of subsection (2) of this section,
3 except subdivision (2)(a)(i) of this section, shall apply to this
4 appropriation. The commissioner shall submit an annual report to
5 the Governor, the Speaker of the Legislature, and the chairpersons
6 of the Appropriations Committee and the Business and Labor
7 Committee of the Legislature describing expenditures made pursuant
8 to this subsection.

9 (4) The State Treasurer shall transfer any money in the
10 Nebraska Community College Aid Cash Fund on the effective date of
11 this act to the Employment Security Special Contingent Fund.

12 Sec. 11. (1) The Small Business Development Authority,
13 created pursuant to section 58-309, as such section existed prior
14 to the effective date of this act, is hereby dissolved. Any
15 assets of the authority remaining upon such dissolution which are
16 pledged to outstanding indebtedness of the authority shall, upon
17 the consent of the holders of the respective indebtedness, be
18 immediately transferred, free and clear, to the holder of such
19 indebtedness in satisfaction of such indebtedness.

20 (2) The State Treasurer shall transfer any money in the
21 Small Business Investment Fund on the effective date of this act
22 to the General Fund. Any remaining assets or obligations of the
23 authority shall rest in the Department of Economic Development.

24 Sec. 12. Section 66-1337, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 66-1337 The board may rent office space and employ such
2 personnel as may be necessary for the performance of its duties.
3 The board may employ the services of experts and consultants and
4 expend funds necessary to acquire title to commodities pursuant
5 to section 66-1340, to promote air quality improvement programs,
6 or to otherwise carry out the board's duties under the Ethanol
7 Development Act. ~~The board shall have an advisory committee of four~~
8 ~~persons, one representing each of the following: The Department of~~
9 ~~Economic Development, the University of Nebraska, the Department of~~
10 ~~Agriculture, and the State Energy Office.~~

11 Sec. 13. Section 66-1518, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 66-1518 (1) The Environmental Quality Council shall
14 adopt and promulgate rules and regulations governing reimbursements
15 authorized under the Petroleum Release Remedial Action Act. Such
16 rules and regulations shall include:

17 (a) Procedures regarding the form and procedure for
18 application for payment or reimbursement from the fund, including
19 the requirement for timely filing of applications;

20 (b) Procedures for the requirement of submitting
21 cost estimates for phases or stages of remedial actions,
22 procurement requirements to be followed by responsible persons, and
23 requirements for reuse of fixtures and tangible personal property
24 by responsible persons during a remedial action;

25 (c) Procedures for investigation of claims for payment or

1 reimbursement;

2 (d) Procedures for determining the amount and type of
3 costs that are eligible for payment or reimbursement from the fund;

4 (e) Procedures for auditing persons who have received
5 payments from the fund;

6 (f) Procedures for reducing reimbursements made for a
7 remedial action for failure by the responsible person to comply
8 with applicable statutory or regulatory requirements. Reimbursement
9 may be reduced as much as one hundred percent; and

10 (g) Other procedures necessary to carry out the act.

11 ~~(2) Such rules and regulations shall take into account~~
12 ~~the recommendations for rules and regulations developed by the~~
13 ~~technical advisory committee established pursuant to section~~
14 ~~81-15,189.~~

15 ~~(3)~~ (2) The Director of Environmental Quality shall (a)
16 estimate the cost to complete remedial action at each petroleum
17 contaminated site where the responsible party has been ordered
18 by the department to begin remedial action, and, based on such
19 estimates, determine the total cost that would be incurred in
20 completing all remedial actions ordered; (b) determine the total
21 estimated cost of all approved remedial actions; (c) determine
22 the total dollar amount of all pending claims for payment or
23 reimbursement; (d) determine the total of all funds available for
24 reimbursement of pending claims; and (e) include the determinations
25 made pursuant to this subsection in the department's annual report

1 to the Legislature.

2 ~~(4)~~ (3) The Department of Environmental Quality shall
3 make available to the public a current schedule of reasonable rates
4 for equipment, services, material, and personnel commonly used for
5 remedial action. The department shall consider the schedule of
6 reasonable rates in reviewing all costs for the remedial action
7 which are submitted in a plan. The rates shall be used to determine
8 the amount of reimbursement for the eligible and reasonable costs
9 of the remedial action, except that (a) the reimbursement for the
10 costs of the remedial action shall not exceed the actual eligible
11 and reasonable costs incurred by the responsible person or his
12 or her designated representative and (b) reimbursement may be
13 made for costs which exceed or are not included on the schedule
14 of reasonable rates if the application for such reimbursement is
15 accompanied by sufficient evidence for the department to determine
16 and the department does determine that such costs are reasonable.

17 ~~(5)~~ The Department of Environmental Quality and the
18 Department of Insurance, in consultation with interested parties,
19 shall report to the Legislature on or before December 1, 2001,
20 on the availability and cost of private insurance to insure the
21 damages for which payment may be made from the fund.

22 Sec. 14. Section 66-1519, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 66-1519 (1) There is hereby created the Petroleum Release
25 Remedial Action Cash Fund to be administered by the department.

1 Revenue from the following sources shall be remitted to the State
2 Treasurer for credit to the fund:

3 (a) The fees imposed by sections 66-1520 and 66-1521;

4 (b) Money paid under an agreement, stipulation,
5 cost-recovery award under section 66-1529.02, or settlement; and

6 (c) Money received by the department in the form
7 of gifts, grants, reimbursements, property liquidations, or
8 appropriations from any source intended to be used for the purposes
9 of the fund.

10 (2) Money in the fund may be spent for: (a) Reimbursement
11 for the costs of remedial action by a responsible person or his
12 or her designated representative and costs of remedial action
13 undertaken by the department in response to a release first
14 reported after July 17, 1983, and on or before June 30, 2012,
15 including reimbursement for damages caused by the department or
16 a person acting at the department's direction while investigating
17 or inspecting or during remedial action on property other than
18 property on which a release or suspected release has occurred;
19 (b) payment of any amount due from a third-party claim; (c) fee
20 collection expenses incurred by the State Fire Marshal; (d) direct
21 expenses incurred by the department in carrying out the Petroleum
22 Release Remedial Action Act; (e) other costs related to fixtures
23 and tangible personal property as provided in section 66-1529.01;
24 (f) interest payments as allowed by section 66-1524; (g) ~~expenses~~
25 ~~incurred by the technical advisory committee created in section~~

1 ~~81-15,189~~ in carrying out its duties pursuant to section ~~81-15,190~~,
2 ~~(h)~~ claims approved by the State Claims Board authorized under
3 section 66-1531; ~~(i)~~ (h) a grant to a city of the metropolitan
4 class in the amount of three hundred thousand dollars, provided no
5 later than September 15, 2005, to carry out the federal Residential
6 Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et
7 seq., as such act existed on October 1, 2003; and ~~(j)~~ (i) methyl
8 tertiary butyl ether testing, to be conducted randomly at terminals
9 within the state for up to two years ending June 30, 2003. The
10 amount expended on the testing shall not exceed forty thousand
11 dollars. The testing shall be conducted by the Department of
12 Agriculture. The department may enter into contractual arrangements
13 for such purpose. The results of the tests shall be made available
14 to the Department of Environmental Quality.

15 (3) Transfers may be made from the Petroleum Release
16 Remedial Action Cash Fund to the General Fund at the direction of
17 the Legislature. Transfers may be made from the Petroleum Release
18 Remedial Action Cash Fund to the Water Policy Task Force Cash
19 Fund at the direction of the Legislature. The State Treasurer
20 shall transfer one million five hundred thousand dollars from
21 the Petroleum Release Remedial Action Cash Fund to the Ethanol
22 Production Incentive Cash Fund on July 1 of each of the following
23 years: 2004 through 2011.

24 (4) Any money in the Petroleum Release Remedial Action
25 Cash Fund available for investment shall be invested by the state

1 investment officer pursuant to the Nebraska Capital Expansion Act
2 and the Nebraska State Funds Investment Act.

3 Sec. 15. Section 71-702, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 71-702 (1) The Women's Health Initiative Advisory
6 Council is created and shall consist of not more than thirty
7 members, at least three-fourths of whom are women. At least
8 one member shall be appointed from the following disciplines:
9 (a) An obstetrician/gynecologist; (b) a nurse practitioner or
10 physician's assistant from a rural community; (c) a geriatrics
11 physician or nurse; (d) a pediatrician; (e) a community public
12 health representative from each congressional district; (f) a
13 health educator; (g) an insurance industry representative; (h) a
14 mental health professional; (i) a representative from a statewide
15 health volunteer agency; (j) a private health care industry
16 representative; (k) an epidemiologist or a health statistician; (l)
17 a foundation representative; and (m) a woman who is a health care
18 consumer from each of the following age categories: Eighteen to
19 thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six
20 and older. The membership shall also include a representative of
21 the University of Nebraska Medical Center, a representative from
22 Creighton University Medical Center, ~~the executive director of the~~
23 ~~Nebraska Commission on the Status of Women or his or her designee,~~
24 the chief medical officer if one is appointed under section
25 81-3115, and the Title V ~~Director~~ Administrator of the Department

1 of Health and Human Services.

2 (2) The Governor shall appoint advisory council members
3 and shall consider and attempt to balance representation based
4 on political party affiliation, race, and different geographical
5 areas of Nebraska when making appointments. The Governor shall
6 appoint the first chairperson and vice-chairperson of the advisory
7 council. There shall be two ex officio, nonvoting members from the
8 Legislature, one of which shall be the chairperson of the Health
9 and Human Services Committee.

10 (3) The terms of the initial members shall be as follows:
11 One-third shall serve for one-year terms, one-third shall serve
12 for two-year terms, and one-third shall serve for three-year terms
13 including the members designated chairperson and vice-chairperson.
14 Thereafter members shall serve for three-year terms. Members may
15 not serve more than two consecutive three-year terms.

16 (4) The Governor shall make the appointments within three
17 months after July 13, 2000.

18 (5) The advisory council shall meet quarterly the first
19 two years. After this time the advisory council shall meet at least
20 every six months or upon the call of the chairperson or a majority
21 of the voting members. A quorum shall be one-half of the voting
22 members.

23 (6) The members of the advisory council shall be
24 reimbursed for their actual and necessary expenses as provided
25 in sections 81-1174 to 81-1177 and pursuant to policies of the

1 advisory council. Funds for reimbursement for expenses shall be
2 from the Women's Health Initiative Fund.

3 (7) The advisory council shall advise the Women's Health
4 Initiative of Nebraska in carrying out its duties under section
5 71-701 and may solicit private funds to support the initiative.

6 (8) The advisory council terminates on December 31, 2009.

7 Sec. 16. Section 71-801, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 71-801 Sections 71-801 to ~~71-818~~ 71-817 shall be known
10 and may be cited as the Nebraska Behavioral Health Services Act.

11 Sec. 17. Section 71-810, Revised Statutes Cumulative
12 Supplement, 2008, is amended to read:

13 71-810 (1) The division shall encourage and facilitate
14 the statewide development and provision of an appropriate array of
15 community-based behavioral health services and continuum of care
16 for the purposes of (a) providing greater access to such services
17 and improved outcomes for consumers of such services and (b)
18 reducing the necessity and demand for regional center behavioral
19 health services.

20 (2) The division may reduce or discontinue regional
21 center behavioral health services only if (a) appropriate
22 community-based services or other regional center behavioral health
23 services are available for every person receiving the regional
24 center services that would be reduced or discontinued, (b) such
25 services possess sufficient capacity and capability to effectively

1 replace the service needs which otherwise would have been
2 provided at such regional center, and (c) no further commitments,
3 admissions, or readmissions for such services are required due
4 to the availability of community-based services or other regional
5 center services to replace such services.

6 (3) The division shall notify the Governor and the
7 Legislature of any intended reduction or discontinuation of
8 regional center services under this section. Such notice shall
9 include detailed documentation of the community-based services
10 or other regional center services that are being utilized to
11 replace such services. ~~The Behavioral Health Oversight Commission~~
12 ~~shall review such documentation and shall report to the Governor~~
13 ~~and the Health and Human Services Committee of the Legislature~~
14 ~~whether, in its opinion, the requirements of subsection (2) of this~~
15 ~~section have been met with respect to such intended reduction or~~
16 ~~discontinuation of regional center services and shall enumerate the~~
17 ~~criteria used by the commission in making such determination.~~

18 (4) As regional center services are reduced or
19 discontinued under this section, the division shall make
20 appropriate corresponding reductions in regional center personnel
21 and other expenditures related to the provision of such services.
22 All funding related to the provision of regional center services
23 that are reduced or discontinued under this section shall be
24 reallocated and expended by the division for purposes related
25 to the statewide development and provision of community-based

1 services.

2 (5) The division may establish state-operated
3 community-based services to replace regional center services
4 that are reduced or discontinued under this section. The division
5 shall provide regional center employees with appropriate training
6 and support to transition such employees into positions as may be
7 necessary for the provision of such state-operated services.

8 (6) When the occupancy of the licensed psychiatric
9 hospital beds of any regional center reaches twenty percent or
10 less of its licensed psychiatric hospital bed capacity on March 15,
11 2004, the division shall notify the Governor and the Legislature of
12 such fact. Upon such notification, the division, with the approval
13 of a majority of members of the Executive Board of the Legislative
14 Council, may provide for the transfer of all remaining patients
15 at such center to appropriate community-based services or other
16 regional center services pursuant to this section and cease the
17 operation of such regional center.

18 (7) The division, in consultation with each regional
19 behavioral health authority, shall establish and maintain a data
20 and information system for all persons receiving state-funded
21 behavioral health services under the Nebraska Behavioral Health
22 Services Act. Information maintained by the division shall include,
23 but not be limited to, (a) the number of persons receiving regional
24 center services, (b) the number of persons ordered by a mental
25 health board to receive inpatient or outpatient treatment and

1 receiving regional center services, (c) the number of persons
2 ordered by a mental health board to receive inpatient or outpatient
3 treatment and receiving community-based services, (d) the number of
4 persons voluntarily admitted to a regional center and receiving
5 regional center services, (e) the number of persons waiting
6 to receive regional center services, (f) the number of persons
7 waiting to be transferred from a regional center to community-based
8 services or other regional center services, (g) the number of
9 persons discharged from a regional center who are receiving
10 community-based services or other regional center services, and
11 (h) the number of persons admitted to behavioral health crisis
12 centers. Each regional behavioral health authority shall provide
13 such information as requested by the division and necessary to
14 carry out this subsection. The division shall submit reports of
15 such information to the Governor and the Legislature on a quarterly
16 basis beginning July 1, 2005, in a format which does not identify
17 any person by name, address, county of residence, social security
18 number, or other personally identifying characteristic.

19 (8) The provisions of this section are self-executing and
20 require no further authorization or other enabling legislation.

21 Sec. 18. Section 81-1201.21, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-1201.21 (1) There is hereby created the Job Training
24 Cash Fund. The fund shall be under the direction of the Department
25 of Economic Development. Money may be transferred to the fund

1 pursuant to subdivision ~~(1)(b)(iv)~~ (1)(b)(iii) of section 48-621
2 and from the Cash Reserve Fund at the direction of the Legislature.
3 The department shall establish a subaccount for all money
4 transferred from the Cash Reserve Fund to the Job Training Cash
5 Fund on or after July 1, 2005. Any unexpended or unobligated
6 balance remaining within such subaccount on July 1, 2010, shall
7 be transferred by the State Treasurer to the Cash Reserve Fund no
8 later than July 10, 2010. Any obligated amount not transferred
9 from the subaccount that remains unexpended on July 1, 2009, shall
10 be transferred by the State Treasurer to the Cash Reserve Fund no
11 later than December 31, 2011.

12 (2) The department shall use the Job Training Cash Fund
13 to provide reimbursements for job training activities, including
14 employee assessment, preemployment training, on-the-job training,
15 training equipment costs, and other reasonable costs related to
16 helping industry and business locate or expand in Nebraska, or
17 to provide upgrade skills training of the existing labor force
18 necessary to adapt to new technology or the introduction of new
19 product lines.

20 (3) The department shall establish a subaccount within
21 the fund to provide job training grants targeted to small
22 employers, rural employers, and poverty area employers meeting
23 one of the following criteria: (a) Employ twenty-five or fewer
24 employees, (b) located in rural areas of Nebraska, or (c) located
25 in areas of high concentration of poverty within the corporate

1 limits of a city or village consisting of one or more contiguous
2 census tracts, as determined by the most recent federal decennial
3 census, which contain a percentage of persons below the poverty
4 line of greater than thirty percent, and all census tracts
5 contiguous to such tract or tracts, as determined by the most
6 recent federal decennial census. The department shall calculate the
7 amount of prior year investment income earnings accruing to the
8 fund and allocate such amount to the subaccount for small, rural,
9 or poverty area employer grants.

10 (4) Any money in the fund available for investment
11 shall be invested by the state investment officer pursuant to
12 the Nebraska Capital Expansion Act and the Nebraska State Funds
13 Investment Act.

14 Sec. 19. Section 81-15,124.01, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 81-15,124.01 (1) The Environmental Quality Council
17 shall adopt and promulgate rules and regulations consistent with
18 principles of risk-based corrective action governing all phases of
19 remedial action to be taken by owners, operators, and other persons
20 in response to a release or suspected release of a regulated
21 substance from a tank. Such rules and regulations shall include:

22 (a) Provisions governing remedial action to be taken by
23 owners and operators pursuant to section 81-15,124;

24 (b) Provisions by which the Department of Environmental
25 Quality may determine the cleanup levels to be achieved through

1 soil or water remediation and the applicable limitations for air
2 emissions at the petroleum release site or occurring by reason of
3 such remediation; and

4 (c) Such other provisions necessary to carry out the
5 Petroleum Products and Hazardous Substances Storage and Handling
6 Act.

7 (2) In developing rules and regulations, the
8 Environmental Quality Council shall take into account ~~(a)~~
9 risk-based corrective action assessment principles which identify
10 the risks presented to the public health and safety or the
11 environment by each release in a manner that will protect the
12 public health and safety and the environment using, to the
13 extent appropriate, a tiered approach consistent with the American
14 Society for Testing of Materials guidance for risk-based corrective
15 action applicable to petroleum release sites, and ~~(b)~~ rules
16 and regulations proposed by the technical advisory committee
17 established in section 81-15,189.

18 Sec. 20. Section 85-1501, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 85-1501 Sections 81-1501 to 81-1542 shall be known and
21 may be cited as the Community College Act.

22 The Legislature hereby declares that for a community
23 college to be truly responsible to the people it serves,
24 primary control of such colleges shall be placed in the citizens
25 within the local area so served subject to coordination by

1 the Coordinating Commission for Postsecondary Education. It is
2 the intent and purpose of ~~sections 85-1501 to 85-1540~~ the
3 Community College Act to create locally governed and locally
4 supported community college areas with the major educational
5 emphasis on occupational education. Each community college area is
6 intended to be an independent, local, unique, and vital segment
7 of postsecondary education separate from both the established
8 elementary and secondary school system and from other institutions
9 of postsecondary education and is not to be converted into a
10 four-year, baccalaureate-degree-granting institution.

11 Sec. 21. Section 85-1503, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 85-1503 For purposes of ~~sections 85-1501 to 85-1540~~, the
14 Community College Act, unless the context otherwise requires:

15 (1) Community college means an educational institution
16 operating and offering programs pursuant to such sections;

17 (2) Community college area means an area established by
18 section 85-1504;

19 (3) Board means the Community College Board of Governors
20 for each community college area;

21 (4) Full-time equivalent student means, in the aggregate,
22 the equivalent of a registered student who in a twelve-month period
23 is enrolled in (a) thirty semester credit hours or forty-five
24 quarter credit hours of classroom, laboratory, clinical, practicum,
25 or independent study course work or cooperative work experience or

1 (b) nine hundred contact hours of classroom or laboratory course
2 work for which credit hours are not offered or awarded. Avocational
3 and recreational community service programs or courses are not
4 included in determining full-time equivalent students or student
5 enrollment;

6 (5) Contact hour means an educational activity consisting
7 of sixty minutes minus break time and required time to change
8 classes;

9 (6) Credit hour means the unit used to ascertain the
10 educational value of course work offered by the institution to
11 students enrolling for such course work, earned by such students
12 upon successful completion of such course work, and for which
13 tuition is charged. A credit hour may be offered and earned in
14 any of several instructional delivery systems, including, but not
15 limited to, classroom hours, laboratory hours, clinical hours,
16 practicum hours, cooperative work experience, and independent
17 study. A credit hour shall consist of a minimum of: (a) Ten
18 quarter or fifteen semester classroom contact hours per term of
19 enrollment; (b) twenty quarter or thirty semester academic transfer
20 and academic support laboratory hours per term of enrollment; (c)
21 thirty quarter or forty-five semester vocational laboratory hours
22 per term of enrollment; (d) thirty quarter or forty-five semester
23 clinical or practicum contact hours per term of enrollment; or
24 (e) forty quarter or sixty semester cooperative work experience
25 contact hours per term of enrollment. An institution may include

1 in a credit hour more classroom, laboratory, clinical, practicum,
2 or cooperative work experience hours than the minimum required in
3 this subdivision. The institution shall publish in its catalog, or
4 otherwise make known to the student in writing prior to the student
5 enrolling or paying tuition for any courses, the number of credit
6 or contact hours offered in each such course. Such published credit
7 or contact hour offerings shall be used to determine whether a
8 student is a full-time equivalent student pursuant to subdivision
9 (4) of this section;

10 (7) Classroom hour means a minimum of fifty minutes
11 of formalized instruction on campus or off campus in which a
12 qualified instructor applying any combination of instructional
13 methods such as lecture, directed discussion, demonstration, or the
14 presentation of audiovisual materials is responsible for providing
15 an educational experience to students;

16 (8) Laboratory hour means a minimum of fifty minutes of
17 educational activity on campus or off campus in which students
18 conduct experiments, perfect skills, or practice procedures under
19 the direction of a qualified instructor;

20 (9) Clinical hour means a minimum of fifty minutes of
21 educational activity on campus or off campus during which the
22 student is assigned practical experience under constant supervision
23 at a health-related agency, receives individual instruction in the
24 performance of a particular function, and is observed and critiqued
25 in the repeat performance of such function. Adjunct professional

1 personnel, who may or may not be paid by the college, may be used
2 for the directed supervision of students and for the delivery of
3 part of the didactic phase of the experience;

4 (10) Practicum hour means a minimum of fifty minutes
5 of educational activity on campus or off campus during which
6 the student is assigned practical experiences, receives individual
7 instruction in the performance of a particular function, and is
8 observed and critiqued by an instructor in the repeat performance
9 of such function. Adjunct professional personnel, who may or
10 may not be paid by the college, may be used for the directed
11 supervision of the students;

12 (11) Cooperative work experience means an internship
13 or on-the-job training, designed to provide specialized skills
14 and educational experiences, which is coordinated, supervised,
15 observed, and evaluated by qualified college staff or faculty and
16 may be completed on campus or off campus, depending on the nature
17 of the arrangement;

18 (12) Independent study means an arrangement between an
19 instructor and a student in which the instructor is responsible
20 for assigning work activity or skill objectives to the student,
21 personally providing needed instruction, assessing the student's
22 progress, and assigning a final grade. Credit hours shall be
23 assigned according to the practice of assigning credits in similar
24 courses;

25 (13) Full-time equivalent student enrollment total means

1 the total of full-time equivalent students enrolled in a community
2 college in any fiscal year;

3 (14) General academic transfer course means a course
4 offering in a one-year or two-year degree-credit program, at
5 the associate degree level or below, intended by the offering
6 institution for transfer into a baccalaureate program. The
7 completion of the specified courses in a general academic transfer
8 program may include the award of a formal degree;

9 (15) Applied technology or occupational course means a
10 course offering in an instructional program, at the associate
11 degree level or below, intended to prepare individuals for
12 immediate entry into a specific occupation or career. The primary
13 intent of the institutions offering an applied technology or
14 occupational program shall be that such program is for immediate
15 job entry. The completion of the specified courses in an applied
16 technology or occupational program may include the award of a
17 formal degree, diploma, or certificate;

18 (16) Academic support course means a general education
19 academic course offering which may be necessary to support an
20 applied technology or occupational program;

21 (17) Class 1 course means an applied technology or
22 occupational course offering which requires the use of equipment,
23 facilities, or instructional methods easily adaptable for use in a
24 general academic transfer program classroom or laboratory;

25 (18) Class 2 course means an applied technology or

1 occupational course offering which requires the use of specialized
2 equipment, facilities, or instructional methods not easily
3 adaptable for use in a general academic transfer program classroom
4 or laboratory;

5 (19) Full-time equivalent student means a full-time
6 equivalent student subject to the following limitation: The number
7 of credit and contact hours which shall be counted by any community
8 college area in which a tribally controlled community college
9 is located shall include credit and contact hours awarded by
10 such tribally controlled community college to students for which
11 such institution received no federal reimbursement pursuant to the
12 Tribally Controlled Community College Assistance Act, 25 U.S.C.
13 1801;

14 (20) Full-time equivalent total means the total of all
15 full-time equivalents accumulated in a community college area in
16 any fiscal year;

17 (21) Reimbursable educational unit means a full-time
18 equivalent student multiplied by (a) for a general academic
19 transfer course or an academic support course, a factor of one, (b)
20 for a Class 1 course, a factor of one and fifty-hundredths, (c) for
21 a Class 2 course, a factor of two, (d) for a tribally controlled
22 community college general academic transfer course or academic
23 support course, a factor of two, (e) for a tribally controlled
24 community college Class 1 course, a factor of three, and (f) for a
25 tribally controlled community college Class 2 course, a factor of

1 four;

2 (22) Reimbursable educational unit total means the total
3 of all reimbursable educational units accumulated in a community
4 college area in any fiscal year;

5 (23) Special instructional term means any term which is
6 less than fifteen weeks for community colleges using semesters or
7 ten weeks for community colleges using quarters;

8 (24) Statewide reimbursable full-time equivalent total
9 means the total of all reimbursable full-time equivalents
10 accumulated statewide for the community college in any fiscal year;

11 (25) Tribally controlled community college means an
12 educational institution operating and offering programs pursuant
13 to the Tribally Controlled Community College Assistance Act, 25
14 U.S.C. 1801; and

15 (26) Tribally controlled community college state aid
16 amount means the quotient of the amount of state aid to be
17 distributed pursuant to the Community College Foundation and
18 Equalization Aid Act for the current fiscal year to a community
19 college area in which a tribally controlled community college is
20 located divided by the reimbursable educational unit total for such
21 community college area for the immediately preceding fiscal year,
22 with such quotient then multiplied by the average reimbursable
23 educational units derived pursuant to subdivision (19) of this
24 section for the immediately preceding fiscal year.

25 Sec. 22. Section 85-1511, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 85-1511 In addition to any other powers and duties
3 imposed upon the community college system or its areas, campuses,
4 or boards by the Community College Act, the Community College
5 Foundation and Equalization Aid Act, sections 85-917 to 85-966, and
6 ~~85-1501 to 85-1540~~, and any other provision of law, each board
7 shall:

8 (1) Have general supervision, control, and operation of
9 each community college within its jurisdiction;

10 (2) Subject to coordination by the Coordinating
11 Commission for Postsecondary Education as prescribed in the
12 Coordinating Commission for Postsecondary Education Act, develop
13 and offer programs of applied technology education, academic
14 transfer programs, academic support courses, and such other
15 programs and courses as the needs of the community college area
16 served may require. The board shall avoid unnecessary duplication
17 of existing programs and courses in meeting the needs of the
18 students and the community college area;

19 (3) Employ, for a period to be fixed by the board,
20 executive officers, members of the faculty, and such other
21 administrative officers and employees as may be necessary or
22 appropriate and fix their salaries and duties;

23 (4) Subject to coordination by the Coordinating
24 Commission for Postsecondary Education as prescribed in the
25 Coordinating Commission for Postsecondary Education Act, construct,

1 lease, purchase, purchase on contract, operate, equip, and maintain
2 facilities;

3 (5) Contract for services connected with the operation of
4 the community college area as needs and interest demand;

5 (6) Cause an examination and comprehensive audit of
6 the books, accounts, records, and affairs, including full-time
7 equivalent student enrollment totals, full-time equivalent totals,
8 and reimbursable educational unit totals as defined in section
9 85-1503, to be made annually covering the most recently completed
10 fiscal year. The audit of each area shall include the full-time
11 equivalent student enrollment totals, full-time equivalent totals,
12 and reimbursable educational unit totals for the three most
13 recently completed fiscal years which shall be used for calculation
14 of aid to the community college areas as prescribed in the
15 Community College Foundation and Equalization Aid Act. The audit
16 shall also include the county-certified property valuations for the
17 community college area for the three most recently completed fiscal
18 years which shall be used for calculation of aid to such community
19 college areas. Such examination and audit of the books, accounts,
20 records, and affairs shall be completed and filed with the Auditor
21 of Public Accounts and the Department of Administrative Services
22 on or before October 15 of each year. The examination and audit
23 of the full-time equivalent student enrollment totals, full-time
24 equivalent totals, and reimbursable educational unit totals shall
25 be completed and filed with the Auditor of Public Accounts and the

1 Department of Administrative Services on or before August 15 of
2 each year;

3 (7) Establish fees and charges for the facilities
4 authorized by ~~sections 85-1501 to 85-1540.~~ the Community College
5 Act. Each board may enter into agreements with owners of facilities
6 to be used for housing regarding the management, operation, and
7 government of such facilities and may employ necessary employees to
8 govern, manage, and operate such facilities;

9 (8) Receive such gifts, grants, conveyances, and bequests
10 of real and personal property from public or private sources as
11 may be made from time to time, in trust or otherwise, whenever
12 the terms and conditions thereof will aid in carrying out the
13 community college programs as specified by law. Each board may
14 sell, lease, exchange, invest, or expend such gifts, grants,
15 conveyances, and bequests or the proceeds, rents, profits, and
16 income therefrom according to the terms and conditions thereof and
17 adopt and promulgate rules and regulations governing the receipt
18 and expenditure of such proceeds, rents, profits, and income,
19 except that acceptance of such gifts, grants, or conveyances shall
20 not be conditioned on matching state or local funds;

21 (9) Prescribe the courses of study for any community
22 college under its control and publish such catalogs and bulletins
23 as may be necessary;

24 (10) Grant to every student upon graduation or completion
25 of a course of study a suitable diploma, associate degree, or

1 certificate;

2 (11) Adopt and promulgate such rules and regulations
3 and perform all other acts as the board may deem necessary
4 or appropriate to the administration of the community college
5 area. Such rules and regulations shall include, but not be
6 limited to, rules and regulations relating to facilities, housing,
7 scholarships, discipline, and pedestrian and vehicular traffic on
8 property owned, operated, or maintained by the community college
9 area;

10 (12) Employ, for a period to be fixed by the board, an
11 executive officer for the community college area and, by written
12 order filed in its office, delegate to such executive officer any
13 of the powers and duties vested in or imposed upon it by ~~sections~~
14 ~~85-1501 to 85-1540.~~ the Community College Act. Such delegated
15 powers and duties may be exercised in the name of the board;

16 (13) Acquire real property by eminent domain pursuant to
17 sections 76-701 to 76-724;

18 (14) Acquire real and personal property and sell, convey,
19 or lease such property whenever the community college area will
20 be benefited thereby. The sale, conveyance, or lease of any real
21 estate owned by a community college area shall be effective only
22 when authorized by an affirmative vote of at least two-thirds of
23 all the members of the board;

24 (15) Enter into agreements for services, facilities, or
25 equipment and for the presentation of courses for students when

1 such agreements are deemed to be in the best interests of the
2 education of the students involved;

3 (16) Transfer tribally controlled community college state
4 aid amounts to a tribally controlled community college located
5 within its community college area;

6 (17) Invest, after proper consideration of the
7 requirements for the availability of money, funds of the community
8 college in securities the nature of which individuals of prudence,
9 discretion, and intelligence acquire or retain in dealing with the
10 property of another;

11 (18) Establish tuition rates for courses of instruction
12 offered by each community college within its community college
13 area. Separate tuition rates shall be established for students who
14 are nonresidents of the State of Nebraska;

15 (19) Establish a fiscal year for the community college
16 area which conforms to the fiscal year of the state; and

17 (20) Exercise any other powers, duties, and
18 responsibilities necessary to carry out ~~sections 85-1501 to~~
19 ~~85-1540.~~ the Community College Act.

20 Sec. 23. Section 85-1515, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 85-1515 Each board may issue and sell revenue bonds
23 and general obligation bonds for the purchase, construction,
24 reconstruction, equipping, demolition, or alteration of capital
25 assets, including accessibility barrier elimination project costs

1 and abatement of environmental hazards as such terms are defined
2 in section 79-10,110, and the acquisition of sites, rights-of-way,
3 easements, improvements, or appurtenances and other facilities
4 connected with the operation of the community colleges. Each
5 board may establish in its budget a capital improvement and
6 bond sinking fund. Such fund shall be used (1) first for the
7 retirement of bonds assumed by the board in accordance with the
8 provisions of such bonds, (2) then for (a) renewal work and
9 deferred maintenance as defined in section 81-173, (b) handicapped
10 access and life safety improvements made to existing structures or
11 grounds including accessibility barrier elimination project costs
12 and abatement of environmental hazards as such terms are defined in
13 section 79-10,110, and (c) projects designed to prevent or correct
14 a waste of energy, including measures taken to utilize alternate
15 energy sources, all in accordance with the capital facilities plan
16 of the community college area, (3) then for the retirement of bonds
17 issued pursuant to this section, and (4) then for the purchasing,
18 purchasing on contract, constructing, and improving of facilities
19 necessary to carry out ~~sections 85-1501 to 85-1540.~~ the Community
20 College Act. Revenue bonds issued shall be subject to sections
21 85-1520 to 85-1527. No general obligation bonds shall be issued
22 without the approval by a majority vote of the qualified electors
23 of the community college area voting in an election called for such
24 purpose pursuant to section 85-1518. No bonds issued under ~~sections~~
25 ~~85-1501 to 85-1540~~ the act shall be an obligation of the State of

1 Nebraska, and no state tax shall be levied to raise funds for the
2 payment thereof or interest thereon.

3 Sec. 24. Section 85-1516, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 85-1516 Each board may issue warrants in an amount
6 necessary to finance the operating expenses of the community
7 college area until the proceeds of the tax levy as provided in
8 section 85-1517 are received. The amount of such warrants plus
9 interest shall not exceed the amount of the money to be received
10 from the property tax levy. Whenever such warrants are issued, they
11 shall be the general obligation of the community college area and
12 the full faith and credit of the community college area shall be
13 pledged to retire such warrants. In addition the board shall set
14 aside from the proceeds of the property tax levied pursuant to
15 ~~sections 85-1501 to 85-1540~~ the Community College Act an amount
16 sufficient to pay the warrants and the interest on such warrants.
17 Such warrants shall be subject to registration as provided in
18 sections 77-2201 to 77-2215.

19 Sec. 25. Section 85-1521, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 85-1521 Each board may, by resolution or agreement,
22 pledge all or any part of the revenue and fees derived from
23 the operation of the dormitories, residence halls, single-dwelling
24 units, multiple-dwelling units, buildings, and other facilities for
25 housing, boarding, medical care, and other activities of students,

1 faculty, or employees of the institution under its control erected
2 or acquired or previously erected or acquired by any such board
3 and contract as to the care, insurance, management, and operation
4 of such buildings and facilities and the charges to be made and
5 the rights of the holders of the revenue bonds. When any board
6 contracts that the operation of any building or facility or part
7 thereof shall be performed other than by the board itself, such
8 board shall at all times maintain supervision of and control
9 over the fees and charges imposed for the use of such building,
10 facility, or part. In issuing revenue bonds and pledging revenue
11 therefor, the board may pledge all or any part of the revenue
12 and fees from buildings and facilities other than the building or
13 facility to be constructed. Bonds issued under sections 85-1520 to
14 85-1527 shall not be an obligation of the State of Nebraska, and
15 no tax shall ever be levied to raise funds for the payment thereof
16 or interest thereon. The bonds shall constitute limited obligations
17 of the board issuing the same and shall be paid solely out of
18 money derived from the revenue and earnings pledged as provided in
19 ~~sections 85-1501 to 85-1540.~~ the Community College Act.

20 Sec. 26. Section 85-1535, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 85-1535 A board of a community college area with a
23 population of less than one hundred thousand according to the
24 last federal decennial census and a campus located on a former
25 military base may enter into contracts with any person, firm,

1 or corporation providing for the implementation of any project
2 for the constructing and improving of facilities to house applied
3 technology educational programs necessary to carry out ~~sections~~
4 ~~85-1501 to 85-1540~~ the Community College Act and providing for the
5 long-term payment of the cost of such project.

6 In no case shall any such contract run for a period
7 longer than twenty years or shall the aggregate of existing
8 contracts exceed four million five hundred thousand dollars for
9 each area exclusive of administrative costs, credit enhancement
10 costs, financing costs, capitalized interest, and reserves
11 dedicated to secure payment of contracts.

12 No contract shall be entered into pursuant to this
13 section without prior approval by a resolution of the board and
14 the approval of the Coordinating Commission for Postsecondary
15 Education.

16 The long-term payment of the cost of such project
17 shall be paid from revenue to be raised pursuant to subdivision
18 (2)(a) of section 85-1517. Any board entering into such contract
19 for the construction and improvement of facilities from revenue
20 to be raised pursuant to such subdivision shall make annual
21 appropriations for amounts sufficient to pay annual obligations
22 under such contract for the duration of such contract.

23 The board may also convey or lease and lease back all
24 or any part of the project and the land on which such project
25 is situated to such person, firm, or corporation as the board may

1 contract with pursuant to this section to facilitate the long-term
 2 payment of the cost of such project. Any such conveyance or lease
 3 shall provide that when the cost of such project has been paid,
 4 together with interest and other costs thereon, such project and
 5 the land on which such project is located shall become the property
 6 of the community college area.

7 Sec. 27. Section 85-1655, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 85-1655 The Tuition Recovery Cash Fund shall be
 10 administered by the board, and an advisory committee composed of
 11 ~~the commissioner or his or her representative, the State Treasurer~~
 12 ~~or his or her representative, and three administrators of private~~
 13 ~~postsecondary career schools appointed by the board with the advice~~
 14 ~~of the Nebraska Council of Private Postsecondary Career Schools.~~
 15 The board shall adopt and promulgate rules and regulations for the
 16 administration of the fund and for the evaluation and approval of
 17 claims pursuant to section 85-1657.

18 Sec. 28. Section 86-401, Reissue Revised Statutes of
 19 Nebraska, is amended to read:

20 86-401 Sections 86-401 to ~~86-418.01~~ 86-418 shall be known
 21 and may be cited as the Nebraska Public Safety Communication System
 22 Act.

23 Sec. 29. Section 86-593, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 86-593 For purposes of sections 86-593 to ~~86-599~~ 86-598:

1 (1) Broadband services means the offering of a capability
2 for high-speed broadband telecommunications capability at a speed
3 or bandwidth in excess of two hundred kilobits per second that
4 enables users to originate and receive high-quality voice, data,
5 and video telecommunications using any technology;

6 (2) Internet services means the offering of Internet
7 service provider services, providing voice over Internet protocol
8 services, or providing Internet protocol-based video services;

9 (3) Public power supplier means a public power district,
10 a public power and irrigation district, a municipal electric
11 system, a joint entity formed under the Interlocal Cooperation Act,
12 a joint public agency formed under the Joint Public Agency Act, an
13 agency formed under the Municipal Cooperative Financing Act, or any
14 other governmental entity providing electric service;

15 (4) Telecommunications has the same meaning as
16 telecommunications defined in section 86-117;

17 (5) Telecommunications services has the same meaning as
18 telecommunications service defined in section 86-121; and

19 (6) Video services means the delivery of any subscription
20 video service except those described in section 70-625.

21 Sec. 30. Section 86-594, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 86-594 (1) Except as provided in the Community College
24 Act, the Educational Service Units Act, and sections 79-1319,
25 81-1120.01 to 81-1120.28, and 85-401 to 85-418, ~~85-1501 to 85-1542,~~

1 and 86-575, an agency or political subdivision of the state that
2 is not a public power supplier shall not provide on a retail
3 or wholesale basis any broadband services, Internet services,
4 telecommunications services, or video services.

5 (2) The provisions of subsection (1) of this section
6 shall not apply to services which an agency or political
7 subdivision of the state was authorized to provide and was
8 providing prior to January 1, 2005.

9 Sec. 31. Section 86-597, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 86-597 (1) For purposes of sections 86-594 to 86-596,
12 providing a service on a retail or wholesale basis shall not
13 include an agency or political subdivision of the state, whether
14 or not a public power supplier, deploying or utilizing broadband
15 services, Internet services, telecommunications services, or video
16 services, for its own use either individually or jointly through
17 the Interlocal Cooperation Act, the Joint Public Agency Act, or
18 the Municipal Cooperative Financing Act for the internal use and
19 purpose of the agency, political subdivision, or public power
20 supplier or to carry out the public purposes of the agency,
21 political subdivision, or public power supplier.

22 (2) Nothing in sections 86-593 to ~~86-599~~ 86-598 prohibits
23 or restricts the ability of an agency, political subdivision,
24 or public power supplier from deploying or utilizing broadband
25 services, Internet services, telecommunications services, or video

1 services for the internal use and purpose of the agency, political
2 subdivision, or public power supplier, or to carry out the public
3 purposes of the agency, political subdivision, or public power
4 supplier.

5 Sec. 32. Section 86-598, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 86-598 Except as otherwise provided in sections 86-595
8 and 86-596, nothing in sections 86-593 to ~~86-599~~ 86-598 shall be
9 construed to restrict or expand any authority of a public power
10 supplier as that authority existed prior to September 4, 2005.

11 Sec. 33. The State Treasurer shall transfer any money in
12 the Biopower Development Cash Fund, the Commission on the Status of
13 Women Cash Fund, the Nebraska Lewis and Clark Bicentennial Fund,
14 the Nebraska Transit and Rail Advisory Council Cash Fund, and the
15 Nebraska Transit and Rail Advisory Council Revolving Fund on the
16 effective date of this act to the General Fund.

17 Sec. 34. Original sections 29-3922, 29-3927, 38-2881,
18 38-2886, 38-2888, 42-917, 44-5230, 44-5255, 44-5263, 48-621,
19 66-1337, 66-1518, 81-1201.21, 81-15,124.01, 85-1501, 85-1503,
20 85-1511, 85-1515, 85-1516, 85-1521, 85-1535, 85-1655, 86-401,
21 86-593, 86-594, 86-597, and 86-598, Reissue Revised Statutes of
22 Nebraska, and sections 66-1519, 71-702, 71-801, and 71-810, Revised
23 Statutes Cumulative Supplement, 2008, are repealed.

24 Sec. 35. The following sections are outright repealed:
25 Sections 3-801, 3-802, 3-803, 3-804, 3-805, 3-806, 29-3932,

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1 32-1701, 44-5236, 44-5262, 58-301, 58-302, 58-303, 58-304, 58-305,
2 58-306, 58-307, 58-308, 58-309, 58-310, 58-311, 58-312, 58-313,
3 58-314, 58-315, 58-316, 58-317, 58-318, 58-319, 58-320, 58-321,
4 58-322, 58-323, 58-324, 58-325, 66-1701, 71-5715, 74-1501, 74-1502,
5 74-1503, 74-1504, 74-1505, 74-1506, 74-1507, 74-1508, 74-1509,
6 74-1510, 74-1511, 74-1512, 74-1513, 74-1514, 77-2704.19, 79-11,151,
7 79-11,152, 79-11,153, 79-11,154, 81-8,255, 81-8,256, 81-8,257,
8 81-8,258, 81-8,259, 81-8,260, 81-8,260.01, 81-8,260.02, 81-8,307,
9 81-8,308, 81-15,189, 81-15,190, 85-1539, 85-1540, 86-418.01,
10 and 86-599, Reissue Revised Statutes of Nebraska, and sections
11 71-818, 71-1227, 71-1228, 71-4823, 77-6001, 77-6002, 77-6003,
12 77-6004, 77-6005, 77-6006, and 77-6007, Revised Statutes Cumulative
13 Supplement, 2008.