

ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024
COMMITTEE STATEMENT
LB1290

Hearing Date: Tuesday February 27, 2024
Committee On: Banking, Commerce and Insurance
Introducer: DeBoer
One Liner: Provide requirements for special needs trusts as prescribed

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Aguilar, Ballard, Bostar, Dungan, Jacobson, Kauth, Slama, von Gillern
Nay:
Absent:
Present Not Voting:

Testimony:

Proponents:

Senator Wendy DeBoer
Brad Meurrens
Edison McDonald

Representing:

Opening Presenter
Disability Rights Nebraska
The Arc of Nebraska

Opponents:

Representing:

Neutral:

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB 1290 is a bill that was introduced by Senator DeBoer. It would amend Neb. Rev. Stat. § 30-3801, statute found in the Nebraska Uniform Trust Code (UTC) (located at Neb. Rev. Stat. §§ 30-3801 to 30-38,110). The bill would also add five (5) new sections to the UTC.

LB 1290 seeks to encourage the use of special needs trusts for individuals with disabilities by instructing certain state agencies to adopt certain regulations.

Section-by-Section Summary:

Section 1 would amend Neb. Rev. Stat. § 30-3801 to include Sections 2 through 6 in the statutes that make up the UTC.

Section 2 states that it is the policy of the State of Nebraska to encourage the use of a special



needs trust by an individual with disabilities to preserve funds to provide for the needs of the individual that are not met by governmental benefits and that enhance such individual's quality of life.

Section 3 provides the definitions for seven (7) terms used in Sections 1 through 5.

Section 4 places a number of restrictions upon state agencies that provide governmental benefits to individuals of any age with disabilities through means-tested programs when adopting regulations, in order to encourage the utilization of special needs trusts. Clarifies that nothing in this section may be interpreted to require a court order to authorize the funding of, or a disbursement from, a special needs trust.

Section 5 states that a determination by the IRS regarding the nonprofit status of a nonprofit organization operating a pooled special needs trust shall be sufficient to satisfy the nonprofit requirement of 42 U.S.C. 1396p(d)(4)(C). Places restriction on state agencies from imposing additional requirements on an organization described in this section for the purpose of qualifying or disqualifying the organization from offering a pooled asset special needs trust.

Section 6 states that a regulation adopted by a state agency regarding pooled special needs trusts shall apply only to those trust beneficiaries who are residents or who receive government benefits funded by the state.

Section 7 repeals the original section being amended.

Explanation of amendments:

AM 2728 makes one small technical change to LB 1290. Specifically, it makes Section 3, the definitions section, applicable to Sections 2 through 6 (previously, and incorrectly, Section 3 was applicable to Sections 1 through 5)

Julie Slama, Chairperson

