

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1036

FINAL READING

Introduced by Council, 11; Stuthman, 22; Fischer, 43.

Read first time January 21, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to anatomical gifts; to amend sections 60-494,
2 60-495, 60-2907, 71-531, 71-4813, 71-4814, 71-4816,
3 and 71-4822, Reissue Revised Statutes of Nebraska, and
4 sections 23-1825, 23-1826, 23-1827, 23-1828, 23-1829,
5 23-1830, 23-1831, 23-1832, and 60-493, Revised Statutes
6 Cumulative Supplement, 2008; to adopt the Revised
7 Uniform Anatomical Gift Act; to provide penalties; to
8 change provisions relating to coroners, issuance of
9 operators' licenses and state identification cards,
10 human immunodeficiency virus infection tests, hospital
11 protocols, and the Donor Registry of Nebraska; to repeal
12 the Uniform Anatomical Gift Act and provisions related to
13 hospital protocols; to harmonize provisions; to provide

1 an operative date; to repeal the original sections; and
2 to outright repeal sections 71-4801, 71-4802, 71-4803,
3 71-4804, 71-4805, 71-4806, 71-4807, 71-4809, 71-4810,
4 71-4811, 71-4812, 71-4815, 71-4817, and 71-4818, Reissue
5 Revised Statutes of Nebraska.

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

1 Section 1. Sections 1 to 22 of this act shall be known
2 and may be cited as the Revised Uniform Anatomical Gift Act.

3 Sec. 2. For purposes of the Revised Uniform Anatomical
4 Gift Act:

5 (1) Adult means an individual who is at least eighteen
6 years of age;

7 (2) Agent means an individual:

8 (A) Authorized to make health care decisions on the
9 principal's behalf by a power of attorney for health care; or

10 (B) Expressly authorized to make an anatomical gift on
11 the principal's behalf by any other record signed by the principal;

12 (3) Anatomical gift means a donation of all or part of a
13 human body to take effect after the donor's death for the purpose
14 of transplantation, therapy, research, or education;

15 (4) Decedent means a deceased individual whose body or
16 part is or may be the source of an anatomical gift. The term
17 includes a stillborn infant and, subject to restrictions imposed by
18 law other than the Revised Uniform Anatomical Gift Act, a fetus.
19 The term decedent does not include a blastocyst, embryo, or fetus
20 that is the subject of an induced abortion;

21 (5) Disinterested witness means a witness other than
22 the spouse, child, parent, sibling, grandchild, grandparent, or
23 guardian of the individual who makes, amends, revokes, or refuses
24 to make an anatomical gift, or another adult who exhibited special
25 care and concern for the individual. The term does not include a

1 person to which an anatomical gift could pass under section 11 of
2 this act;

3 (6) Document of gift means a donor card or other record
4 used to make an anatomical gift. The term includes a statement
5 or symbol on a driver's license, identification card, or donor
6 registry;

7 (7) Donor means an individual whose body or part is the
8 subject of an anatomical gift;

9 (8) Donor registry means a data base that contains
10 records of anatomical gifts and amendments to or revocations of
11 anatomical gifts;

12 (9) Driver's license means a license or permit issued by
13 the Department of Motor Vehicles to operate a vehicle, whether or
14 not conditions are attached to the license or permit;

15 (10) Eye bank means a person that is licensed,
16 accredited, or regulated under federal or state law to engage
17 in the recovery, screening, testing, processing, storage, or
18 distribution of human eyes or portions of human eyes;

19 (11) Guardian means a person appointed by a court to
20 make decisions regarding the support, care, education, health, or
21 welfare of an individual. The term does not include a guardian ad
22 litem;

23 (12) Hospital means a facility licensed as a hospital
24 under the law of any state or a facility operated as a hospital by
25 the United States, a state, or a subdivision of a state;

- 1 (13) Identification card means a state identification
2 card issued by the Department of Motor Vehicles;
- 3 (14) Know means to have actual knowledge;
- 4 (15) Minor means an individual who is under eighteen
5 years of age;
- 6 (16) Organ procurement organization means a person
7 designated by the Secretary of the United States Department of
8 Health and Human Services as an organ procurement organization;
- 9 (17) Parent means a parent whose parental rights have not
10 been terminated;
- 11 (18) Part means an organ, an eye, or tissue of a human
12 being. The term does not include the whole body;
- 13 (19) Person means an individual, corporation, business
14 trust, estate, trust, partnership, limited liability company,
15 association, joint venture, public corporation, government or
16 governmental subdivision, agency, or instrumentality, or any other
17 legal or commercial entity;
- 18 (20) Physician means an individual authorized to practice
19 medicine or osteopathy under the law of any state;
- 20 (21) Procurement organization means an eye bank, organ
21 procurement organization, or tissue bank;
- 22 (22) Prospective donor means an individual who is dead or
23 near death and has been determined by a procurement organization to
24 have a part that could be medically suitable for transplantation,
25 therapy, research, or education. The term does not include an

1 individual who has made a refusal;

2 (23) Reasonably available means able to be contacted by a
3 procurement organization without undue effort and willing and able
4 to act in a timely manner consistent with existing medical criteria
5 necessary for the making of an anatomical gift;

6 (24) Recipient means an individual into whose body a
7 decedent's part has been or is intended to be transplanted;

8 (25) Record means information that is inscribed on a
9 tangible medium or that is stored in an electronic or other medium
10 and is retrievable in perceivable form;

11 (26) Refusal means a record created under section 7 of
12 this act that expressly states an intent to bar other persons from
13 making an anatomical gift of an individual's body or part;

14 (27) Sign means, with the present intent to authenticate
15 or adopt a record:

16 (A) To execute or adopt a tangible symbol; or

17 (B) To attach to or logically associate with the record
18 an electronic symbol, sound, or process;

19 (28) State means a state of the United States, the
20 District of Columbia, Puerto Rico, the United States Virgin
21 Islands, or any territory or insular possession subject to the
22 jurisdiction of the United States;

23 (29) Technician means an individual determined to be
24 qualified to remove or process parts by an appropriate organization
25 that is licensed, accredited, or regulated under federal or state

1 law. The term includes an enucleator;

2 (30) Tissue means a portion of the human body other than
3 an organ or an eye. The term does not include blood unless the
4 blood is donated for the purpose of research or education;

5 (31) Tissue bank means a person that is licensed,
6 accredited, or regulated under federal or state law to engage
7 in the recovery, screening, testing, processing, storage, or
8 distribution of tissue; and

9 (32) Transplant hospital means a hospital that furnishes
10 organ transplants and other medical and surgical specialty services
11 required for the care of transplant patients.

12 Sec. 3. The Revised Uniform Anatomical Gift Act applies
13 to an anatomical gift or amendment to, revocation of, or refusal to
14 make an anatomical gift, whenever made.

15 Sec. 4. Subject to section 8 of this act, an anatomical
16 gift of a donor's body or part may be made during the life of
17 the donor for the purpose of transplantation, therapy, research, or
18 education in the manner provided in section 5 of this act by:

19 (1) The donor, if the donor is an adult or if the donor
20 is a minor and is:

21 (A) Emancipated; or

22 (B) Authorized under state law to apply for a driver's
23 license and the donor is at least sixteen years of age;

24 (2) An agent of the donor, unless the power of attorney
25 for health care or other record prohibits the agent from making an

1 anatomical gift;

2 (3) A parent of the donor, if the donor is an
3 unemancipated minor; or

4 (4) The donor's guardian.

5 Sec. 5. (a) A donor may make an anatomical gift:

6 (1) By authorizing a statement or symbol indicating that
7 the donor has made an anatomical gift to be imprinted on the
8 donor's driver's license or identification card;

9 (2) In a will;

10 (3) During a terminal illness or injury of the donor,
11 by any form of communication addressed to at least two adults, at
12 least one of whom is a disinterested witness; or

13 (4) As provided in subsection (b) of this section.

14 (b) A donor or other person authorized to make an
15 anatomical gift under section 4 of this act may make a gift by
16 a donor card or other record signed by the donor or other person
17 making the gift or by authorizing that a statement or symbol
18 indicating that the donor has made an anatomical gift be included
19 on a donor registry. If the donor or other person is physically
20 unable to sign a record, the record may be signed by another
21 individual at the direction of the donor or other person and must:

22 (1) Be witnessed by at least two adults, at least one of
23 whom is a disinterested witness, who have signed at the request of
24 the donor or the other person; and

25 (2) State that it has been signed and witnessed as

1 provided in subdivision (1) of this subsection.

2 (c) Revocation, suspension, expiration, or cancellation
3 of a driver's license or identification card upon which an
4 anatomical gift is indicated does not invalidate the gift.

5 (d) An anatomical gift made by will takes effect upon the
6 donor's death whether or not the will is probated. Invalidation of
7 the will after the donor's death does not invalidate the gift.

8 Sec. 6. (a) Subject to section 8 of this act, a donor or
9 other person authorized to make an anatomical gift under section 4
10 of this act may amend or revoke an anatomical gift by:

11 (1) A record signed by:

12 (A) The donor;

13 (B) The other person; or

14 (C) Subject to subsection (b) of this section, another
15 individual acting at the direction of the donor or the other person
16 if the donor or other person is physically unable to sign; or

17 (2) A later-executed document of gift that amends or
18 revokes a previous anatomical gift or portion of an anatomical
19 gift, either expressly or by inconsistency.

20 (b) A record signed pursuant to subdivision (a) (1) (C) of
21 this section must:

22 (1) Be witnessed by at least two adults, at least one of
23 whom is a disinterested witness, who have signed at the request of
24 the donor or the other person; and

25 (2) State that it has been signed and witnessed as

1 provided in subdivision (1) of this subsection.

2 (c) Subject to section 8 of this act, a donor or other
3 person authorized to make an anatomical gift under section 4
4 of this act may revoke an anatomical gift by the destruction
5 or cancellation of the document of gift, or the portion of the
6 document of gift used to make the gift, with the intent to revoke
7 the gift.

8 (d) A donor may amend or revoke an anatomical gift that
9 was not made in a will by any form of communication during a
10 terminal illness or injury addressed to at least two adults, at
11 least one of whom is a disinterested witness.

12 (e) A donor who makes an anatomical gift in a will may
13 amend or revoke the gift in the manner provided for amendment
14 or revocation of wills or as provided in subsection (a) of this
15 section.

16 Sec. 7. (a) An individual may refuse to make an
17 anatomical gift of the individual's body or part by:

18 (1) A record signed by:

19 (A) The individual; or

20 (B) Subject to subsection (b) of this section, another
21 individual acting at the direction of the individual if the
22 individual is physically unable to sign;

23 (2) The individual's will, whether or not the will is
24 admitted to probate or invalidated after the individual's death; or

25 (3) Any form of communication made by the individual

1 during the individual's terminal illness or injury addressed to at
2 least two adults, at least one of whom is a disinterested witness.

3 (b) A record signed pursuant to subdivision (a) (1) (B) of
4 this section must:

5 (1) Be witnessed by at least two adults, at least one of
6 whom is a disinterested witness, who have signed at the request of
7 the individual; and

8 (2) State that it has been signed and witnessed as
9 provided in subdivision (1) of this subsection.

10 (c) An individual who has made a refusal may amend or
11 revoke the refusal:

12 (1) In the manner provided in subsection (a) of this
13 section for making a refusal;

14 (2) By subsequently making an anatomical gift pursuant to
15 section 5 of this act that is inconsistent with the refusal; or

16 (3) By destroying or canceling the record evidencing the
17 refusal, or the portion of the record used to make the refusal,
18 with the intent to revoke the refusal.

19 (d) Except as otherwise provided in subsection (h) of
20 section 8 of this act, in the absence of an express, contrary
21 indication by the individual set forth in the refusal, an
22 individual's unrevoked refusal to make an anatomical gift of
23 the individual's body or part bars all other persons from making an
24 anatomical gift of the individual's body or part.

25 Sec. 8. (a) Except as otherwise provided in subsection

1 (g) of this section and subject to subsection (f) of this section,
2 in the absence of an express, contrary indication by the donor, a
3 person other than the donor is barred from making, amending, or
4 revoking an anatomical gift of a donor's body or part if the donor
5 made an anatomical gift of the donor's body or part under section
6 5 of this act or an amendment to an anatomical gift of the donor's
7 body or part under section 6 of this act.

8 (b) A donor's revocation of an anatomical gift of the
9 donor's body or part under section 6 of this act is not a refusal
10 and does not bar another person specified in section 4 or 9 of
11 this act from making an anatomical gift of the donor's body or part
12 under section 5 or 10 of this act.

13 (c) If a person other than the donor has made an
14 unrevoked anatomical gift of the donor's body or part under section
15 5 of this act or an amendment to an anatomical gift of the donor's
16 body or part under section 6 of this act, another person who is not
17 the donor may not make, amend, or revoke the gift of the donor's
18 body or part under section 10 of this act.

19 (d) A revocation of an anatomical gift of a donor's body
20 or part under section 6 of this act by a person other than the
21 donor does not bar another person from making an anatomical gift of
22 the body or part under section 5 or 10 of this act.

23 (e) In the absence of an express, contrary indication by
24 the donor or other person authorized to make an anatomical gift
25 under section 4 of this act, an anatomical gift of a part is

1 neither a refusal to give another part nor a limitation on the
2 making of an anatomical gift of another part at a later time by the
3 donor or another person.

4 (f) In the absence of an express, contrary indication by
5 the donor or other person authorized to make an anatomical gift
6 under section 4 of this act, an anatomical gift of a part for one
7 or more of the purposes set forth in section 4 of this act is not
8 a limitation on the making of an anatomical gift of the part for
9 any of the other purposes by the donor or any other person under
10 section 5 or 10 of this act.

11 (g) If a donor who is an unemancipated minor dies, a
12 parent of the donor who is reasonably available may revoke or amend
13 an anatomical gift of the donor's body or part.

14 (h) If an unemancipated minor who signed a refusal dies,
15 a parent of the minor who is reasonably available may revoke the
16 minor's refusal.

17 Sec. 9. (a) Subject to subsections (b) and (c) of this
18 section and unless barred by section 7 or 8 of this act, an
19 anatomical gift of a decedent's body or part for purpose of
20 transplantation, therapy, research, or education may be made by
21 any member of the following classes of persons who is reasonably
22 available, in the order of priority listed:

23 (1) An agent of the decedent at the time of death who
24 could have made an anatomical gift under subdivision (2) of section
25 4 of this act immediately before the decedent's death;

- 1 (2) The spouse of the decedent;
2 (3) Adult children of the decedent;
3 (4) Parents of the decedent;
4 (5) Adult siblings of the decedent;
5 (6) Adult grandchildren of the decedent;
6 (7) Grandparents of the decedent;
7 (8) The persons who were acting as the guardians of the
8 person of the decedent at the time of death;
9 (9) An adult who exhibited special care and concern
10 for the decedent other than any medical personnel caring for the
11 decedent at the time of or immediately leading up to the decedent's
12 death; and
13 (10) Any other person having the authority to dispose of
14 the decedent's body.
- 15 (b) If there is more than one member of a class listed
16 in subdivision (a)(1), (3), (4), (5), (6), (7), or (8) of this
17 section entitled to make an anatomical gift, an anatomical gift may
18 be made by a member of the class unless that member or a person to
19 which the gift may pass under section 11 of this act knows of an
20 objection by another member of the class. If an objection is known,
21 the gift may be made only by a majority of the members of the class
22 who are reasonably available.
- 23 (c) A person may not make an anatomical gift if, at the
24 time of the decedent's death, a person in a prior class under
25 subsection (a) of this section is reasonably available to make or

1 to object to the making of an anatomical gift.

2 Sec. 10. (a) A person authorized to make an anatomical
3 gift under section 9 of this act may make an anatomical gift by a
4 document of gift signed by the person making the gift or by that
5 person's oral communication that is electronically recorded or is
6 contemporaneously reduced to a record and signed by the individual
7 receiving the oral communication.

8 (b) Subject to subsection (c) of this section, an
9 anatomical gift by a person authorized under section 9 of this
10 act may be amended or revoked orally or in a record by any member
11 of a prior class who is reasonably available. If more than one
12 member of the prior class is reasonably available, the gift made by
13 a person authorized under section 9 of this act may be:

14 (1) Amended only if a majority of the reasonably
15 available members agree to the amending of the gift; or

16 (2) Revoked only if a majority of the reasonably
17 available members agree to the revoking of the gift or if they are
18 equally divided as to whether to revoke the gift.

19 (c) A revocation under subsection (b) of this section is
20 effective only if, before an incision has been made to remove a
21 part from the donor's body or before invasive procedures have begun
22 to prepare the recipient, the procurement organization, transplant
23 hospital, or physician or technician knows of the revocation.

24 Sec. 11. (a) An anatomical gift may be made to the
25 following persons named in the document of gift:

1 (1) A hospital; the State Anatomical Board; an accredited
2 medical school, dental school, college, or university; an organ
3 procurement organization; or any other appropriate person, for
4 research or education;

5 (2) Subject to subsection (b) of this section, an
6 individual designated by the person making the anatomical gift
7 if the individual is the recipient of the part; or

8 (3) An eye bank or tissue bank.

9 (b) If an anatomical gift to an individual under
10 subdivision (a)(2) of this section cannot be transplanted into
11 the individual, the part passes in accordance with subsection (g)
12 of this section in the absence of an express, contrary indication
13 by the person making the anatomical gift.

14 (c) If an anatomical gift of one or more specific parts
15 or of all parts is made in a document of gift that does not name a
16 person described in subsection (a) of this section but identifies
17 the purpose for which an anatomical gift may be used, the following
18 rules apply:

19 (1) If the part is an eye and the gift is for the purpose
20 of transplantation or therapy, the gift passes to the appropriate
21 eye bank;

22 (2) If the part is tissue and the gift is for the purpose
23 of transplantation or therapy, the gift passes to the appropriate
24 tissue bank;

25 (3) If the part is an organ and the gift is for the

1 purpose of transplantation or therapy, the gift passes to the
2 appropriate organ procurement organization as custodian of the
3 organ;

4 (4) If the part is an organ, an eye, or tissue and the
5 gift is for the purpose of research or education, the gift passes
6 to the appropriate procurement organization; and

7 (5) If the gift is any part other than an organ, an
8 eye, or tissue, or the gift is all parts, and the gift is for
9 the purpose of research or education, the gift passes to the State
10 Anatomical Board.

11 (d) For the purpose of subsection (c) of this section,
12 if there is more than one purpose of an anatomical gift set forth
13 in the document of gift but the purposes are not set forth in any
14 priority, the gift must be used for transplantation or therapy,
15 if suitable. If the gift cannot be used for transplantation or
16 therapy, the gift may be used for research or education.

17 (e) If an anatomical gift of one or more specific parts
18 is made in a document of gift that does not name a person described
19 in subsection (a) of this section and does not identify the purpose
20 of the gift, the gift may be used only for transplantation or
21 therapy, and the gift passes in accordance with subsection (g) of
22 this section.

23 (f) If a document of gift specifies only a general intent
24 to make an anatomical gift by words such as donor, organ donor,
25 or body donor, or by a symbol or statement of similar import, the

1 gift may be used only for transplantation or therapy, and the gift
2 passes in accordance with subsection (g) of this section.

3 (g) For purposes of subsections (b), (e), and (f) of this
4 section the following rules apply:

5 (1) If the part is an eye, the gift passes to the
6 appropriate eye bank;

7 (2) If the part is tissue, the gift passes to the
8 appropriate tissue bank; and

9 (3) If the part is an organ, the gift passes to the
10 appropriate organ procurement organization as custodian of the
11 organ.

12 (h) An anatomical gift of an organ for transplantation
13 or therapy, other than an anatomical gift under subdivision (a)(2)
14 of this section, passes to the organ procurement organization as
15 custodian of the organ.

16 (i) If an anatomical gift does not pass pursuant to
17 subsections (a) through (h) of this section or the decedent's body
18 or part is not used for transplantation, therapy, research, or
19 education, custody of the body or part passes to the person under
20 obligation to dispose of the body or part.

21 (j) A person may not accept an anatomical gift if the
22 person knows that the gift was not effectively made under section
23 5 or 10 of this act or if the person knows that the decedent made
24 a refusal under section 7 of this act that was not revoked. For
25 purposes of this subsection, if a person knows that an anatomical

1 gift was made on a document of gift, the person is deemed to know
2 of any amendment or revocation of the gift or any refusal to make
3 an anatomical gift on the same document of gift.

4 (k) Except as otherwise provided in subdivision (a) (2) of
5 this section, nothing in the Revised Uniform Anatomical Gift Act
6 affects the allocation of organs for transplantation or therapy.

7 Sec. 12. (a) The following persons shall make a
8 reasonable search of an individual who the person reasonably
9 believes is dead or near death for a document of gift or other
10 information identifying the individual as a donor or as an
11 individual who made a refusal:

12 (1) A law enforcement officer, firefighter, paramedic, or
13 other emergency rescuer finding the individual; and

14 (2) If no other source of the information is immediately
15 available, a hospital, as soon as practical after the individual's
16 arrival at the hospital.

17 (b) If a document of gift or a refusal to make an
18 anatomical gift is located by the search required by subdivision
19 (a) (1) of this section and the individual or deceased individual to
20 whom it relates is taken to a hospital, the person responsible for
21 conducting the search shall send the document of gift or refusal to
22 the hospital.

23 (c) A person is not subject to criminal or civil
24 liability for failing to discharge the duties imposed by this
25 section but may be subject to administrative sanctions.

1 Sec. 13. (a) A document of gift need not be delivered
2 during the donor's lifetime to be effective.

3 (b) Upon or after an individual's death, a person in
4 possession of a document of gift or a refusal to make an anatomical
5 gift with respect to the individual shall allow examination and
6 copying of the document of gift or refusal by a person authorized
7 to make or object to the making of an anatomical gift with respect
8 to the individual or by a person to which the gift could pass under
9 section 11 of this act.

10 Sec. 14. (a) When a hospital refers an individual at or
11 near death to a procurement organization, the organization shall
12 make a reasonable search of the records of the Donor Registry
13 of Nebraska established pursuant to section 71-4822 and any donor
14 registry that it knows exists for the geographical area in which
15 the individual resides to ascertain whether the individual has made
16 an anatomical gift.

17 (b) A procurement organization must be allowed reasonable
18 access to information in the records of the Donor Registry of
19 Nebraska or any donor registry described in subsection (a) of this
20 section to ascertain whether an individual at or near death is a
21 donor.

22 (c) When a hospital refers an individual at or near
23 death to a procurement organization, the organization may conduct
24 any reasonable examination necessary to determine the medical
25 suitability of a part that is or could be the subject of

1 an anatomical gift for transplantation, therapy, research, or
2 education from a donor or a prospective donor. During the
3 examination period, measures necessary to ensure the medical
4 suitability of the part may not be withdrawn unless the hospital
5 or procurement organization knows that the individual expressed
6 a contrary intent. Measures necessary to ensure the medical
7 suitability of the part from a prospective donor may not be
8 administered if it is determined that the administration of those
9 measures would not provide the prospective donor with appropriate
10 end-of-life care or it can be anticipated by reasonable medical
11 judgment that such measures would cause the prospective donor's
12 death other than by the prospective donor's underlying pathology.

13 (d) Unless prohibited by law other than the Revised
14 Uniform Anatomical Gift Act, at any time after a donor's death,
15 the person to which a part passes under section 11 of this act
16 may conduct any reasonable examination necessary to determine the
17 medical suitability of the body or part for its intended purpose.

18 (e) Unless prohibited by law other than the act, an
19 examination under subsection (c) or (d) of this section may include
20 an examination of all medical and dental records of the donor or
21 prospective donor.

22 (f) Upon the death of a minor who was a donor or had
23 signed a refusal, unless a procurement organization knows the
24 minor is emancipated, the procurement organization shall conduct
25 a reasonable search for the parents of the minor and provide the

1 parents with an opportunity to revoke or amend the anatomical gift
2 or revoke the refusal.

3 (g) Upon referral by a hospital under subsection (a) of
4 this section, a procurement organization shall make a reasonable
5 search for any person listed in section 9 of this act having
6 priority to make or object to the making of an anatomical gift
7 on behalf of a prospective donor. If a procurement organization
8 receives information that an anatomical gift to any other person
9 was made, amended, or revoked, it shall promptly advise the other
10 person of all relevant information.

11 (h) Subject to subsection (i) of section 11 of this act
12 and sections 23-1825 to 23-1832, the rights of the person to which
13 a part passes under section 11 of this act are superior to the
14 rights of all others with respect to the part. The person may
15 accept or reject an anatomical gift in whole or in part. Subject
16 to the terms of the document of gift and the act, a person that
17 accepts an anatomical gift of an entire body may allow embalming,
18 burial or cremation, and use of remains in a funeral service. If
19 the gift is of a part, the person to which the part passes under
20 section 11 of this act, upon the death of the donor and before
21 embalming, burial, or cremation, shall cause the part to be removed
22 without unnecessary mutilation.

23 (i) Neither the physician who attends the decedent
24 at death nor the physician who determines the time of the
25 decedent's death may participate in the procedures for removing

1 or transplanting a part from the decedent.

2 (j) A physician or technician may remove a donated part
3 from the body of a donor that the physician or technician is
4 qualified to remove.

5 Sec. 15. Each hospital in this state shall enter into
6 agreements or affiliations with procurement organizations for
7 coordination of procurement and use of anatomical gifts.

8 Sec. 16. (a) Except as otherwise provided in subsection
9 (b) of this section, a person that for valuable consideration,
10 knowingly purchases or sells a part for transplantation, therapy,
11 research, or education if removal of a part from an individual is
12 intended to occur after the individual's death commits a Class IIIA
13 felony.

14 (b) A person may charge a reasonable amount for the
15 removal, processing, preservation, quality control, storage,
16 transportation, implantation, or disposal of a part.

17 Sec. 17. A person that, in order to obtain a financial
18 gain, intentionally falsifies, forges, conceals, defaces, or
19 obliterates a document of gift, an amendment or revocation of a
20 document of gift, or a refusal commits a Class IIIA felony.

21 Sec. 18. (a) A person that acts with reasonable care in
22 accordance with the Revised Uniform Anatomical Gift Act or with the
23 applicable anatomical gift law of another state, or attempts in
24 good faith to do so, is not liable for the act in a civil action,
25 criminal prosecution, or administrative proceeding.

1 (b) Neither the person making an anatomical gift nor the
2 donor's estate is liable for any injury or damage that results from
3 the making or use of the gift.

4 (c) In determining whether an anatomical gift has been
5 made, amended, or revoked under the Revised Uniform Anatomical
6 Gift Act, a person may rely upon representations of an individual
7 listed in subdivision (a) (2), (3), (4), (5), (6), (7), or (9) of
8 section 9 of this act relating to the individual's relationship to
9 the donor or prospective donor unless the person knows that the
10 representation is untrue.

11 Sec. 19. (a) A document of gift is valid if executed in
12 accordance with:

13 (1) The Revised Uniform Anatomical Gift Act;

14 (2) The laws of the state or country where it was
15 executed; or

16 (3) The laws of the state or country where the person
17 making the anatomical gift was domiciled, has a place of residence,
18 or was a national at the time the document of gift was executed.

19 (b) If a document of gift is valid under this section,
20 the law of this state governs the interpretation of the document of
21 gift.

22 (c) A person may presume that a document of gift or
23 amendment of an anatomical gift is valid unless that person knows
24 that it was not validly executed or was revoked.

25 (d) The age restrictions of the Revised Uniform

1 Anatomical Gift Act do not nullify any designation of gift made
2 on a driver's license or state identification card prior to the
3 operative date of this act by a person younger than sixteen years
4 of age which was valid when made. Such person shall be considered a
5 donor under the act, and if such a donor who is an unemancipated
6 minor dies, a parent of the donor who is reasonably available may
7 revoke or amend an anatomical gift of the donor's body or part.

8 Sec. 20. (a) For purposes of this section:

9 (1) Advance health care directive means a power of
10 attorney for health care or a record signed or authorized by
11 a prospective donor containing the prospective donor's direction
12 concerning a health care decision for the prospective donor;

13 (2) Declaration means a record signed by a prospective
14 donor specifying the circumstances under which life-sustaining
15 treatment may be withheld or withdrawn from the prospective donor;
16 and

17 (3) Health care decision means any decision regarding the
18 health care of the prospective donor.

19 (b) If a prospective donor has a declaration or advance
20 health care directive and the terms of the declaration or directive
21 and the express or implied terms of a potential anatomical gift
22 are in conflict with regard to the administration of measures
23 necessary to ensure the medical suitability of a part for
24 transplantation or therapy, the prospective donor's attending
25 physician and prospective donor shall confer to resolve the

1 conflict. If the prospective donor is incapable of resolving the
2 conflict, an agent acting under the prospective donor's declaration
3 or directive, or, if none or the agent is not reasonably available,
4 another person authorized by law other than the Revised Uniform
5 Anatomical Gift Act to make health care decisions on behalf
6 of the prospective donor, shall act for the donor to resolve
7 the conflict. The conflict must be resolved as expeditiously as
8 possible. Information relevant to the resolution of the conflict
9 may be obtained from the appropriate procurement organization and
10 any other person authorized to make an anatomical gift for the
11 prospective donor under section 9 of this act. Before resolution of
12 the conflict, measures necessary to ensure the medical suitability
13 of the part from a prospective donor may not be administered if
14 it is determined that the administration of those measures would
15 not provide the prospective donor with appropriate end-of-life care
16 or it can be anticipated by reasonable medical judgment that such
17 measures would cause the prospective donor's death other than by
18 the prospective donor's underlying pathology. If the conflict is
19 not resolved expeditiously, the direction of the declaration or
20 advanced directive controls.

21 Sec. 21. In applying and construing the Revised Uniform
22 Anatomical Gift Act, consideration must be given to the need to
23 promote uniformity of the law with respect to its subject matter
24 among states that enact this uniform act.

25 Sec. 22. The Revised Uniform Anatomical Gift Act

1 modifies, limits, and supersedes the Electronic Signatures in
2 Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does
3 not modify, limit, or supersede section 101(a) of that act, 15
4 U.S.C. 7001, or authorize electronic delivery of any of the notices
5 described in section 103(b) of that act, 15 U.S.C. 7003(b).

6 Sec. 23. Section 23-1825, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 23-1825 The Legislature finds and declares that it is
9 in the public interest to facilitate organ and tissue donations
10 pursuant to the Revised Uniform Anatomical Gift Act and thereby
11 to increase the availability of organs and tissues for medical
12 transplantation. To accomplish these purposes, the following
13 constitutes the procedure to facilitate the recovery of organs and
14 tissues from donors under the jurisdiction of a coroner within
15 a time period compatible with the preservation of such organ or
16 tissue for the purpose of transplantation.

17 Sec. 24. Section 23-1826, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

19 23-1826 For purposes of sections 23-1825 to 23-1832:

20 (1) Coroner means a coroner or his or her designated
21 representative;

22 (2) Decedent means an individual with respect to whom a
23 determination of death has been made pursuant to section 71-7202;

24 (3) Donor means a decedent ~~(a) who is a donor of all~~
25 ~~or part of his or her body pursuant to subsection (1) of section~~

1 ~~71-4802 or (b) for whom an anatomical gift has been made pursuant~~
2 ~~to subsection (2) of section 71-4802;~~ has the definition found in
3 section 2 of this act; and

4 (4) Preliminary investigation means an inquiry into
5 whether any organs or tissues are necessary to determine the
6 proximate cause or means of death.

7 Sec. 25. Section 23-1827, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 23-1827 (1) A coroner shall conduct a preliminary
10 investigation of a decedent within the coroner's jurisdiction as
11 soon as possible after notification by the hospital in which such
12 decedent is located or the hospital to which such decedent is being
13 transported. The coroner may designate the coroner's physician or
14 another physician to conduct the preliminary investigation.

15 (2) The preliminary investigation shall be completed
16 within a time period that is compatible with the preservation and
17 recovery of organs or tissues for the purpose of transplantation.

18 (3) The coroner may request and shall have access to
19 all necessary information including copies of medical records,
20 laboratory test results, X-rays, and other diagnostic results. The
21 information shall be provided as expeditiously as possible, through
22 reasonable means, to permit the preliminary investigation to be
23 completed within a time period compatible with the preservation and
24 recovery of organs or tissues for the purpose of transplantation.

25 (4) Upon completion of the preliminary investigation,

1 the coroner shall release all organs or tissues which have been
2 donated or may yet be donated pursuant to the Revised Uniform
3 Anatomical Gift Act except those that the coroner reasonably
4 believes contain evidence of the proximate cause or means of
5 death. If the coroner reasonably believes that a specific organ or
6 tissue contains evidence of the proximate cause or means of death
7 and the organ or tissue is otherwise subject to recovery as a
8 donated organ or tissue pursuant to the Revised Uniform Anatomical
9 Gift Act, the coroner or his or her designee shall be present
10 for the removal procedure (a) to make a final determination that
11 allows the recovery of the organs and tissues to proceed, (b)
12 to request a biopsy, or (c) to deny removal of such organ or
13 tissue if the coroner determines such organ or tissue contains
14 evidence of the proximate cause or means of death. After a
15 preliminary investigation is completed under this section, all
16 organs or tissues compatible for transplantation, except any organs
17 or tissues for which the coroner has denied recovery, may be
18 recovered pursuant to the Revised Uniform Anatomical Gift Act.

19 Sec. 26. Section 23-1828, Revised Statutes Cumulative
20 Supplement, 2008, is amended to read:

21 23-1828 If the coroner, coroner's physician, or other
22 physician designated by the coroner fails to complete the
23 preliminary investigation required under section 23-1827, or if
24 the coroner fails to designate the coroner's physician or another
25 physician to conduct and complete the preliminary investigation,

1 within a time period compatible with the preservation of the organs
2 and tissues for the purpose of transplantation, or if the coroner
3 declines to conduct the preliminary investigation, any organ or
4 tissue that is compatible for transplantation may be recovered
5 pursuant to the Revised Uniform Anatomical Gift Act as though the
6 donor was not within the coroner's jurisdiction.

7 Sec. 27. Section 23-1829, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 23-1829 If the coroner denies recovery of an organ or
10 tissue, the coroner shall ~~state~~ include in a written report the
11 reasons such recovery was denied and provide the report within ten
12 days to the federally designated organ procurement organization ~~in~~
13 for Nebraska.

14 Sec. 28. Section 23-1830, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 23-1830 (1) If the coroner releases any organ or tissue
17 for recovery, ~~he or she~~ the coroner may request that a blood
18 sample, a sample of catheterized urine, a sample of bile if the
19 liver is recovered for the purpose of transplantation, a biopsy
20 specimen in fixative of the organ or tissue procured, and copies of
21 any photographs, pictures, or other diagrams of the organ or tissue
22 made at the time of recovery be delivered to the coroner.

23 (2) A coroner shall have access to medical records,
24 pathology reports, and the body of the donor following the recovery
25 of any organ or tissue allowed under section 23-1827 or 23-1828.

1 Sec. 29. Section 23-1831, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 23-1831 Any physician or designated recovery personnel
4 authorized by the federally designated organ procurement
5 organization ~~in~~ for Nebraska to recover any organ or tissue
6 pursuant to section 23-1827 or 23-1828 shall provide to the coroner
7 a report detailing the recovery of such organ or tissue and any
8 known relationship to the proximate cause or means of death.
9 If appropriate, such report shall include a biopsy or medically
10 approved sample from the recovered organ or tissue and the results
11 of any diagnostic testing performed upon the recovered organ or
12 tissue. Such report shall become part of the coroner's report or
13 coroner's physician's report.

14 Sec. 30. Section 23-1832, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 23-1832 ~~Any~~ A coroner, a coroner's designee, a coroner's
17 physician or his or her designee, a facility at which an organ or
18 tissue recovery took place pursuant to sections 23-1825 to 23-1832,
19 any authorized recovery personnel, or any other person who acts in
20 good faith in compliance with sections 23-1825 to 23-1832 shall be
21 immune from criminal liability for recovery of any organ or tissue.

22 Sec. 31. Section 60-493, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 60-493 When a person applies for an operator's license or
25 state identification card, the county treasurer or examiner of the

1 Department of Motor Vehicles shall distribute a brochure provided
2 by an organ and tissue procurement organization and approved by the
3 Department of Health and Human Services containing a description
4 and explanation of the Revised Uniform Anatomical Gift Act to each
5 person applying for a new or renewal license or card.

6 If an individual desires to receive additional specific
7 information regarding organ and tissue donation and the Donor
8 Registry of Nebraska as indicated on an application or examiner's
9 certificate under section 60-484, 60-4,144, or 60-4,181, the
10 department shall notify a representative of the federally
11 designated organ procurement organization ~~in~~ for Nebraska within
12 five working days of the name and address of such individual.

13 Sec. 32. Section 60-494, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-494 (1) Each operator's license and state
16 identification card shall include a special notation on the
17 front of the license or card if the licensee or cardholder is at
18 least sixteen years of age and indicates on the application or
19 examiner's certificate under section 60-484, 60-4,144, or 60-4,181
20 his or her wish to be an organ donor, a tissue donor, or both.

21 (2) The status as an organ donor, a tissue donor, or
22 both shall be renewed upon renewal of each license or card if
23 the licensee or cardholder, at the time of renewal, indicates
24 the desire to renew the status and the notation authorized in
25 subsection (1) of this section has been marked. The status as

1 an organ donor, a tissue donor, or both is not changed by the
2 suspension, cancellation, revocation, or impoundment of the license
3 or card.

4 (3) Any person whose operator's license or state
5 identification card indicates his or her status as an organ donor,
6 a tissue donor, or both may obtain a replacement license or card
7 without a notation of such status. The fee for such replacement
8 license or card shall be the fee provided in section 60-4,115.

9 (4) A licensee or cardholder may also change his or her
10 status as a donor by (a) Internet access to the Donor Registry
11 of Nebraska, (b) telephone request to the registry, or (c) other
12 methods approved by the federally designated organ procurement
13 organization ~~in~~ for Nebraska.

14 (5) The Department of Motor Vehicles shall electronically
15 transfer to the federally designated organ procurement organization
16 ~~in~~ for Nebraska all information which appears on the face of an
17 original or replacement operator's license or state identification
18 card except the image and signature of each person whose license
19 or card includes the notation described in subsection (1) of this
20 section.

21 Sec. 33. Section 60-495, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-495 (1) The director shall adopt and promulgate such
24 rules and regulations and prepare and furnish all forms and
25 information necessary to carry out sections 60-493 to 60-495~~7~~

1 ~~71-4802, and 71-4804, and the duties of the department under the~~
2 Revised Uniform Anatomical Gift Act.

3 (2) The Organ and Tissue Donor Awareness and Education
4 Fund is created. The county treasurer shall remit all funds
5 contributed under sections 60-484, 60-4,144, and 60-4,181 to the
6 State Treasurer for credit to the fund. The Department of Health
7 and Human Services shall administer the Organ and Tissue Donor
8 Awareness and Education Fund for the promotion of organ and
9 tissue donation. The department shall use the fund to assist
10 organizations such as the ~~Organ and Tissue Donor Task Force of~~
11 ~~Nebraska, Inc.,~~ federally designated organ procurement organization
12 for Nebraska and the State Anatomical Board in carrying out
13 activities which promote organ and tissue donation through the
14 creation and dissemination of educational information. Any money in
15 the fund available for investment shall be invested by the state
16 investment officer pursuant to the Nebraska Capital Expansion Act
17 and the Nebraska State Funds Investment Act.

18 Sec. 34. Section 60-2907, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 60-2907 The department and any officer, employee, agent,
21 or contractor of the department having custody of a motor vehicle
22 record shall, upon the verification of identity and purpose of a
23 requester, disclose and make available the requested motor vehicle
24 record, including the personal information in the record, for the
25 following purposes:

1 (1) For use by any federal, state, or local governmental
2 agency, including any court or law enforcement agency, in carrying
3 out the agency's functions or by a private person or entity acting
4 on behalf of a governmental agency in carrying out the agency's
5 functions;

6 (2) For use in connection with matters of motor vehicle
7 or driver safety and theft; motor vehicle emissions; motor vehicle
8 product alterations, recalls, or advisories; performance monitoring
9 of motor vehicles, motor vehicle parts, and dealers; motor vehicle
10 market research activities, including survey research; and removal
11 of nonowner records from the original owner records of motor
12 vehicle manufacturers;

13 (3) For use in the normal course of business by a
14 legitimate business or its agents, employees, or contractors but
15 only:

16 (a) To verify the accuracy of personal information
17 submitted by the individual to the business or its agents,
18 employees, or contractors; and

19 (b) If such information as so submitted is not correct or
20 is no longer correct, to obtain the correct information, but only
21 for the purposes of preventing fraud by, pursuing legal remedies
22 against, or recovering on a debt or security interest against, the
23 individual;

24 (4) For use in connection with any civil, criminal,
25 administrative, or arbitral proceeding in any federal, state, or

1 local court or governmental agency or before any self-regulatory
2 body, including service of process, investigation in anticipation
3 of litigation, and execution or enforcement of judgments and
4 orders, or pursuant to an order of a federal, state, or local
5 court, an administrative agency, or a self-regulatory body;

6 (5) For use in research activities, and for use in
7 producing statistical reports, so long as the personal information
8 is not published, redisclosed, or used to contact individuals;

9 (6) For use by any insurer or insurance support
10 organization, or by a self-insured entity, or its agents,
11 employees, or contractors, in connection with claims investigation
12 activities, anti-fraud activities, rating, or underwriting;

13 (7) For use in providing notice to the owners of
14 abandoned, towed, or impounded vehicles;

15 (8) For use only for a purpose permitted under this
16 section either by a private detective, plain clothes investigator,
17 or private investigative agency licensed under sections 71-3201 to
18 71-3213;

19 (9) For use by an employer or the employer's agent or
20 insurer to obtain or verify information relating to a holder of a
21 commercial driver's license that is required under the Commercial
22 Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or
23 pursuant to sections 60-4,132 and 60-4,141;

24 (10) For use in connection with the operation of private
25 toll transportation facilities;

1 (11) For bulk distribution for surveys of, marketing to,
2 or solicitations of persons who have expressly consented to such
3 disclosure if the requester has obtained the notarized written
4 consent of the individual who is the subject of the personal
5 information being requested and has provided proof of receipt of
6 such written consent to the department or an officer, employee,
7 agent, or contractor of the department on a form prescribed by the
8 department;

9 (12) For any use if the requester has obtained the
10 notarized written consent of the individual who is the subject of
11 the personal information being requested and has provided proof of
12 receipt of such written consent to the department or an officer,
13 employee, agent, or contractor of the department;

14 (13) For use, including redisclosure through news
15 publication, of a member of a medium of communication as defined
16 in section 20-145 who requests such information in connection with
17 preparing, researching, gathering, or confirming news information
18 involving motor vehicle or driver safety or motor vehicle theft;

19 (14) For use by the federally designated organ
20 procurement organization ~~in~~ for Nebraska to establish and maintain
21 the Donor Registry of Nebraska as provided in section 71-4822; and

22 (15) For any other use specifically authorized by law
23 that is related to the operation of a motor vehicle or public
24 safety.

25 Sec. 35. Section 71-531, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-531 (1) (a) No person may be tested for the presence
3 of the human immunodeficiency virus infection unless he or she has
4 given written informed consent for the performance of such test.
5 The written informed consent shall provide an explanation of human
6 immunodeficiency virus infection and the meaning of both positive
7 and negative test results.

8 (b) If a person signs a general consent form for the
9 performance of medical tests or procedures which informs the person
10 that a test for the presence of the human immunodeficiency virus
11 infection may be performed and that the person may refuse to have
12 such test performed, the signing of an additional consent for
13 the specific purpose of consenting to a test related to human
14 immunodeficiency virus is not required during the time in which the
15 general consent form is in effect.

16 (2) If a person is unable to provide consent, the
17 person's legal representative may provide consent. If the person's
18 legal representative cannot be located or is unavailable, a health
19 care provider may authorize the test when the test results are
20 necessary for diagnostic purposes to provide appropriate medical
21 care.

22 (3) A person seeking a human immunodeficiency virus test
23 shall have the right to remain anonymous. A health care provider
24 shall confidentially refer such person to a site which provides
25 anonymous testing.

1 (4) This section shall not apply to:

2 (a) The performance by a health care provider or a health
3 facility of a human immunodeficiency virus test when the health
4 care provider or health facility procures, processes, distributes,
5 or uses a human body part for a purpose specified under the Revised
6 Uniform Anatomical Gift Act and such test is necessary to assure
7 medical acceptability of such gift for the purposes intended;

8 (b) The performance by a health care provider or a health
9 facility of a human immunodeficiency virus test when such test is
10 performed with the consent and written authorization of the person
11 being tested and such test is for insurance underwriting purposes,
12 written information about the human immunodeficiency virus is
13 provided, including, but not limited to, the identification and
14 reduction of risks, the person is informed of the result of such
15 test, and when the result is positive, the person is referred for
16 posttest counseling;

17 (c) The performance of a human immunodeficiency
18 virus test by licensed medical personnel of the Department of
19 Correctional Services when the subject of the test is committed
20 to such department. Posttest counseling shall be required for
21 the subject if the test is positive. A person committed to
22 the Department of Correctional Services shall be informed by
23 the department (i) if he or she is being tested for the human
24 immunodeficiency virus, (ii) that education shall be provided to
25 him or her about the human immunodeficiency virus, including, but

1 not limited to, the identification and reduction of risks, and
2 (iii) of the test result and the meaning of such result;

3 (d) Human immunodeficiency virus home collection kits
4 licensed by the federal Food and Drug Administration; or

5 (e) The performance of a human immunodeficiency virus
6 test performed pursuant to section 29-2290 or sections 71-507 to
7 71-513 or 71-514.01 to 71-514.05.

8 Sec. 36. Section 71-4813, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-4813 (1) When an autopsy is performed by the physician
11 authorized by the county coroner to perform such autopsy, the
12 physician or an appropriately qualified designee with training
13 in ophthalmologic techniques, as provided for in subsection (2)
14 of this section, ~~71-4807~~, may remove eye tissue of the decedent
15 for the purpose of transplantation. The physician may also remove
16 the pituitary gland for the purpose of research and treatment of
17 hypopituitary dwarfism and of other growth disorders. Removal of
18 the eye tissue or the pituitary gland shall only take place if the:

19 ~~(1)~~ (a) Autopsy was authorized by the county coroner;

20 ~~(2)~~ (b) County coroner receives permission from the
21 person having control of the disposition of the decedent's remains
22 pursuant to section 38-1425; and

23 ~~(3)~~ (c) Removal of eye tissue or of the pituitary gland
24 will not interfere with the course of any subsequent investigation
25 or alter the decedent's post mortem facial appearance.

1 (2) An appropriately qualified designee of a physician
2 with training in ophthalmologic techniques or a funeral director
3 and embalmer licensed pursuant to the Funeral Directing and
4 Embalming Practice Act upon (a) successfully completing a course
5 in eye enucleation and (b) receiving a certificate of competence
6 from the Department of Ophthalmology of the University of Nebraska
7 Medical Center may enucleate the eyes of the donor.

8 (3) The removed eye tissue or pituitary gland shall be
9 transported to the Department of Health and Human Services or any
10 desired institution or health facility as prescribed by section
11 38-1427.

12 Sec. 37. Section 71-4814, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-4814 The Legislature finds that the availability of
15 donor organs and tissue can save the lives and restore the health
16 and productivity of many Nebraskans. Every hospital in the state
17 shall develop a protocol, appropriate to the hospital's capability,
18 for identifying and referring potential donor organ and tissue
19 availability in coordination with the Revised Uniform Anatomical
20 Gift Act. The protocol shall require utmost care and sensitivity to
21 the family's circumstances, views, and beliefs in all discussions
22 regarding donation of organs or tissue. Hospitals shall be required
23 to consult with existing organ and tissue agencies preparatory
24 to establishing a staff training and education program in the
25 protocol. ~~Sections 71-4814 to 71-4818~~ This section and section

1 71-4816 are for the immediate preservation of the public health and
2 welfare.

3 Sec. 38. Section 71-4816, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-4816 (1) The physician responsible for the completion
6 and signing of the portion of the certificate of death entitled
7 medical certificate of death or, if there is no such physician,
8 the person responsible for signing the certificate of death shall
9 attest on the death certificate whether organ or tissue donation
10 was considered and whether consent was granted under the protocol
11 of the hospital.

12 (2) The Department of Health and Human Services shall
13 make available the number of organ and tissue donors in Nebraska
14 for statistical purposes.

15 Sec. 39. Section 71-4822, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-4822 (1) The federally designated organ procurement
18 organization ~~in~~ for Nebraska shall use the information received
19 from the Department of Motor Vehicles under section 60-494 to
20 establish and maintain the Donor Registry of Nebraska. ~~Transplant~~
21 ~~facilities may obtain needed information from such organization~~
22 ~~for placement of organs and tissue. Federally designated organ~~
23 ~~procurement agencies and cadaveric tissue agencies in other states~~
24 A procurement organization located outside of Nebraska may obtain
25 information from such organization the Donor Registry of Nebraska

1 when a Nebraska resident is listed as a donor on the registry and
2 is not located in Nebraska immediately preceding or at the time
3 of his or her death. The federally designated organ procurement
4 organization ~~in~~ for Nebraska may receive donor information from
5 sources other than the Department of Motor Vehicles and shall pay
6 all costs associated with creating and maintaining the ~~registry~~.
7 Donor Registry of Nebraska.

8 (2) It is the intent of the Legislature that the ~~registry~~
9 Donor Registry of Nebraska facilitate organ and tissue donations
10 and not inhibit such donations. A person does not need to be listed
11 on the ~~registry~~ Donor Registry of Nebraska to be an organ and
12 tissue donor.

13 (3) No person shall obtain information from the ~~registry~~
14 Donor Registry of Nebraska for the purpose of fundraising or
15 other commercial use. Information obtained from the ~~registry~~ Donor
16 Registry of Nebraska may only be used to facilitate the donation
17 process at the time of the donor's death. General statistical
18 information may be provided upon request to the federally
19 designated organ procurement organization ~~in~~ for Nebraska.

20 Sec. 40. This act becomes operative on January 1, 2011.

21 Sec. 41. Original sections 60-494, 60-495, 60-2907,
22 71-531, 71-4813, 71-4814, 71-4816, and 71-4822, Reissue Revised
23 Statutes of Nebraska, and sections 23-1825, 23-1826, 23-1827,
24 23-1828, 23-1829, 23-1830, 23-1831, 23-1832, and 60-493, Revised
25 Statutes Cumulative Supplement, 2008, are repealed.

1 Sec. 42. The following sections are outright repealed:
2 Sections 71-4801, 71-4802, 71-4803, 71-4804, 71-4805, 71-4806,
3 71-4807, 71-4809, 71-4810, 71-4811, 71-4812, 71-4815, 71-4817, and
4 71-4818, Reissue Revised Statutes of Nebraska.