

AMENDMENTS TO LB 712

Introduced by Judiciary.

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

3 Section 1. Section 25-410, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 25-410 (1) For the convenience of the parties and
6 witnesses or in the interest of justice, a district court of
7 any county, the transferor court, may transfer any civil action
8 to the district court of any other county in this state, the
9 transferee court. The transfer may occur before or after the entry
10 of judgment, and there shall be no additional fees required for the
11 transfer.

12 (2) To transfer a civil action, the transferor court
13 shall order transfer of the action to the specific transferee court
14 requested. The clerk of the transferor court shall file with the
15 transferee court within ten days after the entry of the transfer
16 order: Certification of the proceedings; all original documents of
17 the action; certification of the transcript of docket entries; and
18 certification of the payment records of any judgment in the action
19 maintained by the transferor court.

20 (3) Upon the filing of such documents by the clerk of the
21 transferor court, the clerk of the transferee court shall enter any
22 judgment in the action on the judgment record of the transferee
23 court. The judgment, once filed and entered on the judgment record

1 of the transferee court, shall be a lien on the property of the
2 debtor in any county in which such judgment is filed. Transfer of
3 the action shall not change the obligations of the parties under
4 any judgment entered in the action regardless of the status of the
5 transfer.

6 (4) If the transferred civil action involves a support
7 order that has payment records maintained by the Title IV-D
8 division, as defined in section 43-3341, the transferor court order
9 shall notify the division to make the necessary changes in the
10 support payment records. Support payments shall commence in the
11 transferee court on the first day of the month following the
12 order of transfer and payments made prior to such date shall be
13 considered payment on a judgment entered by the transferor court
14 and payments made on and after such date shall be considered
15 payment on a judgment entered by the transferee court.

16 Sec. 2. Section 25-1625, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 25-1625 (1) In each county of the State of Nebraska there
19 shall be a jury commissioner.

20 (2) In counties having a population of not more than
21 fifty thousand inhabitants, the clerk of the district court shall
22 be jury commissioner ex officio.

23 (3) In counties having a population of more than fifty
24 thousand, and not more than ~~one~~ two hundred ~~fifty~~ thousand
25 inhabitants, the jury commissioner shall be a separate office
26 in the county government or the duties may be performed, when
27 authorized by the judges of the district court within such

1 counties, by the election commissioner. The jury commissioner
2 shall receive an annual salary of not less than twelve hundred
3 dollars.

4 ~~(4) In counties having a population of more than one~~
5 ~~hundred fifty thousand inhabitants and not more than two hundred~~
6 ~~thousand inhabitants, the clerk of the district court shall perform~~
7 ~~the duties of jury commissioner without additional compensation.~~

8 ~~(5)~~ (4) In counties having a population in excess of
9 two hundred thousand inhabitants, the judges of the district court
10 within such counties shall determine whether the clerk of the
11 district court will perform the duties of jury commissioner without
12 additional compensation or the election commissioner will be jury
13 commissioner ex officio.

14 ~~(6)~~ (5) In all counties the necessary expenses incurred
15 in the performance of the duties of jury commissioner shall be
16 paid by the county board of the county out of the general fund,
17 upon proper claims approved by one of the district judges in the
18 judicial district and duly filed with the county board.

19 ~~(7)~~ (6) In all counties the jury commissioner shall
20 prepare and file the annual inventory statement with the county
21 board of the county of all county personal property in his or her
22 custody or possession, as provided in sections 23-346 to 23-350.

23 Sec. 3. Section 25-1628, Revised Statutes Supplement,
24 2009, is amended to read:

25 25-1628 (1) At least once each calendar year, the
26 officer having charge of the election records shall furnish to
27 the jury commissioner a complete list of the names, dates of

1 birth, and addresses, and motor vehicle operator license numbers
2 or state identification card numbers of all registered electors
3 nineteen years of age or older in the county. The Department
4 of Motor Vehicles shall make available to each jury commissioner
5 each December a list in magnetic, optical, digital, or other
6 electronic format mutually agreed to by the jury commissioner and
7 the department containing the names, dates of birth, and addresses,
8 and motor vehicle operator license numbers or state identification
9 card numbers of all licensed motor vehicle operators and state
10 identification card holders nineteen years of age or older in the
11 county. The jury commissioner may request such a list of licensed
12 motor vehicle operators and state identification card holders from
13 the county treasurer if the county treasurer has an automated
14 procedure for developing such lists. If a jury commissioner
15 requests similar lists at other times from the department, the
16 cost of processing such lists shall be paid by the county which the
17 requesting jury commissioner serves.

18 (2) Upon receipt of both lists described in subsection
19 (1) of this section, the jury commissioner shall combine the
20 separate lists and attempt to reduce duplication to the best of
21 his or her ability to produce a master list. In counties having
22 a population of ~~three~~ seven thousand inhabitants or more, the
23 jury commissioner shall produce a master list at least once each
24 calendar year. In counties having a population of three thousand
25 inhabitants but less than three seven thousand inhabitants, the
26 jury commissioner shall produce a master list at least once every
27 two calendar years. In counties having a population of less than

1 three thousand inhabitants, the jury commissioner shall produce a
2 master list at least once every five calendar years.

3 (3) The proposed juror list shall be derived by selecting
4 from the master list the name of the person whose numerical order
5 on such list corresponds with the key number and each successive
6 tenth name thereafter. The jury commissioner shall certify that
7 the proposed juror list has been made in accordance with sections
8 25-1625 to 25-1637.

9 (4) Any duplication of names on a master list shall not
10 be grounds for quashing any panel pursuant to section 25-1637 or
11 for the disqualification of any juror.

12 Sec. 4. Section 25-2720.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 25-2720.01 The county court, including the Small Claims
15 Court and the county court when sitting as a juvenile court, shall
16 have the power to set aside default judgments and to vacate or
17 modify its own judgments or orders during or after the term at
18 which such judgments or orders were made in the same manner as
19 provided for actions filed in the district court.

20 Sec. 5. Section 25-2803, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 25-2803 (1) Parties in the Small Claims Court may
23 be individuals, partnerships, limited liability companies,
24 corporations, unions, associations, or any other kind of
25 organization or entity.

26 (2) No party shall be represented by an attorney in the
27 Small Claims Court except as provided in ~~section~~ sections 25-2804

1 and 25-2805.

2 (3) An individual shall represent himself or herself in
3 the Small Claims Court. A partnership shall be represented by a
4 partner or one of its employees. A limited liability company shall
5 be represented by a member, a manager, or one of its employees.
6 A union shall be represented by a union member or union employee.
7 A corporation shall be represented by one of its employees. An
8 association shall be represented by one of its members or by an
9 employee of the association. Any other kind of organization or
10 entity shall be represented by one of its members or employees.

11 (4) Only a party, natural or otherwise, who has been a
12 party to the transaction with the defendant for which the claim is
13 brought may file and prosecute a claim in the Small Claims Court.

14 (5) No party may file an assigned claim in the Small
15 Claims Court.

16 (6) No party shall file more than two claims within any
17 calendar week nor more than ten claims in any calendar year in
18 the Small Claims Court. This subsection shall not apply to actions
19 brought pursuant to section 25-21,194.

20 (7) Notwithstanding any other provision of this section,
21 a personal representative of a decedent's estate, a guardian, or a
22 conservator may be a party in the Small Claims Court.

23 Sec. 6. Section 25-2804, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 25-2804 (1) Actions in the Small Claims Court shall be
26 commenced by the filing of a claim, personally or by mail, by
27 the plaintiff on a form provided by the clerk of a county court.

1 The claim form shall be executed by the plaintiff in the presence
2 of a judge, a clerk or deputy or assistant clerk of a county
3 court, or a notary public or other person authorized by law to
4 take acknowledgments. If not filed in person, the claim form and
5 appropriate fees shall be mailed by the plaintiff to the court of
6 proper jurisdiction.

7 (2) At the time of the filing of the claim, the plaintiff
8 shall pay a fee of six dollars and twenty-five cents to the clerk.
9 One dollar and twenty-five cents of such fee shall be remitted to
10 the State Treasurer for credit to the Nebraska Retirement Fund for
11 Judges.

12 (3) Upon filing of a claim in the Small Claims Court,
13 the court shall set a time for hearing and shall cause notice to
14 be served upon the defendant. Notice shall be served not less than
15 five days before the time set for hearing. Notice shall consist
16 of a copy of the complaint and a summons directing the defendant
17 to appear at the time set for hearing and informing the defendant
18 that if he or she fails to appear, judgment will be entered against
19 him or her. Notice shall be served in the manner provided for
20 service of a summons in a civil action. If the notice is to be
21 served by certified mail, the clerk shall provide the plaintiff
22 with written instructions, prepared and provided by the State
23 Court Administrator, regarding the proper procedure for service by
24 certified mail. The cost of service shall be paid by the plaintiff,
25 but such cost and filing fee shall be added to any judgment given
26 the plaintiff.

27 (4) The defendant may file a setoff or counterclaim. Any

1 setoff or counterclaim shall be filed and a copy delivered to
2 the plaintiff at least two days prior to the time of trial. If
3 the setoff or counterclaim exceeds the jurisdictional limits of
4 the Small Claims Court as established pursuant to section 25-2802,
5 the court shall cause the entire matter to be transferred to the
6 regular county court docket and set for trial.

7 (5) No prejudgment actions for attachment, garnishment,
8 replevin, or other provisional remedy may be filed in the Small
9 Claims Court.

10 (6) All forms required by this section shall be
11 prescribed by the Supreme Court. The claim form shall provide for
12 the names and addresses of the plaintiff and defendant, a concise
13 statement of the nature, amount, and time and place of accruing of
14 the claim, and an acknowledgment for use by the person in whose
15 presence the claim form is executed and shall also contain a brief
16 explanation of the Small Claims Court procedure and methods of
17 appeal therefrom.

18 ~~(7) Judgments rendered against a defendant in his or her~~
19 ~~absence may not be set aside but may only be appealed as governed~~
20 ~~by section 25-2807.~~

21 (7) For a default judgment rendered by a Small Claims
22 Court (a) the default judgment may be appealed as provided in
23 section 25-2807, (b) if a motion for a new trial, by the procedure
24 provided in sections 25-1142, 25-1144, and 25-1144.01, is filed ten
25 days or less after entry of the default judgment, the court may act
26 upon the motion without a hearing, or (c) if more than ten days
27 have passed since the entry of the default judgment, the court may

1 set aside, vacate, or modify the default judgment as provided in
2 section 25-2720.01. Parties may be represented by attorneys for the
3 purpose of filing a motion for a new trial or to set aside, vacate,
4 or modify a default judgment.

5 Sec. 7. Section 29-1207, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 29-1207 (1) Every person indicted or informed against for
8 any offense shall be brought to trial within six months, and such
9 time shall be computed as provided in this section.

10 (2) Such six-month period shall commence to run from the
11 date the indictment is returned or the information filed, unless
12 the offense is a misdemeanor offense involving intimate partners,
13 as that term is defined in section 28-323, in which case the
14 six-month period shall commence from the date the defendant is
15 arrested on a complaint filed as part of a warrant for arrest.

16 (3) If a defendant is to be tried again following a
17 mistrial, an order for a new trial, or an appeal or collateral
18 attack, such period shall commence to run from the date of the
19 mistrial, order granting a new trial, or the mandate on remand.

20 (4) The following periods shall be excluded in computing
21 the time for trial:

22 (a) The period of delay resulting from other proceedings
23 concerning the defendant, including, but not limited to, an
24 examination and hearing on competency and the period during which
25 he or she is incompetent to stand trial; the time from filing until
26 final disposition of pretrial motions of the defendant, including
27 motions to suppress evidence, motions to quash the indictment or

1 information, demurrers and pleas in abatement, and motions for a
2 change of venue; and the time consumed in the trial of other
3 charges against the defendant;

4 (b) The period of delay resulting from a continuance
5 granted at the request or with the consent of the defendant or his
6 or her counsel. A defendant without counsel shall not be deemed to
7 have consented to a continuance unless he or she has been advised
8 by the court of his or her right to a speedy trial and the effect
9 of his or her consent. A defendant who has sought and obtained
10 a continuance which is indefinite has an affirmative duty to end
11 the continuance by giving notice of request for trial, or, the
12 court can end the continuance by setting a trial date. When the
13 court ends an indefinite continuance by setting a trial date, the
14 excludable period resulting from the indefinite continuance ends
15 on the date for which trial commences. A defendant is deemed to
16 have waived his or her right to speedy trial when the period of
17 delay resulting from a continuance granted at the request of the
18 defendant or his or her counsel extends the trial date beyond the
19 statutory six-month period;

20 (c) The period of delay resulting from a continuance
21 granted at the request of the prosecuting attorney, if:

22 (i) The continuance is granted because of the
23 unavailability of evidence material to the state's case, when the
24 prosecuting attorney has exercised due diligence to obtain such
25 evidence and there are reasonable grounds to believe that such
26 evidence will be available at the later date; or

27 (ii) The continuance is granted to allow the prosecuting

1 attorney additional time to prepare the state's case and additional
2 time is justified because of the exceptional circumstances of the
3 case;

4 (d) The period of delay resulting from the absence or
5 unavailability of the defendant;

6 (e) A reasonable period of delay when the defendant is
7 joined for trial with a codefendant as to whom the time for trial
8 has not run and there is good cause for not granting a severance.
9 In all other cases, the defendant shall be granted a severance so
10 that he or she may be tried within the time limits applicable to
11 him or her; and

12 (f) Other periods of delay not specifically enumerated in
13 this section, but only if the court finds that they are for good
14 cause.

15 Sec. 8. Section 29-1208, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 29-1208 If a defendant is not brought to trial before the
18 running of the time for trial as provided for in section 29-1207,
19 as extended by excluded periods, he or she shall be entitled to
20 his or her absolute discharge from the offense charged and for any
21 other offense required by law to be joined with that offense.

22 Sec. 9. Section 29-2412, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 29-2412 (1) Whenever it is made satisfactorily to appear
25 to the district court, or to the county judge of the proper county,
26 after all legal means have been exhausted, that any person who is
27 subject to being or is confined in jail for any fine or costs of

1 prosecution for any criminal offense has no estate with which to
2 pay such fine or costs, it shall be the duty of such court or
3 judge, on his or her own motion or upon the motion of the person
4 so confined, to discharge such person from further imprisonment for
5 such fine or costs, which discharge shall operate as a complete
6 release of such fine or costs.

7 (2) Nothing in this section shall authorize any person to
8 be discharged from imprisonment before the expiration of the time
9 for which he or she may be sentenced to be imprisoned, as part
10 of his or her punishment, or when such person shall default on a
11 payment due pursuant to an installment agreement arranged by the
12 court.

13 (3) Any person held in custody for nonpayment of a fine
14 or costs or for default on an installment shall be entitled to a
15 credit on the fine, costs, or installment of ~~sixty~~ ninety dollars
16 for each day so held. In no case shall a person held in custody
17 for nonpayment of a fine or costs be held in such custody for more
18 days than the maximum number to which he or she could have been
19 sentenced if the penalty set by law includes the possibility of
20 confinement.

21 Sec. 10. Section 30-2322, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 30-2322 A surviving spouse of a decedent who was
24 domiciled in this state is entitled to a homestead allowance
25 of seven thousand five hundred dollars for a decedent who dies
26 before January 1, 2011, and twenty thousand dollars for a decedent
27 who dies on or after January 1, 2011. If there is no surviving

1 spouse, each minor child and each dependent child of the decedent
2 is entitled to a homestead allowance amounting to ~~seven thousand~~
3 ~~five hundred dollars~~ the amount allowed for a surviving spouse
4 divided by the number of minor and dependent children of the
5 decedent. The homestead allowance is exempt from and has priority
6 over all claims against the estate except for costs and expenses
7 of administration. Homestead allowance is in addition to any share
8 passing to the surviving spouse or minor or dependent child by
9 the will of the decedent unless otherwise provided therein, by
10 intestate succession or by way of elective share.

11 Sec. 11. Section 30-2323, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 30-2323 (1) In addition to the homestead allowance, the
14 surviving spouse of a decedent who was domiciled in this state
15 is entitled from the estate to value not exceeding five thousand
16 dollars for a decedent who dies before January 1, 2011, and twelve
17 thousand five hundred dollars for a decedent who dies on or after
18 January 1, 2011, in excess of any security interests therein
19 in household furniture, automobiles, furnishings, appliances, and
20 personal effects. If there is no surviving spouse, children of the
21 decedent are entitled jointly to the same value unless the decedent
22 has provided in his or her will that one or more of such children
23 shall be disinherited, in which case only those children not so
24 disinherited shall be so entitled. For purposes of this section,
25 disinherited means providing in one's will that a child shall take
26 nothing or a nominal amount of ten dollars or less from the estate.

27 (2) If encumbered chattels are selected and if the

1 value in excess of security interests, plus that of other exempt
2 property, is less than ~~five thousand dollars~~, the amount allowed
3 under subsection (1) of this section, or if there is not ~~five~~
4 ~~thousand dollars~~ that amount worth of exempt property in the
5 estate, the spouse or children are entitled to other assets of
6 the estate, if any, to the extent necessary to make up the ~~five~~
7 ~~thousand dollars value~~. amount allowed under subsection (1) of this
8 section. Rights to exempt property and assets needed to make up a
9 deficiency of exempt property have priority over all claims against
10 the estate except for costs and expenses of administration, and
11 except that the right to any assets to make up a deficiency of
12 exempt property shall abate as necessary to permit prior payment of
13 homestead allowance and family allowance.

14 (3) These rights are in addition to any benefit or share
15 passing to the surviving spouse by the will of the decedent unless
16 otherwise provided therein, by intestate succession, or by way of
17 elective share. These rights are in addition to any benefit or
18 share passing to the surviving children by intestate succession and
19 are in addition to any benefit or share passing by the will of
20 the decedent to those surviving children not disinherited unless
21 otherwise provided in the will.

22 Sec. 12. Section 30-2325, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 30-2325 If the estate is otherwise sufficient, property
25 specifically devised is not used to satisfy rights to homestead and
26 exempt property. Subject to this restriction, the surviving spouse,
27 the guardians of the minor children, or children who are adults

1 may select property of the estate as homestead allowance and exempt
2 property. After giving such notice as the court may require in a
3 proceeding initiated under the provisions of section 30-2405, the
4 personal representative may make these selections if the surviving
5 spouse, the children or the guardians of the minor children are
6 unable or fail to do so within a reasonable time or if there are
7 no guardians of the minor children. The personal representative
8 may execute an instrument or deed of distribution to establish
9 the ownership of property taken as homestead allowance or exempt
10 property. ~~He or she~~ The personal representative may determine the
11 family allowance in a lump sum not exceeding nine thousand dollars
12 for a decedent who dies before January 1, 2011, and twenty thousand
13 dollars for a decedent who dies on or after January 1, 2011, or
14 periodic installments not exceeding seven hundred fifty dollars per
15 month for one year for a decedent who dies before January 1, 2011,
16 and one thousand six hundred sixty-six dollars and sixty-seven
17 cents per month for one year, and for a decedent who dies on or
18 after January 1, 2011. The personal representative may disburse
19 funds of the estate in payment of the family allowance and any
20 part of the homestead allowance payable in cash. The personal
21 representative or any interested person aggrieved by any selection,
22 determination, payment, proposed payment, or failure to act under
23 this section may petition the court for appropriate relief, which
24 relief may provide a family allowance larger or smaller than
25 that which the personal representative determined or could have
26 determined.

27 The homestead allowance, the exempt property, and

1 the family allowance as finally determined by the personal
2 representative or by the court, shall vest in the surviving spouse
3 as of the date of decedent's death, as a vested indefeasible right
4 of property, shall survive as an asset of the surviving spouse's
5 estate if unpaid on the date of death of such surviving spouse, and
6 shall not terminate upon the death or remarriage of the surviving
7 spouse.

8 Sec. 13. Section 30-2664, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 30-2664 Sections 30-2664 to 30-2672 and section 14 of
11 this act shall be known and may be cited as the Uniform Durable
12 Power of Attorney Act.

13 Sec. 14. An agent or attorney in fact under a durable
14 power of attorney may do the following on behalf of the principal
15 or with the principal's property only if the durable power of
16 attorney expressly grants the agent or attorney in fact the
17 authority and exercise of the authority is not otherwise prohibited
18 by another agreement or instrument to which the authority or
19 property is subject:

20 (1) Create or change rights of survivorship; or

21 (2) Create or change a beneficiary designation.

22 Sec. 15. (1) A person who owns a motor vehicle may
23 provide for the transfer of such vehicle upon his or her death or
24 the death of the last survivor of a joint tenancy with right of
25 survivorship by including in the certificate of title a designation
26 of beneficiary or beneficiaries to whom the vehicle will be
27 transferred on the death of the owner or the last survivor,

1 subject to the rights of all lienholders, whether created before,
2 simultaneously with, or after the creation of the transfer-on-death
3 interest. A trust may be the beneficiary of a transfer-on-death
4 certificate of title. The certificate of title shall include the
5 name of the owner, the name of any tenant-in-common owner or the
6 name of any joint-tenant-with-right-of-survivorship owner, followed
7 in substance by the words transfer on death to (name of beneficiary
8 or beneficiaries or name of trustee if a trust is to be the
9 beneficiary). The abbreviation TOD may be used instead of the words
10 transfer on death to.

11 (2) A transfer-on-death beneficiary shall have no
12 interest in the motor vehicle until the death of the owner or
13 the last survivor of the joint-tenant-with-right-of-survivorship
14 owners. A beneficiary designation may be changed at any time by
15 the owner or by the joint-tenant-with-right-of-survivorship owners
16 then surviving without the consent of any beneficiary by filing an
17 application for a subsequent certificate of title.

18 (3) Ownership of a motor vehicle which has a designation
19 of beneficiary as provided in subsection (1) of this section
20 and for which an application for a subsequent certificate of
21 title has not been filed shall vest in the designated beneficiary
22 or beneficiaries on the death of the owner or the last of
23 the joint-tenant-with-right-of-survivorship owners, subject to the
24 rights of all lienholders.

25 Sec. 16. Section 30-2715, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 30-2715 (a) A provision for a nonprobate transfer on

1 death in an insurance policy, contract of employment, bond,
2 mortgage, promissory note, certificated or uncertificated security,
3 account agreement, custodial agreement, deposit agreement,
4 compensation plan, pension plan, individual retirement plan,
5 employee benefit plan, trust, marital property agreement,
6 certificate of title, or other written instrument of a similar
7 nature is nontestamentary. This subsection includes a written
8 provision that:

9 (1) money or other benefits due to, controlled by, or
10 owned by a decedent before death must be paid after the decedent's
11 death to a person whom the decedent designates either in the
12 instrument or in a separate writing, including a will, executed
13 either before or at the same time as the instrument, or later;

14 (2) money due or to become due under the instrument
15 ceases to be payable in the event of death of the promisee or the
16 promisor before payment or demand; or

17 (3) any property controlled by or owned by the decedent
18 before death which is the subject of the instrument passes to a
19 person the decedent designates either in the instrument or in a
20 separate writing, including a will, executed either before or at
21 the same time as the instrument, or later.

22 (b) This section does not limit rights of creditors under
23 other laws of this state.

24 Sec. 17. Section 43-512.12, Revised Statutes Supplement,
25 2009, is amended to read:

26 43-512.12 (1) Child support orders in cases in which
27 a party has applied for services under Title IV-D of the

1 federal Social Security Act, as amended, shall be reviewed by
2 the Department of Health and Human Services to determine whether
3 to refer such orders to the county attorney or authorized attorney
4 for filing of an application for modification. An order shall
5 be reviewed by the department upon its own initiative or at the
6 request of either parent when such review is required by Title IV-D
7 of the federal Social Security Act, as amended. After review the
8 department shall refer an order to a county attorney or authorized
9 attorney when the verifiable financial information available to the
10 department indicates:

11 ~~(1)~~ (a) The present child support obligation varies from
12 the Supreme Court child support guidelines pursuant to section
13 42-364.16 by more than the percentage, amount, or other criteria
14 established by Supreme Court rule, and the variation is due to
15 financial circumstances which have lasted at least three months and
16 can reasonably be expected to last for an additional six months; or

17 ~~(2)~~ (b) Health care coverage meeting the requirements
18 of subsection (2) of section 42-369 is available to either party
19 and the children do not have health care coverage other than
20 the medical assistance program under the Medical Assistance Act. ~~An~~
21 ~~order~~ Health care coverage cases may be modified within three years
22 of entry of the order.

23 (2) Orders that are not addressed under subsection (1)
24 of this section shall not be reviewed by the department if it has
25 not been three years since the present child support obligation was
26 ordered. ~~An order shall not be reviewed by the department more than~~
27 ~~once every three years~~ unless the requesting party demonstrates

1 a substantial change in circumstances, ~~and an~~ that is expected
2 to last for the applicable time period established by subdivision
3 (1)(a) of this section. Such substantial change in circumstances
4 may include, but is not limited to, change in employment, earning
5 capacity, income, or receipt of an ongoing source of income from
6 a pension, gift, or lottery winnings. An order may be reviewed
7 after one year if the department's determination after the previous
8 review was not to refer to the county attorney or authorized
9 attorney for filing of an application for modification because
10 financial circumstances had not lasted or were not expected to last
11 for the time periods established by subdivision ~~(1)~~ (1)(a) of this
12 section.

13 Sec. 18. Section 43-1701, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-1701 Sections 43-1701 to 43-1743 and section 21 of
16 this act shall be known and may be cited as the Income Withholding
17 for Child Support Act.

18 Sec. 19. Section 43-1702, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-1702 It is the intent of the Legislature to encourage
21 the use of all proven techniques for the collection of child,
22 spousal, and medical support and monetary judgments. While income
23 withholding is the preferred technique, other techniques such as
24 liens on property and contempt proceedings should be used when
25 appropriate. The purpose of the Income Withholding for Child
26 Support Act is to provide a simplified and relatively automatic
27 procedure for implementing income withholding in order to guarantee

1 that child, spousal, and medical support obligations and monetary
2 judgments are met when income is available for that purpose, to
3 encourage voluntary withholding by obligors, and to facilitate
4 the implementation of income withholding based on foreign support
5 orders.

6 Sec. 20. Section 43-1703, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-1703 For purposes of the Income Withholding for Child
9 Support Act, unless the context otherwise requires, the definitions
10 found in sections 43-1704 to 43-1717 and section 21 of this act
11 shall be used.

12 Sec. 21. Monetary judgment shall mean a monetary judgment
13 against an obligor that is unsatisfied and is owed to the federal
14 or state governmental unit in a case in which services are being
15 provided under Title IV-D of the federal Social Security Act, as
16 amended, and the judgment is related to the support of a child.
17 Monetary judgment includes, but is not limited to, the cost of
18 genetic testing that the obligor has been ordered to pay by a
19 court, plus any accumulated interest on the judgment under sections
20 45-103 to 45-103.04, whether the order was issued prior to, on, or
21 after the operative date of this section.

22 Sec. 22. Section 43-1717, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-1717 Support order shall mean any order, decree, or
25 judgment for child, spousal, or medical support or for payment
26 of any arrearage for such support issued by a court or agency
27 of competent jurisdiction, whether issued prior to, on, or after

1 November 16, 1985, whether for temporary or permanent support,
2 whether interlocutory or final, whether or not modifiable, and
3 whether or not incidental to a proceeding for dissolution of
4 marriage, judicial or legal separation, separate maintenance,
5 paternity, guardianship, or civil protection or any other action. A
6 support order may include payment for any monetary judgment.

7 Sec. 23. Section 43-1718.02, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-1718.02 (1) In any case in which services are not
10 provided under Title IV-D of the federal Social Security Act, as
11 amended, and a support order has been issued or modified on or
12 after July 1, 1994, the obligor's income shall be subject to income
13 withholding regardless of whether or not payments pursuant to such
14 order are in arrears, and the court shall require such income
15 withholding in its order unless:

16 (a) One of the parties demonstrates and the court
17 finds that there is good cause not to require immediate income
18 withholding; or

19 (b) A written agreement between the parties providing an
20 alternative arrangement is incorporated into the support order.

21 (2) If the court pursuant to subsection (1) of this
22 section orders income withholding regardless of whether or not
23 payments are in arrears, the obligor shall prepare a notice
24 to withhold income. The notice to withhold income shall be
25 substantially similar to a prototype prepared by the department and
26 made available by the department to the State Court Administrator
27 and the clerks of the district courts. The notice to withhold shall

1 direct:

2 (a) That the employer or other payor shall withhold
3 from the obligor's disposable income the amount stated in the
4 notice to withhold for the purpose of satisfying the obligor's
5 ongoing obligation for support payments as they become due, ~~and~~ if
6 there are arrearages, ~~reducing~~ to reduce such arrearages in child,
7 spousal, or medical support payments arising from the obligor's
8 failure to fully comply with a support order, and after the
9 obligor's support obligation is current, to satisfy any monetary
10 judgment against the obligor;

11 (b) That the employer or other payor shall pay to the
12 obligor, on his or her regularly scheduled payday, such income then
13 due which is not required to be withheld as stated on the notice or
14 pursuant to any court order;

15 (c) That the employer or other payor shall not withhold
16 more than the maximum amount permitted to be withheld under section
17 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C.
18 1673(b)(2)(A) and (B), and the amount withheld, including interest,
19 to satisfy an arrearage of child, spousal, or medical support or
20 any monetary judgment when added to the amount withheld to pay
21 current support and the fee provided for in subdivision (2)(d) of
22 this section shall not exceed such maximum amount;

23 (d) That the employer or other payor may assess an
24 additional administrative fee from the obligor's disposable income
25 not to exceed two dollars and fifty cents in any calendar month
26 as compensation for the employer's or other payor's reasonable cost
27 incurred in complying with the notice;

1 (e) That the employer or other payor shall remit, within
2 seven days after the date the obligor is paid and in the manner
3 specified in the notice, the income withheld, less the deduction
4 allowed as an administrative fee by subdivision (2)(d) of this
5 section, to the State Disbursement Unit and shall notify the unit
6 of the date such income was withheld;

7 (f) That the notice to withhold income shall terminate
8 with respect to the employer or other payor without any court
9 action or action by the obligor thirty days after the obligor
10 ceases employment with or is no longer entitled to income from such
11 employer or other payor;

12 (g) That the employer or other payor may combine amounts
13 required to be withheld from the income of two or more obligors in
14 a single payment to the unit if the portion of the single payment
15 which is attributable to each individual obligor is separately
16 identified;

17 (h) That an employer or other payor who fails to withhold
18 and remit income of an obligor after receiving proper notice or who
19 discriminates, demotes, disciplines, or terminates an employee or
20 payee after receiving a notice to withhold income shall be subject
21 to the penalties prescribed in subsections (4) and (5) of this
22 section; and

23 (i) That if the employer or other payor receives more
24 than one notice to withhold income of a single obligor and the
25 amount of income available to be withheld pursuant to the limits
26 specified in subdivision (c) of this subsection is insufficient to
27 satisfy the total support amount ~~certified~~ stated in the notices,

1 the income available shall first be applied to current support. If
2 the total amount of income available to be withheld is insufficient
3 to satisfy the total amount of current support ~~certified~~ stated
4 by the notices, the employer or other payor shall withhold for
5 each notice the proportion that the amount of the current support
6 ~~certified~~ stated in such notice bears to the total amount of
7 current support ~~certified~~ stated in all notices received for
8 the obligor. Any remaining income available to be withheld after
9 current support is satisfied for all notices shall be applied to
10 arrearages. If arrearages are ~~certified~~ stated in more than one
11 notice, the employer or other payor shall withhold for each notice
12 the proportion that the amount of the arrearage ~~certified~~ stated in
13 such notice bears to the total amount of arrearage ~~certified~~ stated
14 in all notices received for the obligor. Any income available to be
15 withheld after the obligor's support obligation is current shall be
16 applied to any monetary judgment. If a monetary judgment is stated
17 in more than one notice, the employer or other payor shall withhold
18 for each notice the proportion that the amount of the monetary
19 judgments stated in such notice bears to the total amount of
20 monetary judgments stated in all notices received for the obligor.

21 Compliance with the order by the employer or other payor
22 shall operate as a discharge of the employer's or other payor's
23 liability to the obligor as to the portion of the obligor's income
24 withheld.

25 (3) The obligor shall deliver the notice to withhold
26 income to his or her current employer or other payor and provide a
27 copy of such notice to the clerk of the district court.

1 (4) Any employer or other payor who fails to withhold and
2 remit any income of an obligor receiving income from the employer
3 or other payor, after proper notice as provided in subsection (2)
4 of this section, shall be required to pay to the unit the amount
5 specified in the notice.

6 (5) An employer or other payor shall not use an order or
7 notice to withhold income or order or the possibility of income
8 withholding as a basis for (a) discrimination in hiring, (b)
9 demotion of an employee or payee, (c) disciplinary action against
10 an employee or payee, or (d) termination of an employee or payee.

11 Upon application by the obligor and after a hearing on
12 the matter, the court may impose a civil fine of up to five hundred
13 dollars for each violation of this subsection.

14 An employer or other payor who violates this subsection
15 shall be required to make full restitution to the aggrieved
16 employee or payee, including reinstatement and backpay.

17 (6) When an obligor ceases employment with or is no
18 longer entitled to income from an employer or other payor, the
19 notice to withhold income shall not cease to operate against the
20 obligor and income withholding shall continue to apply to any
21 subsequent employment or income of the obligor. The notice to
22 withhold income shall terminate with respect to the employer or
23 other payor without any court action or action by the obligor
24 thirty days after the obligor ceases employment with or is no
25 longer entitled to income from such employer or other payor. A
26 notice to withhold income shall also terminate when the child,
27 spousal, or medical support obligation terminates, ~~and~~ all past-due

1 support has been paid, and any monetary judgment has been paid, in
2 which case the obligor shall notify the employer or other payor to
3 cease withholding income.

4 (7) A notice to withhold income may be modified or
5 revoked by a court of competent jurisdiction as a result of
6 modification of the support order. A notice to withhold income may
7 also be modified or revoked by a court of competent jurisdiction,
8 for other good cause shown, after notice and a hearing on the
9 issue.

10 (8) The obligee or obligor may file an action in district
11 court to enforce this section.

12 (9) If after an order is issued in any case under this
13 section the case becomes one in which services are provided under
14 Title IV-D of the federal Social Security Act, as amended, the
15 county attorney or authorized attorney or the Department of Health
16 and Human Services shall implement income withholding as otherwise
17 provided in the Income Withholding for Child Support Act.

18 Sec. 24. Section 43-1720, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-1720 If the department has previously sent a notice of
21 assignment and opportunity for hearing on the same support order
22 under section 48-647, the county attorney, authorized attorney,
23 or the department shall ~~certify~~ state the amount to be withheld
24 from an obligor's disposable income pursuant to section 43-1722
25 and shall notify the obligor's employer or other payor pursuant
26 to section 43-1723. If the department has not previously sent
27 such notice, and except in cases in which the court has ordered

1 income withholding pursuant to subsection (1) of section 43-1718.01
2 or section 43-1718.02, upon receiving certification pursuant to
3 section 42-358 or notice of delinquent payments of medical support,
4 the county attorney, the authorized attorney, or the department
5 shall send a notice by certified mail to the last-known address of
6 the obligor stating:

7 (1) That an assignment of his or her income by means of
8 income withholding will go into effect within fifteen days after
9 the date the notice is sent;

10 (2) That the income withholding will continue to apply to
11 any subsequent employer or other payor of the obligor;

12 (3) The amount of support and any monetary judgment the
13 obligor owes;

14 (4) The amount of income that will be withheld; and

15 (5) That within the fifteen-day period, the obligor may
16 request a hearing in the manner specified in the notice to contest
17 a mistake of fact. For purposes of this subdivision, mistake of
18 fact shall mean (a) an error in the amount of current or overdue
19 support or the amount of any monetary judgment, (b) an error in
20 the identity of the obligor, or (c) an error in the amount to be
21 withheld as provided in section 43-1722.

22 Sec. 25. Section 43-1722, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-1722 (1) If no hearing is requested by the obligor,
25 (2) if after a hearing the department determines that the
26 assignment should go into effect, (3) in cases in which the
27 court has ordered income withholding pursuant to subsection (1)

1 of section 43-1718.01, or (4) in cases in which the court has
2 ordered income withholding pursuant to section 43-1718.02, which
3 case subsequently becomes one in which services are being provided
4 under Title IV-D of the federal Social Security Act, as amended,
5 the county attorney, the authorized attorney, or the department
6 shall ~~certify~~ state the amount to be withheld from the obligor's
7 disposable income. Such amount shall not in any case exceed the
8 maximum amount permitted to be withheld under section 303(b) of
9 the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b) (2) (A)
10 and (B), and the amount withheld, including interest, to satisfy
11 an arrearage of child, spousal, or medical support or any monetary
12 judgment when added to the amount withheld to pay current support
13 and the fee provided for in section 43-1723 shall not exceed such
14 maximum amount.

15 Sec. 26. Section 43-1723, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-1723 Except as otherwise provided in this section,
18 the county attorney, the authorized attorney, or the department
19 shall notify the obligor's employer or other payor, by first-class
20 mail or by electronic means, within the time determined by the
21 department which shall comply with the requirements of Title IV-D
22 of the federal Social Security Act, as amended. The notice shall
23 specify the basis for the assignment of income and shall direct:

24 (1) That the employer or other payor shall withhold from
25 the obligor's disposable income the amount ~~certified~~ stated by the
26 county attorney, the authorized attorney, or the department for
27 the purpose of reducing and satisfying the obligor's (a) previous

1 arrearage in child, spousal, or medical support payments arising
2 from the obligor's failure to fully comply with a support order
3 previously entered, ~~and~~ (b) ongoing obligation for support payments
4 as they become due, and (c) then any monetary judgment;

5 (2) That the employer or other payor shall implement
6 income withholding no later than the first pay period that begins
7 following the date on the notice;

8 (3) That the employer or other payor shall pay to the
9 obligor, on his or her regularly scheduled payday, such income
10 then due which is not ~~certified~~ stated to be withheld pursuant to
11 section 43-1722 or any court order;

12 (4) That the employer or other payor may assess an
13 additional administrative fee from the obligor's disposable income
14 not to exceed two dollars and fifty cents in any calendar month
15 as compensation for the employer's or other payor's reasonable cost
16 incurred in complying with the notice;

17 (5) That the employer or other payor shall remit, within
18 seven days after the date the obligor is paid and in the manner
19 specified in the notice, the income withheld, less the deduction
20 allowed as an administrative expense by subdivision (4) of this
21 section, to the State Disbursement Unit as designated in the notice
22 and shall notify the unit of the date such income was withheld;

23 (6) That the employer or other payor shall notify the
24 county attorney, the authorized attorney, or the department in
25 writing of the termination of the employment or income of the
26 obligor, the last-known address of the obligor, and the name and
27 address of the obligor's new employer or other payor, if known, and

1 shall provide such written notification within thirty days after
2 the termination of employment or income;

3 (7) That income withholding is binding on the employer
4 or other payor until further notice by the county attorney, the
5 authorized attorney, or the department;

6 (8) That the employer or other payor may combine amounts
7 required to be withheld from the income of two or more obligors in
8 a single payment to the unit as designated in an income withholding
9 notice if the portion of the single payment which is attributable
10 to each individual obligor is separately identified;

11 (9) That an employer or other payor who fails to withhold
12 and remit income of an obligor after receiving proper notice or who
13 discriminates, demotes, disciplines, or terminates an employee or
14 payee after receiving an income withholding notice shall be subject
15 to the penalties prescribed in sections 43-1724 and 43-1725; and

16 (10) That if the employer or other payor receives more
17 than one notice to withhold income of a single obligor and
18 the amount of income available to be withheld pursuant to the
19 limits specified in section 43-1722 is insufficient to satisfy
20 the total support amount ~~certified~~ stated in the notices, the
21 income available shall first be applied to current support. If the
22 total amount of income available to be withheld is insufficient
23 to satisfy the total amount of current support ~~certified~~ stated
24 by the notices, the employer or other payor shall withhold for
25 each notice the proportion that the amount of the current support
26 ~~certified~~ stated in such notice bears to the total amount of
27 current support ~~certified~~ stated in all notices received for

1 the obligor. Any remaining income available to be withheld after
2 current support is satisfied for all notices shall be applied to
3 arrearages. If arrearages are ~~certified~~ stated in more than one
4 notice, the employer or other payor shall withhold for each notice
5 the proportion that the amount of the arrearage ~~certified~~ stated in
6 such notice bears to the total amount of arrearage ~~certified~~ stated
7 in all notices received for the obligor. Any income available to be
8 withheld after the obligor's support obligation is current shall be
9 applied to any monetary judgment. If a monetary judgment is stated
10 in more than one notice, the employer or other payor shall withhold
11 for each notice the proportion that the amount of the monetary
12 judgments stated in such notice bears to the total amount of
13 monetary judgments stated in all notices received for the obligor.

14 Compliance with the order by the employer or other payor
15 shall operate as a discharge of the employer's or other payor's
16 liability to the obligor as to the portion of the obligor's income
17 withheld. The county attorney, the authorized attorney, or the
18 department need not notify the Commissioner of Labor as a payor if
19 the commissioner is withholding for child support from the obligor
20 under section 48-647 for the same support order.

21 Sec. 27. Section 43-1724, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-1724 Any employer or other payor who fails to withhold
24 and remit any income of an obligor receiving income from the
25 employer or other payor, after proper notice as provided in
26 section 43-1723, shall be required to pay the ~~certified~~ stated
27 amount to the State Disbursement Unit. The county attorney or

1 authorized attorney may file an action in district court to
2 enforce this section. The court may sanction an employer or other
3 payor twenty-five dollars per day, up to five hundred dollars per
4 incident, for failure to comply with proper notice.

5 Sec. 28. Section 43-1726, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-1726 When an obligor ceases employment with or is
8 no longer entitled to income from an employer or other payor,
9 the notice to withhold income shall not cease to operate against
10 the obligor and income withholding shall continue to apply to
11 any subsequent employment or income of the obligor. The notice
12 to withhold income shall terminate with respect to the employer
13 or other payor without any court action or action by the county
14 attorney, the authorized attorney, or the department thirty days
15 after the obligor ceases employment with or is no longer entitled
16 to income from such employer or other payor, except that a notice
17 to withhold income shall not terminate with respect to unemployment
18 compensation benefits being withheld by the Commissioner of Labor
19 pursuant to section 48-647. The employer or other payor shall
20 return a copy of the notice to withhold income to the county
21 attorney, the authorized attorney, or the department, indicate
22 that the employment or obligation to pay income has ceased, and
23 cooperate in providing any known forwarding information. The county
24 attorney, the authorized attorney, or the department shall notify
25 the clerk of the appropriate district court that such employment or
26 obligation to pay income has ceased. A notice to withhold income
27 shall also terminate when the child, spousal, or medical support

1 obligation terminates, ~~and~~ all past-due support has been paid, and
2 any monetary judgments have been paid in which case the county
3 attorney, the authorized attorney, or the department shall notify
4 the employer or other payor to cease withholding income.

5 Sec. 29. Section 43-1727, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-1727 (1) An income withholding notice may be modified
8 or revoked by a court of competent jurisdiction or by the county
9 attorney, the authorized attorney, or the department as a result
10 of a review conducted pursuant to sections 43-512.12 to 43-512.18.
11 An income withholding notice may also be modified or revoked by
12 a court of competent jurisdiction, for other good cause shown,
13 after notice and a hearing on the issue. An income withholding
14 notice may also be modified or revoked by the county attorney, the
15 authorized attorney, or the department as provided in subsection
16 (2) of this section or for other good cause. Payment by the obligor
17 of overdue support or any monetary judgment, other than through
18 income withholding, after receipt of notice of income withholding
19 shall not by itself constitute good cause for modifying or revoking
20 an income withholding notice.

21 (2) When income withholding has been implemented and, as
22 a result, a support delinquency has been eliminated, the Title
23 IV-D Division or its designee shall notify the county attorney,
24 the authorized attorney, or the department. Upon receipt of such
25 notification, the county attorney, the authorized attorney, or the
26 department shall modify the income withholding notice to require
27 income withholding for current support ~~only~~ and any monetary

1 judgments and shall notify the employer or other payor of the
2 change in the same manner as provided in section 43-1723.

3 Sec. 30. Section 43-3330, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-3330 A financial institution shall receive from the
6 department a listing of obligors to be used in matches within the
7 financial institution's system. The listing from the department
8 shall include the name and social security number or taxpayer
9 identification number of each obligor to be used in matches within
10 the financial institution's system. The financial institution shall
11 receive the listing within thirty days after the end of each
12 calendar quarter subsequent to January 1, 1998, and shall match the
13 listing to its records of accounts held in one or more individuals'
14 names which are open accounts and such accounts closed within the
15 preceding calendar quarter within thirty days after receiving the
16 listing and provide the department with a match listing of all
17 matches made within five working days of the match. The match
18 listing from the financial institution shall include the name,
19 address, and social security number or taxpayer identification
20 number of each obligor matched and the balance of each account. The
21 financial institution shall also provide the names and addresses of
22 all other owners of accounts in the match listing as reflected on a
23 signature card or other similar document on file with the financial
24 institution. The financial institution shall submit all match
25 listings by disk, magnetic tape, or other medium approved by the
26 department. Nothing in this section shall (1) require a financial
27 institution to disclose the account number assigned to the account

1 of any individual or (2) serve to encumber the ownership interest
2 of any person in or impact any right of setoff against an account.
3 The financial institution shall maintain the confidentiality of all
4 records supplied and shall use the records only for the purposes
5 of this section. To maintain the confidentiality of the listing and
6 match listing, the department shall implement appropriate security
7 provisions for the listing and match listing which are as stringent
8 as those established under the Federal Tax Information Security
9 Guidelines for federal, state, and local agencies.

10 Sec. 31. Section 49-1501, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 49-1501 Sections 49-1501 to 49-1561 and section 32 of
13 this act shall be known and may be cited as the Nebraska Short Form
14 Act.

15 Sec. 32. An agent or attorney in fact under a power of
16 attorney, whether the power of attorney is durable or nondurable,
17 may do the following on behalf of the principal or with the
18 principal's property only if the power of attorney expressly grants
19 the agent or attorney in fact the authority and exercise of the
20 authority is not otherwise prohibited by another agreement or
21 instrument to which the authority or property is subject:

22 (1) Create or change rights of survivorship; or

23 (2) Create or change a beneficiary designation.

24 Sec. 33. An agent or attorney in fact under a power of
25 attorney, whether the power of attorney is durable or nondurable,
26 may do the following on behalf of the principal or with the
27 principal's property only if the power of attorney expressly grants

1 the agent or attorney in fact the authority and exercise of the
2 authority is not otherwise prohibited by another agreement or
3 instrument to which the authority or property is subject:

4 (1) Create or change rights of survivorship; or

5 (2) Create or change a beneficiary designation.

6 Sec. 34. Section 69-2304, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 69-2304 A notice given pursuant to section 69-2303 shall
9 contain one of the following statements, as appropriate:

10 (1) "If you fail to reclaim the property, it will be
11 sold at a public sale after notice of the sale has been given
12 by publication. You have the right to bid on the property at
13 this sale. After the property is sold and the costs of storage,
14 advertising, and sale are deducted, the remaining money will
15 be turned over to the State Treasurer pursuant to the Uniform
16 Disposition of Unclaimed Property Act. You may claim the remaining
17 money from the office of the State Treasurer as provided in such
18 act."; or

19 (2) "Because this property is believed to be worth less
20 than ~~two hundred fifty~~ one thousand dollars, it may be kept, sold,
21 or destroyed without further notice if you fail to reclaim it
22 within the time indicated in this notice.".

23 Sec. 35. Section 69-2308, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 69-2308 (1) If the personal property is not released
26 pursuant to section 69-2307, it shall be sold at public sale
27 by competitive bidding, except that if the landlord reasonably

1 believes that the total resale value of the property not released
2 is less than ~~two hundred fifty~~ one thousand dollars, he or she
3 may retain such property for his or her own use or dispose of it
4 in any manner he or she chooses. At such time as the decision to
5 sell or to retain is made, any locked trunk, valise, box, or other
6 container shall be opened, if practicable, with as little damage as
7 possible, and its contents evaluated. Nothing in this section shall
8 be construed to preclude the landlord or the tenant from bidding
9 on the property at the public sale. The successful bidder's title
10 shall be subject to ownership rights, liens, and security interests
11 which have priority by law.

12 (2) Notice of the time and place of the public sale shall
13 be given by advertisement of the sale published once a week for
14 two consecutive weeks in a newspaper of general circulation in the
15 county where the sale is to be held. If there is no newspaper of
16 general circulation in the county where the sale is to be held,
17 the advertisement shall be posted no fewer than ten days before the
18 sale in not less than six conspicuous places in the neighborhood of
19 the proposed sale. The sale shall be held at the nearest suitable
20 place to the place where the personal property is held or stored.
21 The advertisement shall include a description of the goods, the
22 name of the former tenant, and the time and place of the sale.
23 The sale shall take place no sooner than ten days after the first
24 publication. The last publication shall be no less than five days
25 before the sale is to be held. Notice of sale may be published
26 before the last of the dates specified for taking possession of the
27 property in any notice given pursuant to section 69-2303.

1 (3) The notice of the sale shall describe the property to
2 be sold in a manner reasonably adequate to permit the owner of the
3 property to identify it. The notice may describe all or a portion
4 of the property, but the limitation of liability provided by
5 section 69-2309 shall not release the landlord from any liability
6 arising from the disposition of property not described in the
7 notice.

8 (4) After deduction of the reasonable costs of storage,
9 advertising, and sale, any proceeds of the sale not claimed by the
10 former tenant, an owner other than such tenant, or another person
11 having an interest in the proceeds shall, not later than thirty
12 days after the date of sale, be remitted to the State Treasurer
13 for disposition pursuant to the Uniform Disposition of Unclaimed
14 Property Act. The former tenant, other owner, or other person
15 having interest in the proceeds may claim the proceeds by complying
16 with the act. If the State Treasurer pays the proceeds or any part
17 thereof to a claimant, neither the State Treasurer nor any employee
18 thereof shall be liable to any other claimant as to the amount
19 paid.

20 Sec. 36. This section and sections 17, 37, and 39 of this
21 act become operative on their effective date. The other sections of
22 this act become operative three calendar months after adjournment
23 of this legislative session.

24 Sec. 37. Original section 43-512.12, Revised Statutes
25 Supplement, 2009, is repealed.

26 Sec. 38. Original sections 25-410, 25-1625, 25-2720.01,
27 25-2803, 25-2804, 29-1207, 29-1208, 29-2412, 30-2322, 30-2323,

1 30-2325, 30-2664, 30-2715, 43-1701, 43-1702, 43-1703, 43-1717,
2 43-1718.02, 43-1720, 43-1722, 43-1723, 43-1724, 43-1726, 43-1727,
3 43-3330, 49-1501, 69-2304, and 69-2308, Reissue Revised Statutes of
4 Nebraska, and section 25-1628, Revised Statutes Supplement, 2009,
5 are repealed.

6 Sec. 39. Since an emergency exists, this act takes effect
7 when passed and approved according to law.