

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 542

Introduced by Kuehn, 38.

Read first time January 18, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to medicaid; to amend sections 30-2483,
2 30-3880, 30-3881, 30-3882, 33-109, and 44-371, Reissue Revised
3 Statutes of Nebraska, and sections 68-901, 68-907, 68-919, and
4 77-2018.02, Revised Statutes Cumulative Supplement, 2016; to change
5 provisions relating to decedents' estates, recording fees, and the
6 inheritance tax; to provide for liens and recovery of debt incurred
7 under the Medical Assistance Act; to authorize medical providers to
8 apply for medical assistance on behalf of certain individuals; to
9 harmonize provisions; to provide severability; and to repeal the
10 original sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-2483, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 30-2483 (a) Unless notice has already been given under this article
4 and except when an appointment of a personal representative is made
5 pursuant to subdivision (4) of section 30-2408, the clerk of the court
6 upon the appointment of a personal representative shall publish a notice
7 once a week for three successive weeks in a newspaper of general
8 circulation in the county announcing the appointment and the address of
9 the personal representative, and notifying creditors of the estate to
10 present their claims within two months after the date of the first
11 publication of the notice or be forever barred. The first publication
12 shall be made within thirty days after the appointment. The party
13 instituting or maintaining the proceeding or his or her attorney is
14 required to mail the published notice and give proof thereof in
15 accordance with section 25-520.01.

16 (b) If the decedent was fifty-five years of age or older or resided
17 in a medical institution as defined in subsection (1) of section 68-919,
18 the notice shall also be provided ~~mailed~~ to the Department of Health and
19 Human Services with the decedent's social security number and, if
20 applicable ~~available upon reasonable investigation~~, the name and social
21 security number of the decedent's spouse if such spouse is deceased. The
22 notice shall be provided to the department in a delivery manner and at an
23 address designated by the department, which manner may include email. The
24 department shall post the acceptable manner of delivering notice on its
25 web site. Any notice that fails to conform to such manner is void and
26 constitutes neither notice to the department nor a waiver application for
27 purposes of any statute or regulation that requires that a notice or
28 waiver application be provided to the department.

29 Sec. 2. Section 30-3880, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 30-3880 (UTC 815) (a) A trustee, without authorization by the court,

1 may exercise:

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

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

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

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

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

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

11 (c) After the death of the trustor occurring after August 30, 2015,
12 a trustee of a revocable trust which has become irrevocable by reason of
13 the death of the trustor shall not transfer trust property to a
14 beneficiary described in section 77-2004 or 77-2005 in relation to the
15 trustor prior to satisfaction of all claims 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 trustor's
18 probate estate. The Department of Health and Human Services may, upon
19 application of a trustee, waive the restriction on transfers established
20 by this subsection in cases in which the department determines that
21 either there is no medicaid reimbursement due or after the proposed
22 transfer is made there will be sufficient assets remaining in the trust
23 or trustor's probate estate to satisfy all such claims for medicaid
24 reimbursement. If there is no medicaid reimbursement due, the department
25 shall waive the restriction within sixty days after receipt of the
26 trustee's request for waiver and the deceased trustor's name and social
27 security number and, if applicable ~~available~~ upon reasonable
28 investigation, the name and social security number of the trustor's
29 spouse if such spouse is deceased. A trustee who is a financial
30 institution as defined in section 77-3801, a trust company chartered
31 pursuant to the Nebraska Trust Company Act, or an attorney licensed to

1 practice in this state may distribute assets from the trust prior to the
2 receipt of the waiver from the department if the trustee signs a recital
3 under oath ~~and mailed by certified mail to the department~~ that states the
4 decedent's name and social security number and, if applicable available
5 ~~upon reasonable investigation~~, the name and social security number of the
6 decedent's spouse if such spouse is deceased, and that the trustor was
7 not a recipient of medical assistance and no claims for medical
8 assistance exist under section 68-919. The trustee shall send such
9 recital to the department. A trustee who makes such a recital knowing the
10 recital is false becomes personally liable for medical assistance
11 reimbursement pursuant to section 68-919 to the extent of the assets
12 distributed from the trust necessary to discharge any such claim
13 remaining unpaid after application of the assets of the transferor's
14 probate estate. The request for waiver and the recital described in this
15 subsection shall be provided to the department in a delivery manner and
16 at an address designated by the department, which manner may include
17 email. The department shall post the acceptable manner of delivery on its
18 web site. Any request for waiver or recital that fails to conform to such
19 manner is void.

20 Sec. 3. Section 30-3881, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 30-3881 (UTC 816) (a) Without limiting the authority conferred by
23 section 30-3880, a trustee may:

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

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

28 (3) exchange, partition, or otherwise change the character of trust
29 property;

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

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

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

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

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

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

16 (C) pay calls, assessments, and other sums chargeable or accruing
17 against the securities, and sell or exercise stock subscription or
18 conversion rights; and

19 (D) deposit the securities with a depository or other regulated
20 financial-service institution;

21 (8) with respect to an interest in real property, construct, or make
22 ordinary or extraordinary repairs to, alterations to, or improvements in,
23 buildings or other structures, demolish improvements, raze existing or
24 erect new party walls or buildings, subdivide or develop land, dedicate
25 land to public use or grant public or private easements, and make or
26 vacate plats and adjust boundaries;

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

31 (10) grant an option involving a sale, lease, or other disposition

1 of trust property or acquire an option for the acquisition of property,
2 including an option exercisable beyond the duration of the trust, and
3 exercise an option so acquired;

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

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

9 (13) with respect to possible liability for violation of
10 environmental law:

11 (A) inspect or investigate property the trustee holds or has been
12 asked to hold, or property owned or operated by an organization in which
13 the trustee holds or has been asked to hold an interest, for the purpose
14 of determining the application of environmental law with respect to the
15 property;

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

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

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

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

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

29 (15) pay taxes, assessments, compensation of the trustee and of
30 employees and agents of the trust, and other expenses incurred in the
31 administration of the trust;

1 (16) exercise elections with respect to federal, state, and local
2 taxes;

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

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

12 (19) pledge trust property to guarantee loans made by others to the
13 beneficiary;

14 (20) appoint a trustee to act in another jurisdiction with respect
15 to trust property located in the other jurisdiction, confer upon the
16 appointed trustee all of the powers and duties of the appointing trustee,
17 require that the appointed trustee furnish security, and remove any
18 trustee so appointed;

19 (21) pay an amount distributable to a beneficiary who is under a
20 legal disability or who the trustee reasonably believes is incapacitated,
21 by paying it directly to the beneficiary or applying it for the
22 beneficiary's benefit, or by:

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

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

29 (C) if the trustee does not know of a conservator, guardian,
30 custodian, or custodial trustee, paying it to an adult relative or other
31 person having legal or physical care or custody of the beneficiary, to be

1 expended on the beneficiary's behalf; or

2 (D) managing it as a separate fund on the beneficiary's behalf,
3 subject to the beneficiary's continuing right to withdraw the
4 distribution;

5 (22) on distribution of trust property or the division or
6 termination of a trust, make distributions in divided or undivided
7 interests, allocate particular assets in proportionate or
8 disproportionate shares, value the trust property for those purposes, and
9 adjust for resulting differences in valuation;

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

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

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

18 (26) on termination of the trust, exercise the powers appropriate to
19 wind up the administration of the trust and distribute the trust property
20 to the persons entitled to it.

21 (b) After the death of the trustor occurring after August 30, 2015,
22 a trustee of a revocable trust which has become irrevocable by reason of
23 the death of the trustor shall not transfer trust property to a
24 beneficiary described in section 77-2004 or 77-2005 in relation to the
25 trustor prior to satisfaction of all claims for medicaid reimbursement
26 pursuant to section 68-919 to the extent necessary to discharge any such
27 claim remaining unpaid after application of the assets of the trustor's
28 probate estate. The Department of Health and Human Services may, upon
29 application of a trustee, waive the restriction on transfers established
30 by this subsection in cases in which the department determines that
31 either there is no medicaid reimbursement due or after the proposed

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

30 Sec. 4. Section 30-3882, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 30-3882 (UTC 817) (a) Except as limited in subsection (d) of this
2 section, upon termination or partial termination of a trust, the trustee
3 may send to the beneficiaries a proposal for distribution. The right of
4 any beneficiary to object to the proposed distribution terminates if the
5 beneficiary does not notify the trustee of an objection within thirty
6 days after the proposal was sent but only if the proposal informed the
7 beneficiary of the right to object and of the time allowed for objection.

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

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

15 (1) it was induced by improper conduct of the trustee; or

16 (2) the beneficiary, at the time of the release, did not know of the
17 beneficiary's rights or of the material facts relating to the breach.

18 (d) After the death of the trustor occurring after August 30, 2015,
19 a trustee of a revocable trust which has become irrevocable by reason of
20 the death of the trustor shall not transfer trust property to a
21 beneficiary described in section 77-2004 or 77-2005 in relation to the
22 trustor prior to satisfaction of all claims for medicaid reimbursement
23 pursuant to section 68-919 to the extent necessary to discharge any such
24 claim remaining unpaid after application of the assets of the trustor's
25 probate estate. The Department of Health and Human Services may, upon
26 application of a trustee, waive the restriction on transfers established
27 by this subsection in cases in which the department determines that
28 either there is no medicaid reimbursement due or after the proposed
29 transfer is made there will be sufficient assets remaining in the trust
30 or trustor's probate estate to satisfy all such claims for medicaid
31 reimbursement. If there is no medicaid reimbursement due, the department

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

27 Sec. 5. Section 33-109, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 33-109 (1)(a) This subdivision applies until 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 ten dollars for
3 the first page and six dollars for each additional page. Two dollars and
4 fifty cents of the ten-dollar fee for recording the first page and fifty
5 cents of the six-dollar fee for recording each additional page shall be
6 used exclusively for the purposes of preserving and maintaining public
7 records of the office of the register of deeds and for modernization and
8 technology needs relating to such records. The funds allocated under this
9 subdivision shall not be substituted for other allocations of county
10 general funds to the register of deeds for the purposes enumerated in
11 this subdivision.

12 (b) This subdivision applies on and after January 1, 2018. The
13 register of deeds and the county clerk shall receive for recording a
14 deed, mortgage, or release, recording and indexing of a will, recording
15 and indexing of a decree in a testate estate, recording proof of
16 publication, or recording any other instrument, a fee of five dollars per
17 page. For entering each instrument presented for record in the numerical
18 index, the clerk or register of deeds shall receive the sum of fifty
19 cents for each lot and each single block without lots in platted areas
20 and fifty cents for each section in unplatted areas to be paid in advance
21 by the person offering the instrument for record.

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

25 (3) No fees shall be received for recording instruments for the
26 Department of Health and Human Services pursuant to sections 10 and 11 of
27 this act.

28 Sec. 6. Section 44-371, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 44-371 (1)(a) Except as provided in subdivision (1)(b) of this
31 section and in section 68-919, all proceeds, cash values, and benefits

1 accruing under any annuity contract, under any policy or certificate of
2 life insurance payable upon the death of the insured to a beneficiary
3 other than the estate of the insured, or under any accident or health
4 insurance policy shall be exempt from attachment, garnishment, or other
5 legal or equitable process and from all claims of creditors of the
6 insured and of the beneficiary if related to the insured by blood or
7 marriage, unless a written assignment to the contrary has been obtained
8 by the claimant.

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

10 (i) An individual's aggregate interests greater than one hundred
11 thousand dollars in all loan values or cash values of all matured or
12 unmatured life insurance contracts and in all proceeds, cash values, or
13 benefits accruing under all annuity contracts owned by such individual;
14 and

15 (ii) An individual's interest in all loan values or cash values of
16 all matured or unmatured life insurance contracts and in all proceeds,
17 cash values, or benefits accruing under all annuity contracts owned by
18 such individual, to the extent that the loan values or cash values of any
19 matured or unmatured life insurance contract or the proceeds, cash
20 values, or benefits accruing under any annuity contract were established
21 or increased through contributions, premiums, or any other payments made
22 within three years prior to bankruptcy or within three years prior to
23 entry against the individual of a money judgment which thereafter becomes
24 final.

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

29 (2) Notwithstanding subsection (1) of this section, proceeds, cash
30 values, and benefits accruing under any annuity contract or under any
31 policy or certificate of life insurance payable upon the death of the

1 insured to a beneficiary other than the estate of the insured shall not
2 be exempt from attachment, garnishment, or other legal or equitable
3 process by a judgment creditor of the beneficiary if the judgment against
4 the beneficiary was based on, arose from, or was related to an act,
5 transaction, or course of conduct for which the beneficiary has been
6 convicted by any court of a crime punishable only by life imprisonment or
7 death. No insurance company shall be liable or responsible to any person
8 to determine or ascertain the existence or identity of any such judgment
9 creditor prior to payment of any such proceeds, cash values, or benefits.
10 This subsection shall apply to any judgment rendered on or after January
11 1, 1995, irrespective of when the criminal conviction is or was rendered
12 and irrespective of whether proceedings for attachment, garnishment, or
13 other legal or equitable process were pending on March 14, 1997.

14 Sec. 7. Section 68-901, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 68-901 Sections 68-901 to 68-976 and sections 10, 11, and 12 of this
17 act shall be known and may be cited as the Medical Assistance Act.

18 Sec. 8. Section 68-907, Revised Statutes Cumulative Supplement,
19 2016, is amended to read:

20 68-907 For purposes of the Medical Assistance Act:

21 (1) Committee means the Health and Human Services Committee of the
22 Legislature;

23 (2) Department means the Department of Health and Human Services;

24 (3) Medicaid Reform Plan means the Medicaid Reform Plan submitted on
25 December 1, 2005, pursuant to the Medicaid Reform Act enacted pursuant to
26 Laws 2005, LB 709;

27 (4) Medicaid state plan means the comprehensive written document,
28 developed and amended by the department and approved by the federal
29 Centers for Medicare and Medicaid Services, which describes the nature
30 and scope of the medical assistance program and provides assurances that
31 the department will administer the program in compliance with federal

1 requirements;

2 (5) Provider means a person providing health care or related
3 services under the medical assistance program;

4 (6)(a) Related transferee means:

5 (i) An individual to whom real estate is transferred if such
6 individual is related to the person transferring the real estate as
7 described in section 77-2004 or 77-2005;

8 (ii) An entity to which real estate is transferred if such entity is
9 controlled by one or more individuals who meet the requirements of
10 subdivision (6)(a)(i) of this section. For purposes of this subdivision,
11 control means the individuals listed in subdivision (6)(a)(i) of this
12 section together own or have the option to acquire more than fifty
13 percent of the entity; or

14 (iii) An irrevocable trust to which real estate is transferred if
15 such irrevocable trust is one in which an individual who meets the
16 requirements of subdivision (6)(a)(i) of this section is a beneficiary;
17 and

18 (b) Related transferee does not include the spouse of the person
19 transferring the real estate, if any, or a child of the person
20 transferring the real estate who either is under twenty-one years of age
21 or is blind or totally and permanently disabled as defined by
22 Supplemental Security Income criteria;

23 (7) ~~(6)~~ School-based health center means a health center that:

24 (a) Is located in or is adjacent to a school facility;

25 (b) Is organized through school, school district, learning
26 community, community, and provider relationships;

27 (c) Is administered by a sponsoring facility;

28 (d) Provides school-based health services onsite during school hours
29 to children and adolescents by health care professionals in accordance
30 with state and local laws, rules, and regulations, established standards,
31 and community practice;

1 (e) Does not perform abortion services or refer or counsel for
2 abortion services and does not dispense, prescribe, or counsel for
3 contraceptive drugs or devices; and

4 (f) Does not serve as a child's or an adolescent's medical or dental
5 home but augments and supports services provided by the medical or dental
6 home;

7 (8) ~~(7)~~ School-based health services may include any combination of
8 the following as determined in partnership with a sponsoring facility,
9 the school district, and the community:

10 (a) Medical health;

11 (b) Behavioral and mental health;

12 (c) Preventive health; and

13 (d) Oral health;

14 (9) ~~(8)~~ Sponsoring facility means:

15 (a) A hospital;

16 (b) A public health department as defined in section 71-1626;

17 (c) A federally qualified health center as defined in section
18 1905(1)(2)(B) of the federal Social Security Act, 42 U.S.C. 1396d(1)(2)
19 (B), as such act and section existed on January 1, 2010;

20 (d) A nonprofit health care entity whose mission is to provide
21 access to comprehensive primary health care services;

22 (e) A school or school district; or

23 (f) A program administered by the Indian Health Service or the
24 federal Bureau of Indian Affairs or operated by an Indian tribe or tribal
25 organization under the federal Indian Self-Determination and Education
26 Assistance Act, or an urban Indian program under Title V of the federal
27 Indian Health Care Improvement Act, as such acts existed on January 1,
28 2010; and

29 (10) ~~(9)~~ Waiver means the waiver of applicability to the state of
30 one or more provisions of federal law relating to the medical assistance
31 program based on an application by the department and approval of such

1 application by the federal Centers for Medicare and Medicaid Services.

2 Sec. 9. Section 68-919, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 68-919 (1) The recipient of medical assistance under the medical
5 assistance program shall be indebted to the department for the total
6 amount paid for medical assistance on behalf of the recipient if:

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

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

16 (2) The debt accruing under subsection (1) of this section arises
17 during the life of the recipient but shall be held in abeyance until the
18 death of the recipient. Any such debt to the department that exists when
19 the recipient dies shall be recovered only after the death of the
20 recipient's spouse, if any, and only after ~~when~~ the recipient is not
21 survived by a child who either is under twenty-one years of age or is
22 blind or totally and permanently disabled as defined by the Supplemental
23 Security Income criteria.

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

28 (4)(a) This subsection applies to the fullest extent permitted by 42
29 U.S.C. 1396p, as such section existed on January 1, 2017. It is the
30 intent of the Legislature that the debt specified in subsection (1) of
31 this section be collected by the department before any portion of the

1 estate of a recipient of medical assistance as defined by subdivision (4)
2 (b) of this section is enjoyed by or transferred to a person not
3 specified in subsection (2) of this section as a result of the death of
4 such recipient. The debt may be recovered from the estate of a recipient
5 of medical assistance, ~~including~~

6 (b) For purposes of this section:

7 (i) Estate of a recipient of medical assistance means any real
8 estate property, personal property, or other asset in which the recipient
9 had any legal title or interest at or immediately prior to the time of
10 the recipient's death, to the extent of such interests. In furtherance
11 and not in limitation of the foregoing, for purposes of this section, the
12 estate of a the recipient of medical assistance also includes:

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

17 (B) Notwithstanding anything to the contrary in subdivision (3) or
18 (4) of section 68-923, assets conveyed or otherwise transferred to a
19 survivor, heir, assign, beneficiary, or devisee of the recipient of
20 medical assistance through joint tenancy, tenancy in common, transfer on
21 death deed, survivorship, conveyance of a remainder interest, retention
22 of a life estate or of an estate for a period of time, living trust, or
23 other arrangement by which value or possession is transferred to or
24 realized by the beneficiary of the conveyance or transfer at or as a
25 result of the recipient's death to the full extent authorized in 42
26 U.S.C. 1396p(b)(4)(B). Such other arrangements include insurance policies
27 or annuities in which the recipient of medical assistance had at the time
28 of death any incidents of ownership of the policy or annuity or the power
29 to designate beneficiaries and any pension rights or completed retirement
30 plans or accounts of the recipient. A completed retirement plan or
31 account is one which because of the death of the recipient of medical

1 assistance ceases to have elements of retirement relating to such
2 recipient and under which one or more beneficiaries exist after such
3 recipient's death; and

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

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

8 (B) Insurance proceeds and accounts in institutions under federal
9 supervision or supervision of the Department of Banking and Finance or
10 Department of Insurance to the extent subject to a security interest
11 where the secured party is not a related transferee;

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

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

19 (c) As to any interest in property created on or after the effective
20 date of this act and for as long as any portion of the debt arising under
21 subsection (1) of this section remains unpaid, the death of the recipient
22 of medical assistance shall not trigger a change in the rights to
23 possession, enjoyment, access, income, or otherwise that the recipient
24 had at or immediately prior to the time of death and the personal
25 representative of the recipient's estate is empowered to and shall
26 exercise or enjoy such rights for the purpose of paying such debt,
27 including, but not limited to, renting such property held as a life
28 estate, severing joint tenancies, bringing partition actions, claiming
29 equitable rights of contribution, or taking other actions otherwise
30 appropriate to effect the intent of this section. Such rights shall
31 survive the death of the recipient of medical assistance and shall be

1 administered, marshaled, and disposed of for the purposes of this
2 section. In the event that a claim for reimbursement is made as to some,
3 but not all, nonprobate transferees or assets, the party or owner against
4 whom the claim is asserted may seek equitable contribution toward the
5 claim from the other nonprobate transferees or assets in a court of
6 applicable jurisdiction. Except as otherwise provided in this section and
7 except for the right of the department to recover the debt from such
8 interests in property, this subsection in and of itself does not create
9 any rights in any other person or entity.

10 (d) Unless includable in the estate of a recipient of medical
11 assistance pursuant to this section as it existed prior to the effective
12 date of this act, an interest in real estate transferred to a related
13 transferee and vested in such related transferee prior to the effective
14 date of this act shall not be part of the estate of the recipient of
15 medical assistance unless required disclosures under section 10 of this
16 act were not made at the time of application for medical assistance or at
17 the time of any review by the department of the recipient's eligibility
18 for medical assistance.

19 (e) The department, upon application of the personal representative
20 of an estate, any person otherwise authorized under the Nebraska Probate
21 Code to act on behalf of a decedent, any person having an interest in
22 assets of the decedent which are subject to this subsection, a successor
23 trustee of a revocable trust or other similar arrangement which has
24 become irrevocable by reason of the decedent's death, or any other person
25 holding assets of the decedent described in this subsection, shall
26 release the property of a decedent from the provisions of this subsection
27 to the fullest extent possible if the department determines either that
28 there is no medicaid reimbursement due and no application for medical
29 assistance is pending on behalf of the decedent or that there will be
30 sufficient assets of the probate estate of the decedent to satisfy all
31 such claims for medicaid reimbursement. If there is no medicaid

1 reimbursement due and no application for medical assistance is pending on
2 behalf of the decedent, the department shall certify to the applicant
3 that no reimbursement is due as expeditiously as reasonably possible but
4 in no event more than sixty days after receipt of the application, the
5 decedent's name and social security number, and, if applicable, the name
6 and social security number of the decedent's spouse if such spouse is
7 deceased. If the department determines that there is medicaid
8 reimbursement due or that an application for medical assistance is
9 pending on behalf of the decedent, the department shall provide notice
10 thereof to the applicant within such sixty-day period. Failure of the
11 department to provide the required certification or notice discharges the
12 debt created under this section. An application under this subdivision
13 shall be provided to the department in a delivery manner and at an
14 address designated by the department, which manner may include email. The
15 department shall post the acceptable manner of delivery on its web site.
16 Any application that fails to conform to such manner is void. The
17 department shall not require, as part of the application, that an
18 applicant submit information beyond what is needed to implement this
19 subdivision. Notwithstanding the lack of an order by a court designating
20 a trustee or successor trustee of a revocable trust or other similar
21 arrangement which has become irrevocable by reason of the decedent's
22 death as a person who may receive information in conjunction with
23 applicable privacy law, such person shall have the authority of a
24 personal representative with respect to the trust assets, including, but
25 not limited to, the authority to seek and to obtain from the department
26 information protected by applicable privacy law, and the department shall
27 release the information requested to the trustee to the extent it is
28 relevant to resolving issues relating to reimbursement of medical
29 assistance or the administration thereof.

30 (f) An action for recovery of the debt created under subsection (1)
31 of this section may be brought by the department against the estate of a

1 recipient of medical assistance as defined in subdivision (4)(b) of this
2 section at any time before five years after the last of:

3 (i) The death of the recipient of medical assistance;

4 (ii) The death of the recipient's spouse, if any;

5 (iii) The attainment of the age of twenty-one years by the youngest
6 of the decedent's minor children; or

7 (iv) A determination that any adult child of the decedent is no
8 longer blind or totally and permanently disabled as defined by the
9 Supplemental Security Income criteria.

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

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

20 (7) Whenever the department has provided medical assistance because
21 of sickness or injury to any person resulting from a third party's
22 wrongful act or negligence and the person has recovered or may recover
23 damages from such third party, to the fullest extent permitted by federal
24 law and understandings entered into between the state and federal
25 government, the department shall have the right to recover the medical
26 assistance it paid from any amounts that the person has received or may
27 receive from or on behalf of the third party. When, with the consent of
28 the department, an action or claim is brought by the person alone and the
29 person incurs or will incur a personal liability to pay attorney's fees
30 and costs of litigation or costs incurred in pursuit of a claim, to the
31 fullest extent permitted by federal law and understandings entered into

1 between the state and federal government, the department's claim for
2 reimbursement of the medical assistance provided to the person shall be
3 reduced by twenty-five percent of the full amount of the judgment, award,
4 or settlement, which the person may retain, though otherwise subject to
5 applicable law including but not limited to eligibility criteria, and a
6 pro rata share that represents the department's reasonable share of
7 attorney's fees paid by the person and that portion of the costs of
8 litigation or the costs incurred in pursuit of a claim determined by
9 multiplying the amount of the costs of litigation or the costs incurred
10 in pursuit of a claim by the ratio of the full amount of benefit
11 expenditures made by the department to or on behalf of the person to the
12 full amount of the judgment, award, or settlement. The department may not
13 unreasonably withhold consent to the bringing of such action or claim.
14 The department shall determine whether or not to grant such consent
15 within thirty days after the consent is requested. If the department
16 fails to make a determination within the thirty-day period, such consent
17 shall be deemed to have been granted.

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

20 Sec. 10. (1) This section shall apply to the fullest extent
21 permitted by federal law and understandings entered into between the
22 state and the federal government. This section provides security for the
23 recovery of the indebtedness to the department under section 68-919 for
24 medical assistance provided if such medical assistance has been
25 incorrectly paid.

26 (2) An applicant for medical assistance, or a person acting on
27 behalf of the applicant, shall disclose at the time of application and,
28 to the extent not owned at the time of application, at the time of any
29 subsequent review of the recipient's eligibility for medical assistance
30 all of his or her interests in any assets, including, but not limited to,
31 any security, bank account, real estate, trust, corporation, limited

1 liability company, or other entity, whether such interest is direct or
2 indirect, vested or contingent, or otherwise. The applicant or recipient,
3 or a person acting on behalf of the applicant or recipient, shall also
4 disclose any income derived from such interests and the source of the
5 income.

6 (3) If the applicant or recipient, or a person acting on behalf of
7 the applicant or recipient, willfully fails to make the disclosures
8 required in subsection (2) of this section, any medical assistance
9 obtained as a result of such failure is deemed unlawfully obtained and
10 the department shall seek recovery of such medical assistance from the
11 recipient or the estate of the recipient of medical assistance as defined
12 in subdivision (4)(b) of section 68-919.

13 (4) An action for recovery of medical assistance obtained in
14 violation of this section may be brought by the department against the
15 recipient or against the estate of the recipient of medical assistance as
16 defined in subdivision (4)(b) of section 68-919 at any time before five
17 years after the death of the recipient. Pursuant to a court judgment, the
18 department shall impose a lien for medical assistance obtained in
19 violation of this section.

20 (5) The lien imposed by subsection (4) of this section becomes
21 effective as against real estate upon the filing of a notice of lien in
22 accordance with this subsection. The notice must be filed in the office
23 of the register of deeds of the county or counties in which the real
24 estate subject to the lien is located. The notice must provide the legal
25 description of the real estate subject to the lien and specify the amount
26 then secured by the lien. The department shall provide the register of
27 deeds with a self-addressed return envelope bearing sufficient postage
28 for purposes of returning to the department a file-stamped copy of the
29 notice of lien, which the register of deeds shall mail to the department.

30 (6) The lien imposed by subsection (4) of this section is not valid
31 against the owner of an interest in real estate received by a grantee who

1 is not a related transferee pursuant to a deed or other instrument if
2 such deed or other instrument is filed prior to the notice of lien. Such
3 invalid lien shall be released by the department upon notice from such
4 grantee or a subsequent bona fide purchaser.

5 (7) The lien imposed by subsection (4) of this section is valid
6 against any subsequent creditor only if notice of such lien has been
7 filed by the department in accordance with subsection (5) of this
8 section. Any mortgage or trust deed recorded prior to the filing of a
9 notice of lien shall have priority over such lien. Except as provided in
10 subsection (8) of this section, any optional future advance or advance
11 necessary to protect the security secured by the mortgage or trust deed
12 shall have the same priority as the mortgage or trust deed.

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

17 (a) A notice of lien has been filed by the department in accordance
18 with subsection (5) of this section; and

19 (b) Written notice of the filing for record of such notice of lien
20 has been received by the mortgagee or beneficiary at the address of the
21 mortgagee or beneficiary set forth in the mortgage or trust deed or the
22 most recently recorded change of address or, if the mortgage or trust
23 deed has been assigned, by the assignee at the address of the most recent
24 assignee reflected in a recorded assignment of the mortgage or trust
25 deed. The notice under this subdivision shall be sent by the department
26 by certified mail to the applicable mortgagee, beneficiary, or assignee.

27 (9) If a deed or other instrument transferring an interest in real
28 estate contains a recital acknowledged by the grantor stating that the
29 grantee is not a related transferee, the real estate being transferred
30 shall not be subject to the lien imposed by subsection (4) of this
31 section. A related transferee who takes possession or otherwise enjoys

1 the benefits of the transfer knowing the recital is false becomes
2 personally liable for medicaid reimbursement to the extent necessary to
3 discharge any claim remaining unpaid.

4 (10) The department shall release or subordinate the lien imposed by
5 subsection (4) of this section upon application by a related transferee
6 in which the related transferee agrees to indemnify the department for
7 medicaid reimbursement pursuant to section 68-919 to the extent necessary
8 to discharge any claim remaining unpaid. The department may require the
9 application submitted pursuant to this subsection to be accompanied by
10 good and sufficient sureties or other evidence determined by the
11 department to be sufficient to secure the liability.

12 (11) The department shall release the lien imposed by subsection (4)
13 of this section upon a satisfactory showing that the interest subject to
14 the lien is not one from which medicaid reimbursement may be had.

15 (12) The department may adopt and promulgate rules and regulations
16 to carry out this section.

17 Sec. 11. (1) This section shall apply to the fullest extent
18 permitted by federal law and understandings entered into between the
19 state and the federal government. This section provides security for the
20 recovery of the indebtedness to the department under section 68-919 for
21 medical assistance provided if such medical assistance has been correctly
22 paid.

23 (2)(a) At the time of application for medical assistance or after
24 six months of institutionalization, whichever is later, the department
25 shall place a pre-death lien on the home of a recipient of medical
26 assistance who resides in a nursing facility, an intermediate care
27 facility for persons with developmental disabilities, or an inpatient
28 hospital if the department determines that the recipient cannot
29 reasonably be expected to be discharged and resume living at home.

30 (b) The pre-death lien can only be imposed by the department if none
31 of the following relatives of the recipient live in the home:

1 (i) A spouse;
2 (ii) A child under twenty-one years of age;
3 (iii) A blind or totally disabled child as defined by Supplemental
4 Security Income criteria; or

5 (iv) A sibling with an equity interest in the home who has lawfully
6 resided in the home for at least one year before the recipient's
7 admission.

8 (c) The recipient shall have the opportunity for an administrative
9 hearing to contest the department's determination.

10 (d) A pre-death lien must be dissolved by the department if the
11 recipient returns home.

12 (3)(a) The department shall place a post-death lien on the estate of
13 a recipient of medical assistance as defined in subdivision (4)(b) of
14 section 68-919 if the recipient resided in a nursing facility, an
15 intermediate care facility for persons with developmental disabilities,
16 or an inpatient hospital or received any medical assistance while fifty-
17 five years of age or older.

18 (b) The department shall not collect on the post-death lien as long
19 as any of the following relatives of the recipient exist:

20 (i) A spouse;
21 (ii) A child under twenty-one years of age;
22 (iii) A blind or totally disabled child as defined by Supplemental
23 Security Income criteria;

24 (iv) A sibling with an equity interest in the recipient's home who
25 has lawfully resided in the home for at least one year before the
26 recipient's admission and has lawfully resided in the home continuously
27 since the date of the recipient's admission; or

28 (v) An adult child who has lived in the recipient's home for at
29 least two years immediately before the recipient was institutionalized,
30 has lived there continuously since that time, and can establish to the
31 satisfaction of the department that he or she provided care that may have

1 delayed the recipient's admission.

2 (4) The liens imposed by subsections (2) and (3) of this section
3 become effective as against real estate upon the filing of a notice of
4 lien in accordance with this subsection. The notice must be filed in the
5 office of the register of deeds of the county or counties in which the
6 real estate subject to the lien is located. The notice must provide the
7 legal description of the real estate subject to the lien, specify the
8 amount then secured by the lien, and indicate that the lien also covers
9 any future medical assistance provided to the recipient, if applicable.
10 The department shall provide the register of deeds with a self-addressed
11 return envelope bearing sufficient postage for purposes of returning to
12 the department a file-stamped copy of the notice of lien, which the
13 register of deeds shall mail to the department.

14 (5) The liens imposed by subsections (2) and (3) of this section are
15 not valid against the owner of an interest in real estate received by a
16 grantee who is not a related transferee pursuant to a deed or other
17 instrument if such deed or other instrument is filed prior to the notice
18 of lien. Such invalid lien shall be released by the department upon
19 notice from such grantee or a subsequent bona fide purchaser.

20 (6) The liens imposed by subsections (2) and (3) of this section are
21 valid against any subsequent creditor only if notice of such lien has
22 been filed by the department in accordance with subsection (4) of this
23 section. Any mortgage or trust deed recorded prior to the filing of a
24 notice of lien shall have priority over such lien. Except as provided in
25 subsection (7) of this section, any optional future advance or advance
26 necessary to protect the security secured by the mortgage or trust deed
27 shall have the same priority as the mortgage or trust deed.

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

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

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

11 (8)(a) Any lien imposed pursuant to subsection (2) or (3) of this
12 section is limited to the lesser of (i) the amount necessary to fully
13 satisfy any reimbursement obligations remaining unpaid after application
14 of any assets from the recipient's probate estate or (ii) the actual
15 value of any real estate transferred to a related transferee at the time
16 that the lien is enforced, minus the consideration adjustment and minus
17 the cost of the improvements made to the real estate by or on behalf of
18 the related transferee, if any.

19 (b) For purposes of this subsection:

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

21 (ii) Consideration adjustment means the amount of consideration paid
22 by the related transferee to the recipient of medical assistance for the
23 real estate multiplied by the growth factor; and

24 (iii) Growth factor means the actual value of the real estate at the
25 time the lien is enforced divided by the actual value of the real estate
26 at the time the consideration was paid.

27 (c) The burden of proof for showing the consideration paid for the
28 real estate, the cost of any improvements to the real estate, and the
29 actual value of the real estate rests with the related transferee or his
30 or her successor in interest.

31 (9) If a deed or other instrument transferring an interest in real

1 estate contains a recital acknowledged by the grantor stating that the
2 grantee is not a related transferee, the real estate being transferred
3 shall not be subject to the liens imposed by subsections (2) and (3) of
4 this section. A related transferee who takes possession or otherwise
5 enjoys the benefits of the transfer knowing the recital is false becomes
6 personally liable for medicaid reimbursement to the extent necessary to
7 discharge any claim remaining unpaid after application of the assets of
8 the transferor's probate estate, not to exceed the amount determined
9 under subsection (8) of this section.

10 (10) The department shall release or subordinate the lien imposed by
11 subsection (2) or (3) of this section upon application by a related
12 transferee in which the related transferee agrees to indemnify the
13 department for medicaid reimbursement pursuant to section 68-919 to the
14 extent necessary to discharge any claim remaining unpaid after
15 application of the assets of the transferor's probate estate, not to
16 exceed the amount determined under subsection (8) of this section. The
17 department may require the application submitted pursuant to this
18 subsection to be accompanied by good and sufficient sureties or other
19 evidence determined by the department to be sufficient to secure the
20 liability.

21 (11) The department shall release the lien imposed by subsection (2)
22 or (3) of this section upon a satisfactory showing of undue hardship or a
23 showing that the interest subject to the lien is not one from which
24 medicaid reimbursement may be had.

25 (12) The department may adopt and promulgate rules and regulations
26 to carry out this section.

27 Sec. 12. A medical provider shall have the authority of a guardian
28 and conservator for the limited purpose of making application for medical
29 assistance on behalf of a person whom the provider is treating if the
30 person is unconscious or otherwise is unable to apply for medical
31 assistance and does not have an existing power of attorney or a court-

1 appointed individual to apply on the person's behalf.

2 Sec. 13. Section 77-2018.02, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 77-2018.02 (1) In the absence of any proceeding brought under
5 Chapter 30, article 24 or 25, in this state, proceedings for the
6 determination of the tax may be instituted in the county court of the
7 county where the property or any part thereof which might be subject to
8 tax is situated.

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

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

24 (4) If it appears to the county court, upon the filing of the
25 petition, by any person other than the county attorney, that no
26 assessment of inheritance tax could result, it shall forthwith enter
27 thereon an order directing the county attorney to show cause, within one
28 week from the service thereof, why determination should not be made that
29 no inheritance tax is due on account of the property described in the
30 petition and the potential lien thereof on such property extinguished.
31 Upon service of such order to show cause and failure of such showing by

1 the county attorney, notice of such hearing by publication shall be
2 dispensed with, and the petitioner shall be entitled without delay to a
3 determination of no tax due on account of the property described in the
4 petition, and any potential lien shall be extinguished.

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

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

1 the acceptable manner of delivering notice on its web site. Any notice
2 that fails to conform to such manner is void and constitutes neither
3 notice to the department nor a waiver application for purposes of any
4 statute or regulation that requires that a notice or waiver application
5 be provided to the department.

6 Sec. 14. If any section in this act or any part of any section is
7 declared invalid or unconstitutional, the declaration shall not affect
8 the validity or constitutionality of the remaining portions.

9 Sec. 15. Original sections 30-2483, 30-3880, 30-3881, 30-3882,
10 33-109, and 44-371, Reissue Revised Statutes of Nebraska, and sections
11 68-901, 68-907, 68-919, and 77-2018.02, Revised Statutes Cumulative
12 Supplement, 2016, are repealed.