

AMENDMENTS TO LB867

(Amendments to E&R amendments, ER165)

Introduced by DeBoer, 10.

1 1. Strike sections 1 and 15 and insert the following new sections:

2 **Section 1.** Section 30-38,113, Revised Statutes Cumulative
3 Supplement, 2024, is amended to read:

4 30-38,113 (1) Each state agency that provides governmental benefits
5 to individuals of any age with disabilities through means-tested
6 programs, including the medical assistance program, shall adopt and
7 promulgate rules and regulations that:

8 (a) Are not more restrictive than existing federal law, regulations,
9 or policies with regard to the treatment of a special needs trust,
10 including a trust defined in 42 U.S.C. 1396p(c)(2) and 42 U.S.C. 1396p(d)
11 (4);

12 (b) Are not more restrictive than any state law regarding trusts,
13 including any state law relating to the reasonable exercise of discretion
14 by a trustee, guardian, or conservator in the best interests of the
15 beneficiary;

16 (c) Do not require disclosure of a beneficiary's personal or
17 confidential information without the consent of the beneficiary;

18 (d) Allow an individual account in a pooled special needs trust to
19 be funded without financial limit;

20 (e) Allow an individual to establish or fund an individual account
21 in a pooled special needs trust without an age limit or a transfer
22 penalty, except that a transfer by an individual sixty-five years of age
23 or older into a special needs trust shall comply with 42 U.S.C. 1396p(C)
24 in order to avoid a transfer penalty;

25 (f) Allow an individual to fund a special needs trust for the
26 individual's child with disabilities without a transfer penalty and

1 regardless of the child's age; and

2 (g) Allow all legally assignable income or resources to be assigned
3 to any special needs trust without limit.

4 (2) Nothing in this section may be interpreted to require a court
5 order to authorize the funding of, or a disbursement from, a special
6 needs trust.

7 **Sec. 15.** Section 71-564, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 71-564 (1) The Aging, Alzheimer's, and Dementia ~~Alzheimer's Disease~~
10 ~~and Other Dementia~~ Advisory Council is created and shall include:

11 (a) ~~Fourteen~~ Twelve voting members appointed by the Governor. The
12 voting members shall consist of: (i) An individual living with
13 Alzheimer's disease or another dementia or a family member or care
14 partner with experience caring for ~~of~~ such an individual; (ii) an
15 individual who is a state representative of a nationwide organization
16 that advocates for individuals living with Alzheimer's disease or other
17 dementia; (iii) an individual who is a state representative of a
18 nationwide organization that advocates for aging adults; (iv) a medical
19 professional with experience diagnosing or treating Alzheimer's disease
20 or other dementia; (v) a medical or licensed professional with experience
21 working with aging populations; (vi) an individual who conducts research
22 relating to Alzheimer's disease and other dementia issues; (vii) an
23 individual who represents long-term care facilities; (viii) an individual
24 who represents nursing facilities; (ix) an individual who represents
25 nonmedical home and community-based services, including home care,
26 respite, or adult day care services; (x) an individual who represents
27 assisted-living facilities; (xi) one representative from each
28 congressional district representing a planning-and-service area as
29 designated in the Nebraska Community Aging Services Act; and (xii) an
30 individual with experience with vulnerable aging populations ~~the family~~
31 ~~caregiver of an individual living with Alzheimer's disease or another~~

1 ~~dementia; (iii) an individual who represents nursing homes; (iv) an~~
2 ~~individual who represents assisted living facilities; (v) an individual~~
3 ~~who represents providers of adult day care services; (vi) an individual~~
4 ~~who represents home care providers; (vii) a medical professional who has~~
5 ~~experience diagnosing and treating Alzheimer's disease; (viii) an~~
6 ~~individual who conducts research regarding Alzheimer's disease or other~~
7 ~~dementia; (ix) an individual who represents a leading, nationwide~~
8 ~~organization that advocates on behalf of individuals living with~~
9 ~~Alzheimer's disease or other dementia; (x) an individual who represents~~
10 ~~an area agency on aging; (xi) an individual representing an organization~~
11 ~~that advocates for older adults; and (xii) an individual with experience~~
12 ~~or expertise in the area of the specific needs of individuals with~~
13 ~~intellectual and developmental disabilities and Alzheimer's disease or~~
14 ~~other dementia; and~~

15 (b) Five nonvoting members. The nonvoting members shall consist of:
16 (i) The Director of Public Health or the director's designee; (ii) the
17 Director of Disability and Aging Medicaid and Long Term Care or the
18 director's designee; (iii) the administrator a representative of the
19 State Unit on Aging or the administrator's designee of the Division of
20 Medicaid and Long Term Care designated by the Director of Medicaid and
21 Long Term Care; (iv) a representative of the Nebraska Workforce
22 Development Board designated by the board; and (v) the state long-term
23 care ombudsman or the ombudsman's designee.

24 (2) The terms of the initial members shall begin on the date of the
25 first meeting as called by the Director of Public Health and (a) one-
26 third shall serve for two-year terms, (b) one-third shall serve for
27 three-year terms, and (c) one-third shall serve for four-year terms,
28 including the chairperson and vice-chairperson. Thereafter all members
29 shall serve four-year terms. Members may not serve more than two
30 consecutive four-year terms. Vacancies shall be appointed by the Governor
31 in the same manner as described in subdivision (1)(a) of this section.

1 (3) Members of the council shall select the chairperson and vice-
2 chairperson who shall not be employees of the state and may serve in such
3 role for up to four consecutive years. The Director of Public Health or
4 the director's designee shall call and preside over the first meeting
5 until a chairperson is selected. Thereafter, the council shall meet at
6 least quarterly at the call of the chairperson. A majority of the voting
7 members shall constitute a quorum for the conduct of meetings.

8 (4) The council shall hold meetings at least once every calendar
9 quarter.

10 (5) Members shall serve on the council without compensation but
11 shall be compensated for expenses incurred for such service as provided
12 in sections 81-1174 to 81-1177.

13 (6) The department shall provide staff and support to the council as
14 necessary to assist the council in the performance of its duties.