

AMENDMENTS TO LB1355

(Amendments to E & R amendments, ER74)

Introduced by Vargas, 7.

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

3 Section 1. Section 28-401.01, Revised Statutes Cumulative
4 Supplement, 2022, is amended to read:

5 28-401.01 Sections 28-401 to 28-456.01 and 28-458 to 28-476 and
6 section 2 of this act shall be known and may be cited as the Uniform
7 Controlled Substances Act.

8 Sec. 2. Fentanyl test strips may be sold to the public without a
9 prescription to test for the presence of fentanyl, a fentanyl analog, or
10 a drug adulterant within a controlled substance.

11 A local public health department as defined in section 71-1626 may
12 distribute such fentanyl test strips at the local public health
13 department facility without charging a fee.

14 Sec. 3. Section 38-1201, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 38-1201 Sections 38-1201 to 38-1237 and section 5 of this act shall
17 be known and may be cited as the Emergency Medical Services Practice Act.

18 Sec. 4. Section 38-1225, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 38-1225 (1) No patient data received or recorded by an emergency
21 medical service or an emergency care provider shall be divulged, made
22 public, or released by an emergency medical service or an emergency care
23 provider, except that patient data may be released (a) for purposes of
24 treatment, payment, and other health care operations as defined and
25 permitted under the federal Health Insurance Portability and
26 Accountability Act of 1996, as such act existed on January 1, 2024, (b)

1 as required by section 5 of this act 2018, or (c) as otherwise permitted
2 by law. Such data shall be provided to the department for public health
3 purposes pursuant to rules and regulations of the department. For
4 purposes of this section, patient data means any data received or
5 recorded as part of the records maintenance requirements of the Emergency
6 Medical Services Practice Act.

7 (2) Patient data received by the department shall be confidential
8 with release only (a) in aggregate data reports created by the department
9 on a periodic basis or at the request of an individual, (b) as case-
10 specific data to approved researchers for specific research projects, (c)
11 as protected health information to a public health authority, as such
12 terms are defined under the federal Health Insurance Portability and
13 Accountability Act of 1996, as such act existed on January 1, 2024 ~~2018~~,
14 and (d) as protected health information, as defined under the federal
15 Health Insurance Portability and Accountability Act of 1996, as such act
16 existed on January 1, 2024 ~~2018~~, to an emergency medical service, to an
17 emergency care provider, or to a licensed health care facility for
18 purposes of treatment. A record may be shared with the emergency medical
19 service or emergency care provider that reported that specific record.
20 Approved researchers shall maintain the confidentiality of the data, and
21 researchers shall be approved in the same manner as described in section
22 81-666. Aggregate reports shall be public documents.

23 (3) No civil or criminal liability of any kind or character for
24 damages or other relief or penalty shall arise or be enforced against any
25 person or organization by reason of having provided patient data pursuant
26 to this section.

27 Sec. 5. (1) An emergency medical service that treats and releases,
28 or transports to a medical facility, an individual experiencing a
29 suspected overdose or an actual overdose shall report the incident to the
30 department. A report of an overdose made under this section shall include
31 the information required by the department for occurrences requiring a

1 response to perceived individual need for medical care.

2 (2) An emergency medical service that reports an overdose under this
3 section shall make best efforts to submit the report within seventy-two
4 hours after responding to the incident.

5 (3) When the department receives a report pursuant to subsection (1)
6 of this section, it shall report such information using the Washington/
7 Baltimore High Intensity Drug Trafficking Area Overdose Mapping and
8 Application Program or other similar secure access information technology
9 platform.

10 (4) Overdose information reported pursuant to subsection (1) or (3)
11 of this section shall not be (a) used for a criminal investigation or
12 prosecution or (b) obtained by a law enforcement officer as part of a
13 criminal investigation or prosecution.

14 Sec. 6. Section 71-2485, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 71-2485 Sections 71-2485 to 71-2490 and sections 9 and 13 to 17 of
17 this act shall be known and may be cited as the Opioid Prevention and
18 Treatment Act.

19 Sec. 7. Section 71-2486, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 71-2486 The purpose of the Opioid Prevention and Treatment Act is to
22 provide for the use of dedicated revenue for opioid-disorder-related
23 treatment, and prevention, and remediation and research regarding opioid
24 treatment, prevention, and remediation, in accordance with the terms of
25 any verdict, judgment, compromise, or settlement that is the source of
26 such revenue.

27 Sec. 8. Section 71-2487, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 71-2487 The Legislature finds that:

30 (1) There is an opioid epidemic occurring in the United States, and
31 Nebraska has been impacted;

1 (2) The opioid epidemic in Nebraska is a serious public health
2 crisis stemming from the rapid increase in the use of prescription and
3 nonprescription opioid drugs;

4 (3) (2) Many states are recovering funds for the management of
5 opioid addiction within their borders;

6 (4) (3) Coordination surrounding and managing opioid addiction and
7 related disorders is critical to the health and safety of all Nebraskans;

8 (5) (4) Funding for prevention and treatment of opioid addiction and
9 related disorders, including those that are co-occurring with other
10 mental health and substance use disorders, is needed in Nebraska;

11 (6) (5) Law enforcement agencies in the State of Nebraska are
12 dealing with the effects of the opioid epidemic daily and are in need of
13 resources for training, education, and interdiction;

14 (7) (6) There is a need to enhance the network of professionals who
15 provide treatment for opioid addiction and related disorders, including
16 co-occurring mental health disorders and other co-occurring substance use
17 disorders;

18 (8) (7) There is a need for education of medical professionals,
19 including training on proper prescription practices and best practices
20 for tapering patients off of prescribed opioids for medical use;

21 (9) (8) Incarcerated individuals in the Nebraska correctional system
22 and other vulnerable populations with opioid use disorder need access to
23 resources that will help address addiction; and

24 (10) (9) The health and safety of all Nebraskans will be improved by
25 the abatement of opioid ~~remediation~~ addiction in the State of Nebraska.

26 Sec. 9. For purposes of the Opioid Prevention and Treatment Act:

27 (1) Division means the Division of Behavioral Health of the
28 Department of Health and Human Services;

29 (2) Local public health department means a local public health
30 department as defined in section 71-1626;

31 (3) Opiate or opioid means any drug or other substance having an

1 addiction-forming or addiction-sustaining liability similar to morphine
2 or being capable of conversion into a drug having such addiction-forming
3 or addiction-sustaining liability;

4 (4) Opioid epidemic means the serious public health crisis stemming
5 from the rapid increase in the use of prescription and nonprescription
6 opioid drugs;

7 (5) Opioid remediation means care, treatment, and other programs and
8 expenditures designed to (a) address the misuse and abuse of opioid
9 products, (b) treat or mitigate opioid use or related disorders, or (c)
10 mitigate other effects of the opioid epidemic, including the effects on
11 those injured as a result of the opioid epidemic; and

12 (6) Regional behavioral health authority means an authority
13 established pursuant to section 71-808.

14 Sec. 10. Section 71-2488, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 71-2488 (1) Any funds appropriated from the Opioid Prevention and
17 Treatment Cash Fund or the Opioid Treatment Infrastructure Cash Fund or
18 distributed from the Nebraska Opioid Recovery Trust Fund under the Opioid
19 Prevention and Treatment Act shall not be considered ongoing entitlements
20 or an obligation on the part of the State of Nebraska.

21 (2) Any funds appropriated or distributed under the Opioid
22 Prevention and Treatment Act ~~act~~ shall be spent in accordance with the
23 Opioid Prevention and Treatment Act and the terms of any verdict,
24 judgment, compromise, or settlement in or out of court, of any case or
25 controversy brought by the Attorney General pursuant to the Consumer
26 Protection Act or the Uniform Deceptive Trade Practices Act. If there is
27 any conflict between the terms of any verdict, judgment, compromise, or
28 settlement and the Opioid Prevention and Treatment Act, the terms of the
29 verdict, judgment, compromise, or settlement shall prevail.

30 Sec. 11. Section 71-2489, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 71-2489 The regional behavioral health authorities and local public
2 health departments shall report on or before November 30 of each even-
3 numbered year to the division regarding the use of funds distributed for
4 purposes of the Opioid Prevention and Treatment Act and the outcomes
5 achieved from the use of such funds. ~~The division Department of Health~~
6 ~~and Human Services~~ shall report annually on or before December 15 to the
7 Legislature, the Governor, and the Attorney General regarding the use of
8 funds appropriated and distributed under the Opioid Prevention and
9 Treatment Act and the outcomes achieved from the use of such funds such
10 use. The reports submitted to the Legislature shall be submitted
11 electronically.

12 Sec. 12. Section 71-2490, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 71-2490 (1) The Nebraska Opioid Recovery Trust Fund is created. The
15 fund shall include all recoveries received on behalf of the state by the
16 Department of Justice pursuant to the Consumer Protection Act or the
17 Uniform Deceptive Trade Practices Act related to the advertising of
18 opioids. The fund shall include any money, payments, or other things of
19 value in the nature of civil damages or other payment, except criminal
20 penalties, whether such recovery is by way of verdict, judgment,
21 compromise, or settlement in or out of court, of any case or controversy
22 pursuant to such acts. The Department of Justice shall remit any such
23 revenue to the State Treasurer for credit to the Nebraska Opioid Recovery
24 Trust Fund.

25 (2) Any funds appropriated, expended, or distributed from the
26 Nebraska Opioid Recovery Trust Fund shall be spent in accordance with the
27 terms of any verdict, judgment, compromise, or settlement in or out of
28 court, of any case or controversy brought by the Attorney General
29 pursuant to the Consumer Protection Act or the Uniform Deceptive Trade
30 Practices Act.

31 (3) The Nebraska Opioid Recovery Trust Fund ~~fund~~ shall exclude funds

1 held in a trust capacity where specific benefits accrue to specific
2 individuals, organizations, political subdivisions, or governments. Such
3 excluded funds shall be deposited in the State Settlement Trust Fund
4 pursuant to section 59-1608.05.

5 (4)(a) Any money transferred from the Nebraska Opioid Recovery Trust
6 Fund shall be expended in accordance with the terms and conditions of the
7 litigation or settlement from which the money was received.

8 (b) The State Treasurer shall transfer the following amounts from
9 the Nebraska Opioid Recovery Trust Fund on or before July 15, 2024, and
10 on or before July 15 of each year thereafter:

11 (i) One million one hundred twenty-five thousand dollars to the
12 Training Division Cash Fund to connect first responders to behavioral
13 health services, supports, and training and for a statewide wellness
14 learning plan that includes anonymous assessments, education, and
15 awareness to promote resiliency development;

16 (ii) Four hundred thousand dollars to the Health and Human Services
17 Cash Fund for staff to carry out the Overdose Fatality Review Teams Act;
18 and

19 (iii) An amount determined by the Legislature of which the State
20 Treasurer shall credit twenty-five percent to the Opioid Prevention and
21 Treatment Cash Fund and seventy-five percent to the Opioid Treatment
22 Infrastructure Cash Fund.

23 (5) ~~(4)~~ Any money in the Nebraska Opioid Recovery Trust Fund
24 available for investment shall be invested by the state investment
25 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
26 State Funds Investment Act.

27 Sec. 13. (1) The Opioid Prevention and Treatment Cash Fund is
28 created. The fund shall consist of transfers from the Nebraska Opioid
29 Recovery Trust Fund. No more than the amounts specified in this section
30 may be appropriated or transferred from the Opioid Prevention and
31 Treatment Cash Fund in any fiscal year.

1 (2) Any money in the Opioid Prevention and Treatment Cash Fund
2 available for investment shall be invested by the state investment
3 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
4 State Funds Investment Act.

5 (3) It is the intent of the Legislature to annually appropriate from
6 the Opioid Prevention and Treatment Cash Fund beginning in FY2024-25
7 three million dollars to the Department of Health and Human Services for
8 disbursement by the division to regional behavioral health authorities
9 for behavioral health regions established pursuant to section 71-807 for
10 opioid prevention and harm reduction under the Opioid Prevention and
11 Treatment Act as follows:

12 (a) Five and four-hundred-seventy-six thousandths percent to region
13 1;

14 (b) Five and one-hundred-twelve thousandths percent to region 2;

15 (c) Ten and eight thousand nine hundred eighty-two ten-thousandths
16 percent to region 3;

17 (d) Eight and five thousand eight hundred thirty-three ten-
18 thousandths percent to region 4;

19 (e) Twenty-five and seven thousand four hundred twenty-one ten-
20 thousandths percent to region 5; and

21 (f) Forty-four and one thousand eight hundred sixty-nine ten-
22 thousandths percent to region 6.

23 Sec. 14. (1) The Opioid Treatment Infrastructure Cash Fund is
24 created. The fund shall consist of transfers from the Nebraska Opioid
25 Recovery Trust Fund.

26 (2) The division shall use the Opioid Treatment Infrastructure Cash
27 Fund as appropriated by the Legislature for local and state public-
28 private partnerships for nonprofit and for-profit entities engaged in
29 opioid prevention and treatment infrastructure projects as determined by
30 the division, including capital construction and renovation. The
31 administrative cost for distributing funds under this section shall not

1 exceed an amount equal to five percent of the amount distributed.

2 (3) Any money in the Opioid Treatment Infrastructure Cash Fund
3 available for investment shall be invested by the state investment
4 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
5 State Funds Investment Act.

6 Sec. 15. (1) The division shall equitably distribute aid as
7 appropriated by the Legislature to local public health departments to
8 contract for services with hospitals, law enforcement, and community
9 organizations:

10 (a) To facilitate prevention efforts, including training on the use
11 of overdose response, syringe access and education, and drug-checking
12 products;

13 (b) For education and training activities related to opioid harm
14 remediation; and

15 (c) For data tracking efforts related to the opioid epidemic.

16 (2) Each local public health department shall report to the division
17 as provided in section 71-2489.

18 (3) It is the intent of the Legislature to appropriate at least five
19 hundred thousand dollars to the County Public Health Aid Program for
20 disbursement to local public health departments as provided in section
21 71-1628.08 for opioid prevention and harm reduction under the Opioid
22 Prevention and Treatment Act.

23 Sec. 16. (1) Each regional behavioral health authority shall use
24 funds received pursuant to the Opioid Prevention and Treatment Act for:

25 (a) Opioid treatment and response;

26 (b) Data tracking related to the opioid epidemic;

27 (c) Supporting individual recovery and rehabilitation related to the
28 opioid epidemic; and

29 (d) Opioid use prevention and harm reduction.

30 (2) Each regional behavioral health authority shall report to the
31 division as provided in section 71-2489.

1 (3) The division shall review the reports and require an authority
2 to return unobligated and unexpended funds for the prior biennium to the
3 Opioid Prevention and Treatment Cash Fund.

4 Sec. 17. (1) The Legislature intends to support opioid misuse
5 prevention research, opioid addiction research, and population, clinical,
6 translational, and basic science research proposals to decrease the
7 harmful impact of the opioid epidemic on Nebraska and carry out the
8 purposes of the Opioid Prevention and Treatment Act.

9 (2) It is the intent of the Legislature to annually appropriate two
10 hundred fifty thousand dollars from the General Fund to the Board of
11 Regents of the University of Nebraska for research at the University of
12 Nebraska Medical Center, which shall only be used for research on opioid
13 misuse prevention research, opioid addiction research, or population,
14 clinical, translational, and basic science research proposals to decrease
15 the harmful impact of the opioid epidemic on Nebraska.

16 Sec. 18. Section 81-5,153, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 81-5,153 (1) The Training Division Cash Fund is created. The State
19 Fire Marshal shall administer the fund.

20 (2) Money collected pursuant to section 81-5,152 shall be remitted
21 to the State Treasurer for credit to the fund. Such money in the The fund
22 shall be used for the purpose of administering the training program
23 established pursuant to sections 81-5,151 to 81-5,157, except that
24 transfers may be made from such money in the fund to the General Fund at
25 the direction of the Legislature.

26 (3) Money transferred to the Training Division Cash Fund from the
27 Nebraska Opioid Recovery Trust Fund shall be used to connect first
28 responders to behavioral health services, supports, and training and for
29 a statewide wellness learning plan that includes anonymous assessments,
30 education, and awareness to promote resiliency development, in accordance
31 with the terms and conditions of the litigation or settlement that is the

1 source of the money.

2 ~~(4) Any money in the Training Division Cash Fund The Training~~
3 ~~Division Cash Fund shall be administered by the State Fire Marshal. Any~~
4 ~~money in the fund~~ available for investment shall be invested by the state
5 investment officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 Sec. 19. Section 81-3119, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 81-3119 (1) The Health and Human Services Cash Fund is created and
10 shall consist of funds from contracts, grants, gifts, or fees. The fund
11 may also consist of transfers from the Nebraska Opioid Recovery Trust
12 Fund.

13 (2) Any money transferred from the Nebraska Opioid Recovery Trust
14 Fund shall be used for staff to carry out the Overdose Fatality Review
15 Teams Act, in accordance with the terms and conditions of the litigation
16 or settlement that is the source of the money. Any other money in the
17 Health and Human Services Cash Fund may be transferred to the General
18 Fund at the direction of the Legislature.

19 ~~(3) Transfers may be made from the fund to the General Fund at the~~
20 ~~direction of the Legislature. The State Treasurer shall transfer three~~
21 ~~hundred thousand dollars on or before July 15, 2015, from the Health and~~
22 ~~Human Services Cash Fund to the Lead-Based Paint Hazard Control Cash~~
23 ~~Fund. It is the intent of the Legislature that the transfer to the Lead-~~
24 ~~Based Paint Hazard Control Cash Fund shall be from funds credited to the~~
25 ~~Medicaid Fraud Settlement Fund. Any money in the Health and Human~~
26 ~~Services Cash Fund available for investment shall be invested by the~~
27 ~~state investment officer pursuant to the Nebraska Capital Expansion Act~~
28 ~~and the Nebraska State Funds Investment Act.~~

29 Sec. 20. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
30 19, and 21 of this act become operative on July 1, 2024. The other
31 sections of this act become operative on their effective date.

1 Sec. 21. Original section 81-5,153, Reissue Revised Statutes of
2 Nebraska, and sections 71-2485, 71-2486, 71-2487, 71-2488, 71-2489,
3 71-2490, and 81-3119, Revised Statutes Cumulative Supplement, 2022, are
4 repealed.

5 Sec. 22. Original sections 28-401.01, 38-1201, and 38-1225, Revised
6 Statutes Cumulative Supplement, 2022, are repealed.

7 Sec. 23. Since an emergency exists, this act takes effect when
8 passed and approved according to law.