

AMENDMENTS TO LB1103

Introduced by Judiciary.

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

3 Section 1. Section 24-517, Revised Statutes Supplement, 2015, is
4 amended to read:

5 24-517 Each county court shall have the following jurisdiction:

6 (1) Exclusive original jurisdiction of all matters relating to
7 decedents' estates, including the probate of wills and the construction
8 thereof, except as provided in subsection (c) of section 30-2464 and
9 section 30-2486;

10 (2) Exclusive original jurisdiction in all matters relating to the
11 guardianship of a person, except if a separate juvenile court already has
12 jurisdiction over a child in need of a guardian, concurrent original
13 jurisdiction with the separate juvenile court in such guardianship;

14 (3) Exclusive original jurisdiction of all matters relating to
15 conservatorship of any person, including (a) original jurisdiction to
16 consent to and authorize a voluntary selection, partition, and setoff of
17 a ward's interest in real estate owned in common with others and to
18 exercise any right of the ward in connection therewith which the ward
19 could exercise if competent and (b) original jurisdiction to license the
20 sale of such real estate for cash or on such terms of credit as shall
21 seem best calculated to produce the highest price subject only to the
22 requirements set forth in section 30-3201;

23 (4) Concurrent jurisdiction with the district court to involuntarily
24 partition a ward's interest in real estate owned in common with others;

25 (5) Concurrent original jurisdiction with the district court in all
26 civil actions of any type when the amount in controversy is forty-five
27 thousand dollars or less through June 30, 2005, and as set by the Supreme

1 Court pursuant to subdivision (b) of this subdivision on and after July
2 1, 2005.

3 (a) When the pleadings or discovery proceedings in a civil action
4 indicate that the amount in controversy is greater than the
5 jurisdictional amount of subdivision (5) of this section, the county
6 court shall, upon the request of any party, certify the proceedings to
7 the district court as provided in section 25-2706. An award of the county
8 court which is greater than the jurisdictional amount of subdivision (5)
9 of this section is not void or unenforceable because it is greater than
10 such amount, however, if an award of the county court is greater than the
11 jurisdictional amount, the county court shall tax as additional costs the
12 difference between the filing fee in district court and the filing fee in
13 county court.

14 (b) The Supreme Court shall adjust the jurisdictional amount for the
15 county court every fifth year commencing July 1, 2005. The adjusted
16 jurisdictional amount shall be equal to the then current jurisdictional
17 amount adjusted by the average percentage change in the unadjusted
18 Consumer Price Index for All Urban Consumers published by the Federal
19 Bureau of Labor Statistics for the five-year period preceding the
20 adjustment date. The jurisdictional amount shall be rounded to the
21 nearest one-thousand-dollar amount;

22 (6) Concurrent original jurisdiction with the district court in any
23 criminal matter classified as a misdemeanor or for any infraction. The
24 district court shall have concurrent original jurisdiction in any
25 criminal matter classified as a misdemeanor that arises from the same
26 incident as a charged felony;

27 (7) Concurrent original jurisdiction with the district court in
28 domestic relations matters as defined in section 25-2740 and with the
29 district court and separate juvenile court in paternity or custody
30 determinations as provided in section 25-2740;

31 (8) Concurrent original jurisdiction with the district court in

1 matters arising under the Nebraska Uniform Trust Code;

2 (9) Exclusive original jurisdiction in any action based on violation
3 of a city or village ordinance, except with respect to violations
4 committed by persons under eighteen years of age;

5 (10) The jurisdiction of a juvenile court as provided in the
6 Nebraska Juvenile Code when sitting as a juvenile court in counties which
7 have not established separate juvenile courts;

8 (11) Exclusive original jurisdiction in matters of adoption, except
9 if a separate juvenile court already has jurisdiction over the child to
10 be adopted, concurrent original jurisdiction with the separate juvenile
11 court;

12 (12) Exclusive original jurisdiction in matters arising under the
13 Nebraska Uniform Custodial Trust Act;

14 (13) Concurrent original jurisdiction with the district court in any
15 matter relating to a power of attorney and the action or inaction of any
16 agent acting under a power of attorney;

17 (14) Exclusive original jurisdiction in any action arising under
18 sections 30-3401 to 30-3432;

19 (15) Exclusive original jurisdiction in matters arising under the
20 Nebraska Uniform Transfers to Minors Act;

21 (16) Concurrent original jurisdiction with the district court in
22 matters arising under the Uniform Principal and Income Act;

23 (17) Concurrent original jurisdiction with the district court in
24 matters arising under the Uniform Testamentary Additions to Trusts Act
25 (1991) except as otherwise provided in subdivision (1) of this section;

26 and

27 (18) Concurrent original jurisdiction with the district court to
28 determine contribution rights under section 68-919; and

29 (~~19~~ 18) All other jurisdiction heretofore provided and not
30 specifically repealed by Laws 1972, Legislative Bill 1032, and such other
31 jurisdiction as hereafter provided by law.

1 Sec. 2. Section 25-2154, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 25-2154 In all cases of foreclosure of mortgages in the several
4 counties in the state, it shall be the duty of the clerk of the district
5 court, on the satisfaction or payment of the amount of the decree, to
6 forward to the register of deeds a certificate setting forth the names of
7 parties, plaintiff and defendant, descriptions of the premises mentioned
8 in the decree, and the book and page where the mortgage foreclosed is
9 recorded. For such certificate the clerk of the district court shall
10 collect, ~~until January 1, 2018,~~ the fee required pursuant to subdivision
11 (1)(a) of section 33-109 for recording the certificate ~~or, on and after~~
12 ~~January 1, 2018,~~ a fee of three dollars. Such amount shall be taxed as
13 part of the costs in the case, and such sum shall be paid to the register
14 of deeds as the fee for recording the certificate.

15 Sec. 3. Section 30-2483, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 30-2483 (a) Unless notice has already been given under this article
18 and except when an appointment of a personal representative is made
19 pursuant to subdivision (4) of section 30-2408, the clerk of the court
20 upon the appointment of a personal representative shall publish a notice
21 once a week for three successive weeks in a newspaper of general
22 circulation in the county announcing the appointment and the address of
23 the personal representative, and notifying creditors of the estate to
24 present their claims within two months after the date of the first
25 publication of the notice or be forever barred. The first publication
26 shall be made within thirty days after the appointment. The party
27 instituting or maintaining the proceeding or his or her attorney is
28 required to mail the published notice and give proof thereof in
29 accordance with section 25-520.01.

30 (b) If the decedent was fifty-five years of age or older or resided
31 in a medical institution as defined in subsection (1) of section 68-919,

1 the notice shall also be provided ~~mailed~~ to the Department of Health and
2 Human Services with the decedent's social security number and, if
3 available upon reasonable investigation, the name and social security
4 number of the decedent's spouse if such spouse is deceased. The notice
5 shall be provided to the department in a delivery manner and at an
6 address designated by the department, which manner may include email. The
7 department shall post the acceptable manner of delivering notice on its
8 web site. Any notice that fails to conform with such manner is void and
9 constitutes neither notice to the department nor a waiver application for
10 purposes of any statute or regulation that requires that a notice or
11 waiver application be provided to the department.

12 Sec. 4. Section 30-3880, Revised Statutes Supplement, 2015, is
13 amended to read:

14 30-3880 (UTC 815) (a) A trustee, without authorization by the court,
15 may exercise:

16 (1) powers conferred by the terms of the trust; and

17 (2) except as limited by the terms of the trust:

18 (A) all powers over the trust property which an unmarried competent
19 owner has over individually owned property;

20 (B) any other powers appropriate to achieve the proper investment,
21 management, and distribution of the trust property; and

22 (C) any other powers conferred by the Nebraska Uniform Trust Code.

23 (b) The exercise of a power is subject to the fiduciary duties
24 prescribed by sections 30-3866 to 30-3882.

25 (c) After the death of the trustor occurring after August 30, 2015,
26 a trustee of a revocable trust which has become irrevocable by reason of
27 the death of the trustor shall not transfer trust property to a
28 beneficiary described in section 77-2004 or 77-2005 in relation to the
29 trustor prior to satisfaction of all claims for medicaid reimbursement
30 pursuant to section 68-919 to the extent necessary to discharge any such
31 claim remaining unpaid after application of the assets of the trustor's

1 probate estate. The Department of Health and Human Services may, upon
2 application of a trustee, waive the restriction on transfers established
3 by this subsection in cases in which the department determines that
4 either there is no medicaid reimbursement due or after the proposed
5 transfer is made there will be sufficient assets remaining in the trust
6 or trustor's probate estate to satisfy all such claims for medicaid
7 reimbursement. If there is no medicaid reimbursement due, the department
8 shall waive the restriction within sixty days after receipt of the
9 trustee's request for waiver and the deceased trustor's name and social
10 security number and, if available upon reasonable investigation, the name
11 and social security number of the trustor's spouse if such spouse is
12 deceased. A trustee who is a financial institution as defined in section
13 77-3801, a trust company chartered pursuant to the Nebraska Trust Company
14 Act, or an attorney licensed to practice in this state may distribute
15 assets from the trust prior to the receipt of the waiver from the
16 department if the trustee signs a recital under oath and mailed by
17 certified mail to the department that states the decedent's name and
18 social security number and, if available upon reasonable investigation,
19 the name and social security number of the decedent's spouse if such
20 spouse is deceased, and that the trustor was not a recipient of medical
21 assistance and no claims for medical assistance exist under section
22 68-919. A trustee who makes such a recital knowing the recital is false
23 becomes personally liable for medical assistance reimbursement pursuant
24 to section 68-919 to the extent of the assets distributed from the trust
25 necessary to discharge any such claim remaining unpaid after application
26 of the assets of the transferor's probate estate. The request for waiver
27 and the recital described in this subsection shall be provided to the
28 department in a delivery manner and at an address designated by the
29 department, which manner may include email. The department shall post the
30 acceptable manner of delivery on its web site. Any request for waiver or
31 recital that fails to conform with such manner is void.

1 Sec. 5. Section 30-3881, Revised Statutes Supplement, 2015, is
2 amended to read:

3 30-3881 (UTC 816) (a) Without limiting the authority conferred by
4 section 30-3880, a trustee may:

5 (1) collect trust property and accept or reject additions to the
6 trust property from a settlor or any other person;

7 (2) acquire or sell property, for cash or on credit, at public or
8 private sale;

9 (3) exchange, partition, or otherwise change the character of trust
10 property;

11 (4) deposit trust money in an account in a regulated financial-
12 service institution;

13 (5) borrow money, including from the trustee, with or without
14 security, and mortgage or pledge trust property for a period within or
15 extending beyond the duration of the trust;

16 (6) with respect to an interest in a proprietorship, partnership,
17 limited liability company, business trust, corporation, or other form of
18 business or enterprise, continue the business or other enterprise and
19 take any action that may be taken by shareholders, members, or property
20 owners, including merging, dissolving, or otherwise changing the form of
21 business organization or contributing additional capital;

22 (7) with respect to stocks or other securities, exercise the rights
23 of an absolute owner, including the right to:

24 (A) vote, or give proxies to vote, with or without power of
25 substitution, or enter into or continue a voting trust agreement;

26 (B) hold a security in the name of a nominee or in other form
27 without disclosure of the trust so that title may pass by delivery;

28 (C) pay calls, assessments, and other sums chargeable or accruing
29 against the securities, and sell or exercise stock subscription or
30 conversion rights; and

31 (D) deposit the securities with a depository or other regulated

1 financial-service institution;

2 (8) with respect to an interest in real property, construct, or make
3 ordinary or extraordinary repairs to, alterations to, or improvements in,
4 buildings or other structures, demolish improvements, raze existing or
5 erect new party walls or buildings, subdivide or develop land, dedicate
6 land to public use or grant public or private easements, and make or
7 vacate plats and adjust boundaries;

8 (9) enter into a lease for any purpose as lessor or lessee,
9 including a lease or other arrangement for exploration and removal of
10 natural resources, with or without the option to purchase or renew, for a
11 period within or extending beyond the duration of the trust;

12 (10) grant an option involving a sale, lease, or other disposition
13 of trust property or acquire an option for the acquisition of property,
14 including an option exercisable beyond the duration of the trust, and
15 exercise an option so acquired;

16 (11) insure the property of the trust against damage or loss and
17 insure the trustee, the trustee's agents, and beneficiaries against
18 liability arising from the administration of the trust;

19 (12) abandon or decline to administer property of no value or of
20 insufficient value to justify its collection or continued administration;

21 (13) with respect to possible liability for violation of
22 environmental law:

23 (A) inspect or investigate property the trustee holds or has been
24 asked to hold, or property owned or operated by an organization in which
25 the trustee holds or has been asked to hold an interest, for the purpose
26 of determining the application of environmental law with respect to the
27 property;

28 (B) take action to prevent, abate, or otherwise remedy any actual or
29 potential violation of any environmental law affecting property held
30 directly or indirectly by the trustee, whether taken before or after the
31 assertion of a claim or the initiation of governmental enforcement;

1 (C) decline to accept property into trust or disclaim any power with
2 respect to property that is or may be burdened with liability for
3 violation of environmental law;

4 (D) compromise claims against the trust which may be asserted for an
5 alleged violation of environmental law; and

6 (E) pay the expense of any inspection, review, abatement, or
7 remedial action to comply with environmental law;

8 (14) pay or contest any claim, settle a claim by or against the
9 trust, and release, in whole or in part, a claim belonging to the trust;

10 (15) pay taxes, assessments, compensation of the trustee and of
11 employees and agents of the trust, and other expenses incurred in the
12 administration of the trust;

13 (16) exercise elections with respect to federal, state, and local
14 taxes;

15 (17) select a mode of payment under any employee benefit or
16 retirement plan, annuity, or life insurance payable to the trustee,
17 exercise rights thereunder, including exercise of the right to
18 indemnification for expenses and against liabilities, and take
19 appropriate action to collect the proceeds;

20 (18) make loans out of trust property, including loans to a
21 beneficiary on terms and conditions the trustee considers to be fair and
22 reasonable under the circumstances, and the trustee has a lien on future
23 distributions for repayment of those loans;

24 (19) pledge trust property to guarantee loans made by others to the
25 beneficiary;

26 (20) appoint a trustee to act in another jurisdiction with respect
27 to trust property located in the other jurisdiction, confer upon the
28 appointed trustee all of the powers and duties of the appointing trustee,
29 require that the appointed trustee furnish security, and remove any
30 trustee so appointed;

31 (21) pay an amount distributable to a beneficiary who is under a

1 legal disability or who the trustee reasonably believes is incapacitated,
2 by paying it directly to the beneficiary or applying it for the
3 beneficiary's benefit, or by:

4 (A) paying it to the beneficiary's conservator or, if the
5 beneficiary does not have a conservator, the beneficiary's guardian;

6 (B) paying it to the beneficiary's custodian under the Nebraska
7 Uniform Transfers to Minors Act or custodial trustee under the Nebraska
8 Uniform Custodial Trust Act, and, for that purpose, creating a
9 custodianship or custodial trust;

10 (C) if the trustee does not know of a conservator, guardian,
11 custodian, or custodial trustee, paying it to an adult relative or other
12 person having legal or physical care or custody of the beneficiary, to be
13 expended on the beneficiary's behalf; or

14 (D) managing it as a separate fund on the beneficiary's behalf,
15 subject to the beneficiary's continuing right to withdraw the
16 distribution;

17 (22) on distribution of trust property or the division or
18 termination of a trust, make distributions in divided or undivided
19 interests, allocate particular assets in proportionate or
20 disproportionate shares, value the trust property for those purposes, and
21 adjust for resulting differences in valuation;

22 (23) resolve a dispute concerning the interpretation of the trust or
23 its administration by mediation, arbitration, or other procedure for
24 alternative dispute resolution;

25 (24) prosecute or defend an action, claim, or judicial proceeding in
26 any jurisdiction to protect trust property and the trustee in the
27 performance of the trustee's duties;

28 (25) sign and deliver contracts and other instruments that are
29 useful to achieve or facilitate the exercise of the trustee's powers; and

30 (26) on termination of the trust, exercise the powers appropriate to
31 wind up the administration of the trust and distribute the trust property

1 to the persons entitled to it.

2 (b) After the death of the trustor occurring after August 30, 2015,
3 a trustee of a revocable trust which has become irrevocable by reason of
4 the death of the trustor shall not transfer trust property to a
5 beneficiary described in section 77-2004 or 77-2005 in relation to the
6 trustor prior to satisfaction of all claims for medicaid reimbursement
7 pursuant to section 68-919 to the extent necessary to discharge any such
8 claim remaining unpaid after application of the assets of the trustor's
9 probate estate. The Department of Health and Human Services may, upon
10 application of a trustee, waive the restriction on transfers established
11 by this subsection in cases in which the department determines that
12 either there is no medicaid reimbursement due or after the proposed
13 transfer is made there will be sufficient assets remaining in the trust
14 or trustor's probate estate to satisfy all such claims for medicaid
15 reimbursement. If there is no medicaid reimbursement due, the department
16 shall waive the restriction within sixty days after receipt of the
17 trustee's request for waiver and the deceased trustor's name and social
18 security number and, if available upon reasonable investigation, the name
19 and social security number of the trustor's spouse if such spouse is
20 deceased. A trustee who is a financial institution as defined in section
21 77-3801, a trust company chartered pursuant to the Nebraska Trust Company
22 Act, or an attorney licensed to practice in this state may distribute
23 assets from the trust prior to the receipt of the waiver from the
24 department if the trustee signs a recital under oath and mailed by
25 certified mail to the department that states the decedent's name and
26 social security number and, if available upon reasonable investigation,
27 the name and social security number of the decedent's spouse if such
28 spouse is deceased, and that the trustor was not a recipient of medical
29 assistance and no claims for medical assistance exist under section
30 68-919. A trustee who makes such a recital knowing the recital is false
31 becomes personally liable for medical assistance reimbursement pursuant

1 to section 68-919 to the extent of the assets distributed from the trust
2 necessary to discharge any such claim remaining unpaid after application
3 of the assets of the transferor's probate estate. The request for waiver
4 and the recital described in this subsection shall be provided to the
5 department in a delivery manner and at an address designated by the
6 department, which manner may include email. The department shall post the
7 acceptable manner of delivery on its web site. Any request for waiver or
8 recital that fails to conform with such manner is void.

9 Sec. 6. Section 30-3882, Revised Statutes Supplement, 2015, is
10 amended to read:

11 30-3882 (UTC 817) (a) Except as limited in subsection (d) of this
12 section, upon termination or partial termination of a trust, the trustee
13 may send to the beneficiaries a proposal for distribution. The right of
14 any beneficiary to object to the proposed distribution terminates if the
15 beneficiary does not notify the trustee of an objection within thirty
16 days after the proposal was sent but only if the proposal informed the
17 beneficiary of the right to object and of the time allowed for objection.

18 (b) Except as limited in subsection (d) of this section, upon the
19 occurrence of an event terminating or partially terminating a trust, the
20 trustee shall proceed expeditiously to distribute the trust property to
21 the persons entitled to it, subject to the right of the trustee to retain
22 a reasonable reserve for the payment of debts, expenses, and taxes.

23 (c) A release by a beneficiary of a trustee from liability for
24 breach of trust is invalid to the extent:

- 25 (1) it was induced by improper conduct of the trustee; or
26 (2) the beneficiary, at the time of the release, did not know of the
27 beneficiary's rights or of the material facts relating to the breach.

28 (d) After the death of the trustor occurring after August 30, 2015,
29 a trustee of a revocable trust which has become irrevocable by reason of
30 the death of the trustor shall not transfer trust property to a
31 beneficiary described in section 77-2004 or 77-2005 in relation to the

1 trustor prior to satisfaction of all claims for medicaid reimbursement
2 pursuant to section 68-919 to the extent necessary to discharge any such
3 claim remaining unpaid after application of the assets of the trustor's
4 probate estate. The Department of Health and Human Services may, upon
5 application of a trustee, waive the restriction on transfers established
6 by this subsection in cases in which the department determines that
7 either there is no medicaid reimbursement due or after the proposed
8 transfer is made there will be sufficient assets remaining in the trust
9 or trustor's probate estate to satisfy all such claims for medicaid
10 reimbursement. If there is no medicaid reimbursement due, the department
11 shall waive the restriction within sixty days after receipt of the
12 trustee's request for waiver and the deceased trustor's name and social
13 security number and, if available upon reasonable investigation, the name
14 and social security number of the trustor's spouse if such spouse is
15 deceased. A trustee who is a financial institution as defined in section
16 77-3801, a trust company chartered pursuant to the Nebraska Trust Company
17 Act, or an attorney licensed to practice in this state may distribute
18 assets from the trust prior to the receipt of the waiver from the
19 department if the trustee signs a recital under oath and mailed by
20 certified mail to the department that states the decedent's name and
21 social security number and, if available upon reasonable investigation,
22 the name and social security number of the decedent's spouse if such
23 spouse is deceased, and that the trustor was not a recipient of medical
24 assistance and no claims for medical assistance exist under section
25 68-919. A trustee who makes such a recital knowing the recital is false
26 becomes personally liable for medical assistance reimbursement pursuant
27 to section 68-919 to the extent of the assets distributed from the trust
28 necessary to discharge any such claim remaining unpaid after application
29 of the assets of the transferor's probate estate. The request for waiver
30 and the recital described in this subsection shall be provided to the
31 department in a delivery manner and at an address designated by the

1 department, which manner may include email. The department shall post the
2 acceptable manner of delivery on its web site. Any request for waiver or
3 recital that fails to conform with such manner is void.

4 Sec. 7. Section 33-109, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 33-109 (1)(a) ~~This subdivision applies until January 1, 2018.~~ The
7 register of deeds and the county clerk shall receive for recording a
8 deed, mortgage, or release, recording and indexing of a will, recording
9 and indexing of a decree in a testate estate, recording proof of
10 publication, or recording any other instrument, a fee of ten dollars for
11 the first page and six dollars for each additional page.

12 (b) Two dollars and fifty cents of the ten-dollar fee for recording
13 the first page and fifty cents of the six-dollar fee for recording each
14 additional page;

15 (i) Shall ~~shall~~ be used ~~exclusively~~ for the purposes of preserving
16 and maintaining public records of the office of the register of deeds and
17 for modernization and technology needs relating to such records; ~~and -~~
18 ~~The funds allocated under this subdivision shall not be substituted for~~
19 ~~other allocations of county general funds to the register of deeds for~~
20 ~~the purposes enumerated in this subdivision.~~

21 (ii) Shall be used for purposes of preserving and maintaining public
22 records of a register of deeds office that has been consolidated with
23 another county office pursuant to section 22-417 and for modernization
24 and technology needs relating to such records.

25 (c) The funds allocated under this subsection shall not be
26 substituted for other allocations of county general funds to the register
27 of deeds office or any other county office receiving such funds for the
28 purposes enumerated in this subsection.

29 ~~(b) This subdivision applies on and after January 1, 2018. The~~
30 ~~register of deeds and the county clerk shall receive for recording a~~
31 ~~deed, mortgage, or release, recording and indexing of a will, recording~~

1 ~~and indexing of a decree in a testate estate, recording proof of~~
2 ~~publication, or recording any other instrument, a fee of five dollars per~~
3 ~~page. For entering each instrument presented for record in the numerical~~
4 ~~index, the clerk or register of deeds shall receive the sum of fifty~~
5 ~~cents for each lot and each single block without lots in platted areas~~
6 ~~and fifty cents for each section in unplatted areas to be paid in advance~~
7 ~~by the person offering the instrument for record.~~

8 (2) The cost for a certified copy of any instrument filed or
9 recorded in the office of county clerk or register of deeds shall be one
10 dollar and fifty cents per page.

11 (3) No fees shall be received for recording instruments for the
12 Department of Health and Human Services pursuant to section 12 of this
13 act.

14 Sec. 8. Section 44-371, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 44-371 (1)(a) Except as provided in subdivision (1)(b) of this
17 section and in section 68-919, all proceeds, cash values, and benefits
18 accruing under any annuity contract, under any policy or certificate of
19 life insurance payable upon the death of the insured to a beneficiary
20 other than the estate of the insured, or under any accident or health
21 insurance policy shall be exempt from attachment, garnishment, or other
22 legal or equitable process and from all claims of creditors of the
23 insured and of the beneficiary if related to the insured by blood or
24 marriage, unless a written assignment to the contrary has been obtained
25 by the claimant.

26 (b) Subdivision (1)(a) of this section shall not apply to:

27 (i) An individual's aggregate interests greater than one hundred
28 thousand dollars in all loan values or cash values of all matured or
29 unmatured life insurance contracts and in all proceeds, cash values, or
30 benefits accruing under all annuity contracts owned by such individual;
31 and

1 (ii) An individual's interest in all loan values or cash values of
2 all matured or unmatured life insurance contracts and in all proceeds,
3 cash values, or benefits accruing under all annuity contracts owned by
4 such individual, to the extent that the loan values or cash values of any
5 matured or unmatured life insurance contract or the proceeds, cash
6 values, or benefits accruing under any annuity contract were established
7 or increased through contributions, premiums, or any other payments made
8 within three years prior to bankruptcy or within three years prior to
9 entry against the individual of a money judgment which thereafter becomes
10 final.

11 (c) An insurance company shall not be liable or responsible to any
12 person to determine or ascertain the existence or identity of any such
13 creditors prior to payment of any such loan values, cash values,
14 proceeds, or benefits.

15 (2) Notwithstanding subsection (1) of this section, proceeds, cash
16 values, and benefits accruing under any annuity contract or under any
17 policy or certificate of life insurance payable upon the death of the
18 insured to a beneficiary other than the estate of the insured shall not
19 be exempt from attachment, garnishment, or other legal or equitable
20 process by a judgment creditor of the beneficiary if the judgment against
21 the beneficiary was based on, arose from, or was related to an act,
22 transaction, or course of conduct for which the beneficiary has been
23 convicted by any court of a crime punishable only by life imprisonment or
24 death. No insurance company shall be liable or responsible to any person
25 to determine or ascertain the existence or identity of any such judgment
26 creditor prior to payment of any such proceeds, cash values, or benefits.
27 This subsection shall apply to any judgment rendered on or after January
28 1, 1995, irrespective of when the criminal conviction is or was rendered
29 and irrespective of whether proceedings for attachment, garnishment, or
30 other legal or equitable process were pending on March 14, 1997.

31 Sec. 9. Section 52-1004, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 52-1004 (1)(a) ~~This subdivision applies until January 1, 2018.~~ The
3 uniform fee, payable to the Secretary of State, for presenting for filing
4 and indexing and for filing and indexing each notice of lien or
5 certificate or notice affecting the lien pursuant to the Uniform Federal
6 Lien Registration Act shall be two times the fee required for recording
7 instruments with the register of deeds as provided in subdivision (1)(a)
8 of section 33-109. There shall be no fee for the filing of a termination
9 statement. The uniform fee for each county more than one designated
10 pursuant to subsection (1) of section 52-1001 shall be the fee required
11 for recording instruments with the register of deeds as provided in
12 subdivision (1)(a) of section 33-109. The Secretary of State shall
13 deposit each fee received pursuant to this subsection ~~subdivision~~ in the
14 Uniform Commercial Code Cash Fund. Of the fees received and deposited
15 pursuant to this subsection ~~subdivision~~, the Secretary of State shall
16 remit the fee required for recording instruments with the register of
17 deeds as provided in subdivision (1)(a) of section 33-109 to the register
18 of deeds of a county for each designation of such county in a filing
19 pursuant to subsection (1) of section 52-1001.

20 ~~(b) This subdivision applies on and after January 1, 2018. The~~
21 ~~uniform fee, payable to the Secretary of State, for presenting for filing~~
22 ~~and indexing and for filing and indexing each notice of lien or~~
23 ~~certificate or notice affecting the lien pursuant to the Uniform Federal~~
24 ~~Lien Registration Act shall be six dollars. There shall be no fee for the~~
25 ~~filing of a termination statement. The uniform fee for each county more~~
26 ~~than one designated pursuant to subsection (1) of section 52-1001 shall~~
27 ~~be three dollars. The Secretary of State shall deposit each fee received~~
28 ~~pursuant to this subdivision in the Uniform Commercial Code Cash Fund. Of~~
29 ~~the fees received and deposited pursuant to this subdivision, the~~
30 ~~Secretary of State shall remit three dollars to the register of deeds of~~
31 ~~a county for each designation of such county in a filing pursuant to~~

1 ~~subsection (1) of section 52-1001.~~

2 (2) The Secretary of State shall bill the district directors of
3 internal revenue or other appropriate federal officials on a monthly
4 basis for fees for documents presented or filed by them.

5 Sec. 10. Section 68-901, Revised Statutes Supplement, 2015, is
6 amended to read:

7 68-901 Sections 68-901 to 68-975 and sections 11 and 12 of this act
8 shall be known and may be cited as the Medical Assistance Act.

9 Sec. 11. (1) This section shall apply to the fullest extent
10 permitted by federal law and understandings entered into between the
11 state and the federal government. An applicant for medical assistance, or
12 a person acting on behalf of the applicant, shall disclose at the time of
13 application and, to the extent not owned at the time of application, at
14 the time of any subsequent review of the applicant's eligibility for
15 medical assistance all of his or her interests in any real estate, trust,
16 corporation, limited liability company, or other entity, whether such
17 interest is direct or indirect, vested or contingent, or otherwise. The
18 applicant or a person acting on behalf of the applicant shall also
19 disclose:

20 (a) Any income derived from such interests and the source of the
21 income; and

22 (b) Whether the income is generated directly or indirectly from (i)
23 the applicant's spouse or an individual who is related to the applicant
24 as described in section 77-2004 or 77-2005 or (ii) an entity controlled
25 by one or more individuals described in subdivision (1)(b)(i) of this
26 section. For purposes of this subdivision, control means individuals
27 listed in subdivision (1)(b)(i) of this section together own or have the
28 option to acquire more than fifty percent of the entity.

29 (2) If the applicant or a person acting on behalf of the applicant
30 willfully fails to make the disclosures required in this section, any
31 medical assistance obtained as a result of such failure is deemed

1 unlawfully obtained and the department shall seek recovery of such
2 medical assistance from the applicant or the estate of the recipient of
3 medical assistance as defined in subdivision (4)(b) of section 68-919.

4 (3) If income is derived from a related party as described in
5 subdivision (1)(b) of this section, the department shall determine
6 whether the income is, or, in the case of a written lease, the terms of
7 the lease at the time it was entered into were, commercially reasonable
8 and consistent with income derived in the relevant market area and
9 negotiated at arms length between parties who are not related. If the
10 department determines that the income or lease fails to meet these
11 requirements, the department shall impute the shortfall to the
12 applicant's income when determining eligibility for medical assistance or
13 any share of cost or as otherwise required by law. The burden of proof of
14 commercial reasonableness rests with the applicant.

15 (4) An action for recovery of medical assistance obtained in
16 violation of this section may be brought by the department against the
17 applicant or against the estate of the recipient of medical assistance as
18 defined in subdivision (4)(b) of section 68-919 at any time before five
19 years after the death of both the applicant and the applicant's spouse,
20 if any.

21 (5) The department may adopt and promulgate rules and regulations to
22 carry out this section, which rules and regulations may include guidance
23 on the commercial reasonableness of lease terms.

24 Sec. 12. (1) For purposes of this section:

25 (a) Transferee means:

26 (i) An individual who is related to the transferor as described in
27 section 77-2004 or 77-2005;

28 (ii) An entity controlled by one or more individuals listed in
29 subdivision (1)(a)(i) of this section. For purposes of this subdivision,
30 control means individuals listed in subdivision (1)(a)(i) of this section
31 together own or have the option to acquire more than fifty percent of the

1 entity; or

2 (iii) An irrevocable trust in which an individual listed in
3 subdivision (1)(a)(i) of this section is a beneficiary; and

4 (b) Transferee does not include the recipient's spouse, if any, or a
5 child who either is under twenty-one years of age or is blind or totally
6 and permanently disabled as defined by Supplemental Security Income
7 criteria.

8 (2) This section shall apply to the fullest extent permitted by
9 federal law and understandings entered into between the state and the
10 federal government. This section provides security for the recovery of
11 the indebtedness to the department for medical assistance as provided in
12 section 68-919. This section applies to transfers of real estate made on
13 or after the effective date of this act. If, during the transferor's
14 lifetime, an interest in real estate is irrevocably transferred to a
15 transferee for less than full consideration and the real estate
16 transferred to the transferee is subject to rights, actual or
17 constructive possession, or powers retained by the transferor in a deed
18 or other instrument, the interest in the real estate when acquired by the
19 transferee is subject to a lien in favor of the State of Nebraska for
20 medicaid reimbursement pursuant to section 68-919 to the extent necessary
21 to secure payment in full of any claim remaining unpaid after application
22 of the assets of the transferor's probate estate, not to exceed the
23 amount determined under subsection (6) of this section. The lien does not
24 attach to any interest retained by the transferor. Except as provided in
25 this section, the lien applies to medical assistance provided before, at
26 the same time as, or after the filing of the notice of lien under
27 subsection (4) of this section.

28 (3) Within fifteen days after a transfer subject to subsection (2)
29 of this section, the transferor or a person acting on behalf of the
30 transferor shall mail by certified mail, return receipt requested, to the
31 department a file-stamped copy of the deed or other instrument

1 transferring the interest together with notice of the names and addresses
2 of the transferor and transferee, the relationship between the parties,
3 and the social security number of the transferor and the transferor's
4 spouse, if any. Any failure to provide notice does not affect the
5 validity of the lien, and the transferor is liable for any costs the
6 department incurs to discover the transfer.

7 (4) The lien imposed by subsection (2) of this section becomes
8 effective upon the filing of a notice of lien in accordance with this
9 subsection. The department may file a notice of the lien imposed by
10 subsection (2) of this section only after the department receives an
11 application for medical assistance on behalf of a transferor. The notice
12 must be filed in the office of the register of deeds of the county or
13 counties in which the real estate subject to the lien is located. The
14 notice must provide the legal description of the real estate subject to
15 the lien, specify the amount then secured by the lien, and indicate that
16 the lien also covers any future medical assistance provided to the
17 transferor. The department shall provide the register of deeds with a
18 self-addressed return envelope bearing sufficient postage for purposes of
19 returning to the department a file-stamped copy of the notice of lien,
20 which the register of deeds shall mail to the department. The lien is not
21 valid against the owner of an interest in real estate received by a
22 grantee who is not a transferee pursuant to a deed or other instrument if
23 such deed or other instrument is filed prior to the notice of lien. A
24 lien that is not valid under this subsection shall be released by the
25 department upon notice thereof from such grantee or a subsequent bona
26 fide purchaser. A lien is valid against any subsequent creditor only if
27 notice of such lien has been filed by the department in accordance with
28 this subsection. Any mortgage or trust deed recorded prior to the filing
29 of a notice of lien shall have priority over such lien. Except as
30 provided in subsection (5) of this section, any optional future advance
31 or advance necessary to protect the security secured by the mortgage or

1 trust deed shall have the same priority as the mortgage or trust deed.

2 (5) Any optional future advance made pursuant to a mortgage or trust
3 deed on real estate recorded prior to the filing of a notice of lien
4 under subsection (4) of this section shall be junior to such lien only if
5 the optional future advance is made after:

6 (a) A notice of lien has been filed by the department in accordance
7 with subsection (4) of this section; and

8 (b) Written notice of the filing for record of such notice of lien
9 has been received by the mortgagee or beneficiary at the address of the
10 mortgagee or beneficiary set forth in the mortgage or trust deed or the
11 most recently recorded change of address or, if the mortgage or trust
12 deed has been assigned, by the assignee at the address of the most recent
13 assignee reflected in a recorded assignment of the mortgage or trust
14 deed. The notice under this subdivision shall be sent by the department
15 by certified mail to the applicable mortgagee, beneficiary, or assignee.

16 (6)(a) The lien authorized in this section is limited to the lesser
17 of (i) the amount necessary to fully satisfy any reimbursement
18 obligations remaining unpaid after application of any assets from the
19 transferor's probate estate or (ii) the actual value of the real estate
20 at the time that the lien is enforced minus the consideration adjustment
21 and minus the cost of the improvements made to the real estate by or on
22 behalf of the transferee, if any.

23 (b) For purposes of this subsection:

24 (i) Actual value has the same meaning as in section 77-112;

25 (ii) Consideration adjustment means the amount of consideration paid
26 by the transferee to the transferor for the real estate multiplied by the
27 growth factor; and

28 (iii) Growth factor means the actual value of the real estate at the
29 time the lien is enforced divided by the actual value of the real estate
30 at the time the consideration was paid.

31 (c) The burden of proof for showing the consideration paid for the

1 real estate, the cost of any improvements to the real estate, and the
2 actual value of the real estate rests with the transferee or his or her
3 successor in interest.

4 (7) If a deed or other instrument transferring an interest in real
5 estate contains a recital acknowledged by the grantor stating that the
6 grantee is not a transferee, the real estate being transferred shall not
7 be subject to the lien imposed by this section. A transferee who takes
8 possession or otherwise enjoys the benefits of the transfer knowing the
9 recital is false becomes personally liable for medicaid reimbursement to
10 the extent necessary to discharge any claim remaining unpaid after
11 application of the assets of the transferor's probate estate, not to
12 exceed the amount determined under subsection (6) of this section.

13 (8) The department shall release or subordinate the lien authorized
14 in this section upon application by the transferee in which the
15 transferee agrees to indemnify the department for medicaid reimbursement
16 pursuant to section 68-919 to the extent necessary to discharge any such
17 claim remaining unpaid after application of the assets of the
18 transferor's probate estate, not to exceed the amount determined under
19 subsection (6) of this section. The department may require the
20 application submitted pursuant to this subsection to be accompanied by
21 good and sufficient sureties or other evidence determined by the
22 department to be sufficient to secure the liability. The department shall
23 also release the lien upon a satisfactory showing of undue hardship or a
24 showing that the interest subject to the lien is not one from which
25 medicaid reimbursement may be had.

26 (9)(a) Any indemnity and any lien shall be released upon:

27 (i) Notice delivered to the department, by certified mail, return
28 receipt requested, of (A) the death and identification, including the
29 social security number, of the transferor, (B) the legal description of
30 the real estate subject to the indemnity or lien, and (C) the names and
31 addresses of the owners of record of the real estate; and

1 (ii) The department either (A) filing a release of lien with the
2 register of deeds of the county or counties in which the real estate
3 subject to the lien is located or (B) not filing an action to foreclose
4 the lien or collect on the indemnity within one year after delivery of
5 the notice required under subdivision (9)(a)(i) of this section.

6 (b) Proof of delivery of such notice shall be made by filing a copy
7 of the notice and a copy of the certified mail return receipt with the
8 register of deeds of the county or counties in which the real estate
9 subject to the lien is located.

10 (10) The department may adopt and promulgate rules and regulations
11 to carry out this section.

12 Sec. 13. Section 68-919, Revised Statutes Supplement, 2015, is
13 amended to read:

14 68-919 (1) The recipient of medical assistance under the medical
15 assistance program shall be indebted to the department for the total
16 amount paid for medical assistance on behalf of the recipient if:

17 (a) The recipient was fifty-five years of age or older at the time
18 the medical assistance was provided; or

19 (b) The recipient resided in a medical institution and, at the time
20 of institutionalization or application for medical assistance, whichever
21 is later, the department determines that the recipient could not have
22 reasonably been expected to be discharged and resume living at home. For
23 purposes of this section, medical institution means a nursing facility,
24 an intermediate care facility for persons with developmental
25 disabilities, or an inpatient hospital.

26 (2) The debt accruing under subsection (1) of this section arises
27 during the life of the recipient but shall be held in abeyance until the
28 death of the recipient. Any such debt to the department that exists when
29 the recipient dies shall be recovered only after the death of the
30 recipient's spouse, if any, and only after ~~when~~ the recipient is not
31 survived by a child who either is under twenty-one years of age or is

1 blind or totally and permanently disabled as defined by the Supplemental
2 Security Income criteria.

3 (3) The debt shall include the total amount of medical assistance
4 provided when the recipient was fifty-five years of age or older or
5 during a period of institutionalization as described in subsection (1) of
6 this section and shall not include interest.

7 (4)(a) This subsection applies to the fullest extent permitted by 42
8 U.S.C. 1396p, as such section existed on January 1, 2016. It is the
9 intent of the Legislature that the debt specified in subsection (1) of
10 this section be collected by the department before any portion of the
11 estate of a recipient of medical assistance is enjoyed by or transferred
12 to a person not specified in subsection (2) of this section as a result
13 of the death of such recipient. The debt may be recovered from the estate
14 of a recipient of medical assistance, ~~including~~

15 (b) For purposes of this section:

16 (i) Estate of a recipient of medical assistance means any real
17 estate property, personal property, or other asset in which the recipient
18 had any legal title or interest at the time of the recipient's death, to
19 the extent of such interests. In furtherance and not in limitation of the
20 foregoing, for purposes of this section, the estate of a the recipient of
21 medical assistance also includes:

22 (A) Assets assets to be transferred to a beneficiary described in
23 section 77-2004 or 77-2005 in relation to the recipient through a
24 revocable trust or other similar arrangement which has become irrevocable
25 by reason of the recipient's death; and -

26 (B) Notwithstanding anything to the contrary in subdivision (3) or
27 (4) of section 68-923, assets conveyed or otherwise transferred to a
28 survivor, heir, assign, beneficiary, or devisee of the recipient of
29 medical assistance through joint tenancy, tenancy in common, transfer on
30 death deed, survivorship, conveyance of a remainder interest, retention
31 of a life estate or of an estate for a period of time, living trust, or

1 other arrangement by which value or possession is transferred to or
2 realized by the beneficiary of the conveyance or transfer at or as a
3 result of the recipient's death to the full extent authorized in 42
4 U.S.C. 1396p(b)(4)(B). Such other arrangements include insurance policies
5 or annuities in which the recipient of medical assistance had at the time
6 of death any incidents of ownership of the policy or annuity or the power
7 to designate beneficiaries and any pension rights or completed retirement
8 plans or accounts of the recipient. A completed retirement plan or
9 account is one which because of the death of the recipient of medical
10 assistance ceases to have elements of retirement relating to such
11 recipient and under which one or more beneficiaries exist after such
12 recipient's death; and

13 (ii) Estate of a recipient of medical assistance does not include:

14 (A) Insurance policies in proportion to the premiums and other
15 payments to the insurance carrier that were paid by someone other than
16 the recipient of medical assistance or the recipient's spouse;

17 (B) Insurance proceeds and accounts in institutions under federal
18 supervision or supervision of the Department of Banking and Finance or
19 Department of Insurance to the extent subject to a security interest
20 where the secured party is not a transferee as defined in section 12 of
21 this act;

22 (C) Insurance proceeds, any trust account subject to the Burial Pre-
23 Need Sale Act, or any limited lines funeral insurance policy to the
24 extent used to pay for funeral, burial, or cremation expenses of the
25 recipient of medical assistance; and

26 (D) Any pension rights or completed retirement plans to the extent
27 that such rights or plans are exempt from claims for reimbursement of
28 medical assistance under federal law.

29 (c) As to any interest in property created after the effective date
30 of this act and for as long as any portion of the debt arising under
31 subsection (1) of this section remains unpaid, the death of the recipient

1 of medical assistance shall not trigger a change in the rights to
2 possession, enjoyment, access, income, or otherwise that the recipient
3 had at the time of death and the personal representative of the
4 recipient's estate is empowered to and shall exercise or enjoy such
5 rights for the purpose of paying such debt, including, but not limited
6 to, renting such property held as a life estate, severing joint
7 tenancies, bringing partition actions, claiming equitable rights of
8 contribution, or taking other actions otherwise appropriate to effect the
9 intent of this section. Such rights shall survive the death of the
10 recipient of medical assistance and shall be administered, marshaled, and
11 disposed of for the purposes of this section. In the event that a claim
12 for reimbursement is made as to some, but not all, nonprobate transferees
13 or assets, the party or owner against whom the claim is asserted may seek
14 equitable contribution toward the claim from the other nonprobate
15 transferees or assets in a court of applicable jurisdiction. Except as
16 otherwise provided in this section and except for the right of the
17 department to recover the debt from such interests in property, this
18 subsection in and of itself does not create any rights in any other
19 person or entity.

20 (d) Unless includable in the estate of a recipient of medical
21 assistance pursuant to this section as it existed prior to the effective
22 date of this act, an interest in real estate transferred to a transferee
23 as defined in section 12 of this act and vested in such transferee prior
24 to the effective date of this act shall not be part of the estate of the
25 recipient of medical assistance unless required disclosures were not made
26 at the time of application for medical assistance under section 11 of
27 this act or at the time of any review by the department of the
28 recipient's eligibility for medical assistance.

29 (e) The department, upon application of the personal representative
30 of an estate, any person otherwise authorized under the Nebraska Probate
31 Code to act on behalf of a decedent, any person having an interest in

1 assets of the decedent which are subject to this subsection, a successor
2 trustee of a revocable trust or other similar arrangement which has
3 become irrevocable by reason of the decedent's death, or any other person
4 holding assets of the decedent described in this subsection, shall
5 release some or all of the property of a decedent from the provisions of
6 this subsection in cases in which the department determines that either
7 there is no medicaid reimbursement due and no application for medical
8 assistance has been filed on behalf of the decedent or that there will be
9 sufficient assets of the probate estate of the decedent to satisfy all
10 such claims for medicaid reimbursement. If there is no medicaid
11 reimbursement due and no application for medical assistance has been
12 filed on behalf of the decedent, the department shall certify to the
13 applicant that no reimbursement is due as expeditiously as reasonably
14 possible but in no event more than sixty days after receipt of the
15 application, the decedent's name and social security number, and, if
16 available upon reasonable investigation, the name and social security
17 number of the decedent's spouse if such spouse is deceased. Failure of
18 the department to timely make such certification shall subject the
19 department to payment of the applicant's reasonable attorney's fees and
20 costs in an action for mandamus filed in either Lancaster County or the
21 county in which the probate action or inheritance tax proceeding is
22 pending. The department shall annually report to the Legislature the
23 amount and circumstances of such attorney's fees and costs paid. If the
24 department determines that there is medicaid reimbursement due or that an
25 application for medical assistance has been filed on behalf of the
26 decedent, the department shall mail notice thereof to the applicant
27 within such sixty-day period. Notice stating that a demand for notice has
28 been filed pursuant to subsection (3) of section 71-605 shall suffice for
29 purposes of the notice requirement. Failure of the department to provide
30 the required notice discharges the debt created under this section unless
31 the department has previously filed a demand for notice under subsection

1 (3) of section 71-605. An application under this subdivision shall be
2 provided to the department in a delivery manner and at an address
3 designated by the department, which manner may include email. The
4 department shall post the acceptable manner of delivery on its web site.
5 Any application that fails to conform with such manner is void. The
6 department shall not require, as part of the application, that an
7 applicant submit information beyond what is needed to implement this
8 subdivision. Notwithstanding the lack of an order by a court designating
9 a trustee or successor trustee of a revocable trust or other similar
10 arrangement which has become irrevocable by reason of the decedent's
11 death as a person who may receive information in conjunction with
12 applicable privacy law, such person shall have the authority of a
13 personal representative with respect to the trust assets, including, but
14 not limited to, the authority to seek and to obtain from the department
15 information protected by applicable privacy law, and the department shall
16 release the information requested to the trustee to the extent it is
17 relevant to resolving issues relating to reimbursement of medical
18 assistance or the administration thereof.

19 (f) In the event that the department does not seek to recover
20 medicaid reimbursement for a period of eighteen months after it is
21 entitled to do so, the county attorney of the county in which the
22 recipient of medical assistance last resided, or in the case of real
23 estate, the county where the real estate is located, may, with the
24 consent of the Attorney General, enforce the rights of the department. In
25 such case, the county shall be entitled to such reasonable attorney's
26 fees as may be agreed to by the Attorney General. The department shall
27 give its full cooperation to such county attorney.

28 (g) The debt created under subsection (1) of this section shall be
29 subject to the limitation on actions provided in section 25-206. The
30 cause of action accrues on the later of the death of the recipient of
31 medical assistance or the death of the recipient's spouse, if any.

1 (5) In any probate proceedings in which the department has filed a
2 claim under this section, no additional evidence of foundation shall be
3 required for the admission of the department's payment record supporting
4 its claim if the payment record bears the seal of the department, is
5 certified as a true copy, and bears the signature of an authorized
6 representative of the department.

7 (6) The department may waive or compromise its claim, in whole or in
8 part, if the department determines that enforcement of the claim would
9 not be in the best interests of the state or would result in undue
10 hardship as provided in rules and regulations of the department.

11 (7) Whenever the department has provided medical assistance because
12 of sickness or injury to any person resulting from a third party's
13 wrongful act or negligence and the person has recovered or may recover
14 damages from such third party, to the fullest extent permitted by federal
15 law and understandings entered into between the state and federal
16 government, the department shall have the right to recover the medical
17 assistance it paid from any amounts that the person has received or may
18 receive from or on behalf of the third party. When, with the consent of
19 the department, an action or claim is brought by the person alone and the
20 person incurs or will incur a personal liability to pay attorney's fees
21 and costs of litigation or costs incurred in pursuit of a claim, to the
22 fullest extent permitted by federal law and understandings entered into
23 between the state and federal government, the department's claim for
24 reimbursement of the medical assistance provided to the person shall be
25 reduced by twenty-five percent of the full amount of the judgment, award,
26 or settlement, which the person may retain, though otherwise subject to
27 applicable law including but not limited to eligibility criteria, and a
28 pro rata share that represents the department's reasonable share of
29 attorney's fees paid by the person and that portion of the costs of
30 litigation or the costs incurred in pursuit of a claim determined by
31 multiplying the amount of the costs of litigation or the costs incurred

1 in pursuit of a claim by the ratio of the full amount of benefit
2 expenditures made by the department to or on behalf of the person to the
3 full amount of the judgment, award, or settlement. The department may not
4 unreasonably withhold consent to the bringing of such action or claim.
5 The department shall determine whether or not to grant such consent
6 within thirty days after the consent is requested. If the department
7 fails to make a determination within the thirty-day period, such consent
8 shall be deemed to have been granted.

9 (8) The department may adopt and promulgate rules and regulations to
10 carry out this section.

11 Sec. 14. Section 71-605, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 71-605 (1) The funeral director and embalmer in charge of the
14 funeral of any person dying in the State of Nebraska shall cause a
15 certificate of death to be filled out with all the particulars contained
16 in the standard form adopted and promulgated by the department. Such
17 standard form shall include a space for veteran status and the period of
18 service in the armed forces of the United States and a statement of the
19 cause of death made by a person holding a valid license as a physician,
20 physician assistant, or nurse practitioner who last attended the
21 deceased. The standard form shall also include the deceased's social
22 security number. Death and fetal death certificates shall be completed by
23 the funeral directors and embalmers and physicians, physician assistants,
24 or nurse practitioners for the purpose of filing with the department and
25 providing child support enforcement information pursuant to section
26 43-3340.

27 (2) The physician, physician assistant, or nurse practitioner shall
28 have the responsibility and duty to complete and sign in his or her own
29 handwriting or by electronic means pursuant to section 71-603.01, within
30 twenty-four hours from the time of death, that part of the certificate of
31 death entitled medical certificate of death. In the case of a death when

1 no person licensed as a physician, physician assistant, or nurse
2 practitioner was in attendance, the funeral director and embalmer shall
3 refer the case to the county attorney who shall have the responsibility
4 and duty to complete and sign the death certificate in his or her own
5 handwriting or by electronic means pursuant to section 71-603.01.

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

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

1 (3) A completed death certificate shall be filed with the department
2 within five business days after the date of death. If it is impossible to
3 complete the certificate of death within five business days, the funeral
4 director and embalmer shall notify the department of the reason for the
5 delay and file the certificate as soon as possible. Within ten days after
6 the filing of the certificate of death and prior to the issuance of any
7 certified copies of the certificate of death, the department shall search
8 its records to determine if the deceased had applied for or received
9 medical assistance under the Medical Assistance Act. If the deceased made
10 such application or received such assistance, the department shall
11 endorse upon all certified copies of the certificate of death a notation
12 of the filing of a demand for notice pursuant to section 30-2413 and the
13 department shall before or contemporaneously with the issuance of the
14 first certified copy of the certificate of death file a demand for notice
15 pursuant to section 30-2413 in the county court of the county in which
16 the decedent was domiciled at the time of death. Once there is no longer
17 any reimbursement for medical assistance due, the department may
18 discontinue such endorsement. The department shall annually report the
19 following to the Legislature:

20 (a) The number of demands for notice filed pursuant to this section;
21 and

22 (b) The number of times in the prior year that the time between a
23 request for a certified copy of the certificate of death and the mailing
24 of such certificate exceeded twenty-one days.

25 (4) Before any dead human body may be cremated, a cremation permit
26 shall first be signed by the county attorney, or by his or her authorized
27 representative as designated by the county attorney in writing, of the
28 county in which the death occurred on a form prescribed and furnished by
29 the department.

30 (5) A permit for disinterment shall be required prior to
31 disinterment of a dead human body. The permit shall be issued by the

1 department to a licensed funeral director and embalmer upon proper
2 application. The request for disinterment shall be made by the person
3 listed in section 30-2223 or a county attorney on a form furnished by the
4 department. The application shall be signed by the funeral director and
5 embalmer who will be directly supervising the disinterment. When the
6 disinterment occurs, the funeral director and embalmer shall sign the
7 permit giving the date of disinterment and file the permit with the
8 department within ten days of the disinterment.

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

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

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

31 (9) All transit permits issued in accordance with the law of the

1 place where the death occurred in a state other than Nebraska shall be
2 signed by the funeral director and embalmer in charge of burial and
3 forwarded to the department within five business days after the interment
4 takes place.

5 Sec. 15. Section 77-2018.02, Revised Statutes Supplement, 2015, is
6 amended to read:

7 77-2018.02 (1) In the absence of any proceeding brought under
8 Chapter 30, article 24 or 25, in this state, proceedings for the
9 determination of the tax may be instituted in the county court of the
10 county where the property or any part thereof which might be subject to
11 tax is situated.

12 (2) Upon the filing of the petition referred to in subsection (1) of
13 this section, the county court shall order the petition set for hearing,
14 not less than two nor more than four weeks after the date of filing the
15 petition, and shall cause notice thereof to be given to all persons
16 interested in the estate of the deceased and the property described in
17 the petition, except as provided in subsections (4) and (5) of this
18 section, in the manner provided for in subsection (3) of this section.

19 (3) The notice, provided for by subsection (2) of this section,
20 shall be given by one publication in a legal newspaper of the county or,
21 in the absence of such legal newspaper, then in a legal newspaper of some
22 adjoining county of general circulation in the county. In addition to
23 such publication of notice, personal service of notice of the hearing
24 shall be had upon the county attorney of each county in which the
25 property described in the petition is located, at least one week prior to
26 the hearing.

27 (4) If it appears to the county court, upon the filing of the
28 petition, by any person other than the county attorney, that no
29 assessment of inheritance tax could result, it shall forthwith enter
30 thereon an order directing the county attorney to show cause, within one
31 week from the service thereof, why determination should not be made that

1 no inheritance tax is due on account of the property described in the
2 petition and the potential lien thereof on such property extinguished.
3 Upon service of such order to show cause and failure of such showing by
4 the county attorney, notice of such hearing by publication shall be
5 dispensed with, and the petitioner shall be entitled without delay to a
6 determination of no tax due on account of the property described in the
7 petition, and any potential lien shall be extinguished.

8 (5) If it appears to the county court that (a) the county attorney
9 of each county in which the property described in the petition is located
10 has executed a waiver of notice upon him or her to show cause, or of the
11 time and place of hearing, and has entered a voluntary appearance in such
12 proceeding in behalf of the county and the State of Nebraska, and (b)
13 either (i) all persons against whom an inheritance tax may be assessed
14 are either a petitioner or have executed a waiver of notice upon them to
15 show cause, or of the time and place of hearing, and have entered a
16 voluntary appearance, or (ii) a party to the proceeding has agreed to pay
17 to the proper counties the full inheritance tax so determined, the court
18 may dispense with the notice provided for in subsections (2) and (3) of
19 this section and proceed without delay to make a determination of
20 inheritance tax, if any, due on account of the property described in the
21 petition.

22 (6) If the decedent was fifty-five years of age or older or resided
23 in a medical institution as defined in subsection (1) of section 68-919,
24 a notice of the filing of the petition referred to in subsection (1) of
25 this section shall be provided ~~mailed~~ to the Department of Health and
26 Human Services with the decedent's social security number and, if
27 available upon reasonable investigation, the name and social security
28 number of the decedent's spouse if such spouse is deceased. A certificate
29 of the provision ~~mailing~~ of the notice to the department shall be filed
30 in the inheritance tax proceedings by an attorney for the petitioner or,
31 if there is no attorney, by the petitioner, prior to the entry of an

1 order pursuant to this section. The notice shall be provided to the
2 department in a delivery manner and at an address designated by the
3 department, which manner may include email. The department shall post the
4 acceptable manner of delivering notice on its web site. Any notice that
5 fails to conform with such manner is void and constitutes neither notice
6 to the department nor a waiver application for purposes of any statute or
7 regulation that requires that a notice or waiver application be provided
8 to the department.

9 Sec. 16. Section 77-3903, Revised Statutes Cumulative Supplement,
10 2014, is amended to read:

11 77-3903 (1)(a) A notice of lien provided for in the Uniform State
12 Tax Lien Registration and Enforcement Act upon real property shall be
13 presented in the office of the Secretary of State. Such notice of lien
14 shall be transmitted by the Secretary of State to and filed in the office
15 of the register of deeds by the register of deeds of the county or
16 counties in which the real property subject to the lien is situated as
17 designated in the notice of lien. The register of deeds shall enter the
18 notice in the alphabetical state tax lien index, showing on one line the
19 name and residence of the person liable named in such notice, the last
20 four digits of the social security number or the federal tax
21 identification number of such person, the Tax Commissioner's or
22 Commissioner of Labor's serial number of such notice, the date and hour
23 of filing, and the amount due. Such presentments to the Secretary of
24 State may be made by direct input to the Secretary of State's data base
25 or by other electronic means. All such notices of lien shall be retained
26 in numerical order in a file designated state tax lien notices, except
27 that in offices filing by the roll form of microfilm pursuant to section
28 23-1517.01, the original notices need not be retained. A lien subject to
29 this subsection shall be effective upon real property when filed by the
30 register of deeds as provided in this subsection.

31 (b) A notice of lien provided for in the Uniform State Tax Lien

1 Registration and Enforcement Act upon personal property shall be filed in
2 the office of the Secretary of State. The Secretary of State shall enter
3 the notice in the state's central tax lien index, showing on one line the
4 name and residence of the person liable named in such notice, the last
5 four digits of the social security number or the federal tax
6 identification number of such person, the Tax Commissioner's or
7 Commissioner of Labor's serial number of such notice, the date and hour
8 of filing, and the amount due. Such filings with the Secretary of State
9 may be filed by direct input to the Secretary of State's data base or by
10 other electronic means. All such notices of lien shall be retained in
11 numerical order in a file designated state tax lien notices.

12 ~~(2)(a) This subdivision applies until January 1, 2018.~~ The uniform
13 fee, payable to the Secretary of State, for presenting for filing,
14 releasing, continuing, or subordinating or for filing, releasing,
15 continuing, or subordinating each tax lien pursuant to the Uniform State
16 Tax Lien Registration and Enforcement Act shall be two times the fee
17 required for recording instruments with the register of deeds as provided
18 in subdivision (1)(a) of section 33-109. There shall be no fee for the
19 filing of a termination statement. The uniform fee for each county more
20 than one designated pursuant to subdivision (1)(a) of this section shall
21 be the fee required for recording instruments with the register of deeds
22 as provided in subdivision (1)(a) of section 33-109. The Secretary of
23 State shall deposit each fee received pursuant to this subsection
24 ~~subdivision~~ in the Uniform Commercial Code Cash Fund. Of the fees
25 received and deposited pursuant to this subsection ~~subdivision~~, the
26 Secretary of State shall remit the fee required for recording instruments
27 with the register of deeds as provided in subdivision (1)(a) of section
28 33-109 to the register of deeds of a county for each designation of such
29 county in a filing pursuant to subdivision (1)(a) of this section.

30 ~~(b) This subdivision applies on and after January 1, 2018. The~~
31 ~~uniform fee, payable to the Secretary of State, for presenting for~~

1 ~~filing, releasing, continuing, or subordinating or for filing, releasing,~~
2 ~~continuing, or subordinating each tax lien pursuant to the Uniform State~~
3 ~~Tax Lien Registration and Enforcement Act shall be six dollars. There~~
4 ~~shall be no fee for the filing of a termination statement. The uniform~~
5 ~~fee for each county more than one designated pursuant to subdivision (1)~~
6 ~~(a) of this section shall be three dollars. The Secretary of State shall~~
7 ~~deposit each fee received pursuant to this subdivision in the Uniform~~
8 ~~Commercial Code Cash Fund. Of the fees received and deposited pursuant to~~
9 ~~this subdivision, the Secretary of State shall remit three dollars to the~~
10 ~~register of deeds of a county for each designation of such county in a~~
11 ~~filing pursuant to subdivision (1)(a) of this section.~~

12 (3) The Secretary of State shall bill the Tax Commissioner or
13 Commissioner of Labor on a monthly basis for fees for documents presented
14 to or filed with the Secretary of State. No payment of any fee shall be
15 required at the time of presenting or filing any such lien document.

16 Sec. 17. If any section in this act or any part of any section is
17 declared invalid or unconstitutional, the declaration shall not affect
18 the validity or constitutionality of the remaining portions.

19 Sec. 18. Original sections 30-2483 and 44-371, Reissue Revised
20 Statutes of Nebraska, sections 25-2154, 33-109, 52-1004, 71-605, and
21 77-3903, Revised Statutes Cumulative Supplement, 2014, and sections
22 24-517, 30-3880, 30-3881, 30-3882, 68-901, 68-919, and 77-2018.02,
23 Revised Statutes Supplement, 2015, are repealed.