

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1036

Introduced by Council, 11.

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 change provisions  
8 relating to coroners, issuance of operators' licenses  
9 and state identification cards, human immunodeficiency  
10 virus infection tests, hospital protocols, and the Donor  
11 Registry of Nebraska; to repeal the Uniform Anatomical  
12 Gift Act and provisions related to hospital protocols;  
13 to harmonize provisions; to provide an operative date;  
14 to repeal the original sections; and to outright repeal

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1           sections 71-4801, 71-4802, 71-4803, 71-4804, 71-4805,  
2           71-4806, 71-4807, 71-4809, 71-4810, 71-4811, 71-4812,  
3           71-4815, 71-4817, and 71-4818, Reissue Revised Statutes  
4           of Nebraska.  
5    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 because the donor is at least thirteen 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 for  
10 the decedent; and  
11           (10) Any other person having the authority to dispose of  
12 the decedent's body.

13           (b) If there is more than one member of a class listed  
14 in subdivision (a)(1), (3), (4), (5), (6), (7), or (8) of this  
15 section entitled to make an anatomical gift, an anatomical gift may  
16 be made by a member of the class unless that member or a person to  
17 which the gift may pass under section 11 of this act knows of an  
18 objection by another member of the class. If an objection is known,  
19 the gift may be made only by a majority of the members of the class  
20 who are reasonably available.

21           (c) A person may not make an anatomical gift if, at the  
22 time of the decedent's death, a person in a prior class under  
23 subsection (a) of this section is reasonably available to make or  
24 to object to the making of an anatomical gift.

25           Sec. 10. (a) A person authorized to make an anatomical

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

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

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

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

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

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

24 (1) A hospital; an accredited medical school, dental  
25 school, college, or university; an organ procurement organization;

1 or any other appropriate person, for research or education;

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

5 (3) An eye bank or tissue bank.

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

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

16 (1) If the part is an eye and the gift is for the purpose  
17 of transplantation or therapy, the gift passes to the appropriate  
18 eye bank;

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

22 (3) If the part is an organ and the gift is for the  
23 purpose of transplantation or therapy, the gift passes to the  
24 appropriate organ procurement organization as custodian of the  
25 organ; and

1           (4) If the part is an organ, an eye, or tissue and the  
2 gift is for the purpose of research or education, the gift passes  
3 to the appropriate procurement organization.

4           (d) For the purpose of subsection (c) of this section,  
5 if there is more than one purpose of an anatomical gift set forth  
6 in the document of gift but the purposes are not set forth in any  
7 priority, the gift must be used for transplantation or therapy,  
8 if suitable. If the gift cannot be used for transplantation or  
9 therapy, the gift may be used for research or education.

10           (e) If an anatomical gift of one or more specific parts  
11 is made in a document of gift that does not name a person described  
12 in subsection (a) of this section and does not identify the purpose  
13 of the gift, the gift may be used only for transplantation or  
14 therapy, and the gift passes in accordance with subsection (g) of  
15 this section.

16           (f) If a document of gift specifies only a general intent  
17 to make an anatomical gift by words such as donor, organ donor,  
18 or body donor, or by a symbol or statement of similar import, the  
19 gift may be used only for transplantation or therapy, and the gift  
20 passes in accordance with subsection (g) of this section.

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

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

25           (2) If the part is tissue, the gift passes to the

1 appropriate tissue bank; and

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

5 (h) An anatomical gift of an organ for transplantation  
6 or therapy, other than an anatomical gift under subdivision (a)(2)  
7 of this section, passes to the organ procurement organization as  
8 custodian of the organ.

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

14 (j) A person may not accept an anatomical gift if the  
15 person knows that the gift was not effectively made under section  
16 5 or 10 of this act or if the person knows that the decedent made  
17 a refusal under section 7 of this act that was not revoked. For  
18 purposes of this subsection, if a person knows that an anatomical  
19 gift was made on a document of gift, the person is deemed to know  
20 of any amendment or revocation of the gift or any refusal to make  
21 an anatomical gift on the same document of gift.

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

25 Sec. 12. (a) The following persons shall make a

1 reasonable search of an individual who the person reasonably  
2 believes is dead or near death for a document of gift or other  
3 information identifying the individual as a donor or as an  
4 individual who made a refusal:

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

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

10 (b) If a document of gift or a refusal to make an  
11 anatomical gift is located by the search required by subdivision  
12 (a) (1) of this section and the individual or deceased individual to  
13 whom it relates is taken to a hospital, the person responsible for  
14 conducting the search shall send the document of gift or refusal to  
15 the hospital.

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

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

21 (b) Upon or after an individual's death, a person in  
22 possession of a document of gift or a refusal to make an anatomical  
23 gift with respect to the individual shall allow examination and  
24 copying of the document of gift or refusal by a person authorized  
25 to make or object to the making of an anatomical gift with respect

1 to the individual or by a person to which the gift could pass under  
2 section 11 of this act.

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

10           (b) A procurement organization must be allowed reasonable  
11 access to information in the records of the Donor Registry of  
12 Nebraska or any donor registry described in subsection (a) of this  
13 section to ascertain whether an individual at or near death is a  
14 donor.

15           (c) When a hospital refers an individual at or near  
16 death to a procurement organization, the organization may conduct  
17 any reasonable examination necessary to determine the medical  
18 suitability of a part that is or could be the subject of  
19 an anatomical gift for transplantation, therapy, research, or  
20 education from a donor or a prospective donor. During the  
21 examination period, measures necessary to ensure the medical  
22 suitability of the part may not be withdrawn unless the  
23 hospital or procurement organization knows that the individual  
24 expressed a contrary intent. Measures necessary to ensure the  
25 medical suitability of the part from a prospective donor may

1 be administered unless it is determined that the administration  
2 of those measures would not provide the prospective donor with  
3 appropriate end-of-life care or it can be anticipated by reasonable  
4 medical judgment that such measures would cause the prospective  
5 donor's death other than by the prospective donor's underlying  
6 pathology.

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

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

16 (f) Upon the death of a minor who was a donor or had  
17 signed a refusal, unless a procurement organization knows the  
18 minor is emancipated, the procurement organization shall conduct  
19 a reasonable search for the parents of the minor and provide the  
20 parents with an opportunity to revoke or amend the anatomical gift  
21 or revoke the refusal.

22 (g) Upon referral by a hospital under subsection (a) of  
23 this section, a procurement organization shall make a reasonable  
24 search for any person listed in section 9 of this act having  
25 priority to make an anatomical gift on behalf of a prospective

1 donor. If a procurement organization receives information that  
2 an anatomical gift to any other person was made, amended, or  
3 revoked, it shall promptly advise the other person of all relevant  
4 information.

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

17 (i) Neither the physician who attends the decedent  
18 at death nor the physician who determines the time of the  
19 decedent's death may participate in the procedures for removing  
20 or transplanting a part from the decedent.

21 (j) A physician or technician may remove a donated part  
22 from the body of a donor that the physician or technician is  
23 qualified to remove.

24 Sec. 15. Each hospital in this state shall enter into  
25 agreements or affiliations with procurement organizations for

1 coordination of procurement and use of anatomical gifts.

2           Sec. 16. (a) Except as otherwise provided in subsection  
3 (b) of this section, a person that for valuable consideration,  
4 knowingly purchases or sells a part for transplantation or therapy  
5 if removal of a part from an individual is intended to occur after  
6 the individual's death commits a Class IIIA felony.

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

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

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

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

22           (c) In determining whether an anatomical gift has been  
23 made, amended, or revoked under the Revised Uniform Anatomical  
24 Gift Act, a person may rely upon representations of an individual  
25 listed in subdivision (a)(2), (3), (4), (5), (6), (7), or (9) of

1 section 9 of this act relating to the individual's relationship to  
2 the donor or prospective donor unless the person knows that the  
3 representation is untrue.

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

6                 (1) The Revised Uniform Anatomical Gift Act;

7                 (2) The laws of the state or country where it was  
8 executed; or

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

12                 (b) If a document of gift is valid under this section,  
13 the law of this state governs the interpretation of the document of  
14 gift.

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

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

19                 (1) Advance health care directive means a power of  
20 attorney for health care or a record signed or authorized by  
21 a prospective donor containing the prospective donor's direction  
22 concerning a health care decision for the prospective donor;

23                 (2) Declaration means a record signed by a prospective  
24 donor specifying the circumstances under which a life-support  
25 system may be withheld or withdrawn from the prospective donor; and

1           (3) Health care decision means any decision regarding the  
2 health care of the prospective donor.

3           (b) If a prospective donor has a declaration or advance  
4 health care directive and the terms of the declaration or directive  
5 and the express or implied terms of a potential anatomical gift  
6 are in conflict with regard to the administration of measures  
7 necessary to ensure the medical suitability of a part for  
8 transplantation or therapy, the prospective donor's attending  
9 physician and prospective donor shall confer to resolve the  
10 conflict. If the prospective donor is incapable of resolving the  
11 conflict, an agent acting under the prospective donor's declaration  
12 or directive, or, if none or the agent is not reasonably available,  
13 another person authorized by law other than the Revised Uniform  
14 Anatomical Gift Act to make health care decisions on behalf  
15 of the prospective donor, shall act for the donor to resolve  
16 the conflict. The conflict must be resolved as expeditiously as  
17 possible. Information relevant to the resolution of the conflict  
18 may be obtained from the appropriate procurement organization and  
19 any other person authorized to make an anatomical gift for the  
20 prospective donor under section 9 of this act. Before resolution of  
21 the conflict, measures necessary to ensure the medical suitability  
22 of the part from a prospective donor may be administered unless  
23 it is determined that the administration of those measures would  
24 not provide the prospective donor with appropriate end-of-life care  
25 or it can be anticipated by reasonable medical judgment that such

1 measures would cause the prospective donor's death other than by  
2 the prospective donor's underlying pathology. If the conflict is  
3 not resolved expeditiously, the direction of the declaration or  
4 advanced directive controls.

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

9       Sec. 22. The Revised Uniform Anatomical Gift Act  
10 modifies, limits, and supersedes the Electronic Signatures in  
11 Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does  
12 not modify, limit, or supersede section 101(a) of that act, 15  
13 U.S.C. 7001, or authorize electronic delivery of any of the notices  
14 described in section 103(b) of that act, 15 U.S.C. 7003(b).

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

17       23-1825 The Legislature finds and declares that it is  
18 in the public interest to facilitate organ and tissue donations  
19 pursuant to the Revised Uniform Anatomical Gift Act and thereby  
20 to increase the availability of organs and tissues for medical  
21 transplantation. To accomplish these purposes, the following  
22 constitutes the procedure to facilitate the recovery of organs and  
23 tissues from donors under the jurisdiction of a coroner within  
24 a time period compatible with the preservation of such organ or  
25 tissue for the purpose of transplantation.

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

3           23-1826 For purposes of sections 23-1825 to 23-1832:

4           (1) Coroner means a coroner or his or her designated  
5 representative;

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

8           (3) Donor means a decedent ~~(a) who is a donor of all~~  
9 ~~or part of his or her body pursuant to subsection (1) of section~~  
10 ~~71-4802 or (b) for whom an anatomical gift has been made pursuant~~  
11 ~~to subsection (2) of section 71-4802;~~ has the definition found in  
12 section 2 of this act; and

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

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

18           23-1827 (1) A coroner shall conduct a preliminary  
19 investigation of a decedent within the coroner's jurisdiction as  
20 soon as possible after notification by the hospital in which such  
21 decedent is located or the hospital to which such decedent is being  
22 transported. The coroner may designate the coroner's physician or  
23 another physician to conduct the preliminary investigation.

24           (2) The preliminary investigation shall be completed  
25 within a time period that is compatible with the preservation and

1 recovery of organs or tissues for the purpose of transplantation.

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

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

1 or tissues for which the coroner has denied recovery, may be  
2 recovered pursuant to the Revised Uniform Anatomical Gift Act.

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

5 23-1828 If the coroner, coroner's physician, or other  
6 physician designated by the coroner fails to complete the  
7 preliminary investigation required under section 23-1827, or if  
8 the coroner fails to designate the coroner's physician or another  
9 physician to conduct and complete the preliminary investigation,  
10 within a time period compatible with the preservation of the organs  
11 and tissues for the purpose of transplantation, or if the coroner  
12 declines to conduct the preliminary investigation, any organ or  
13 tissue that is compatible for transplantation may be recovered  
14 pursuant to the Revised Uniform Anatomical Gift Act as though the  
15 donor was not within the coroner's jurisdiction.

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

18 23-1829 If the coroner denies recovery of an organ or  
19 tissue, the coroner shall ~~state~~ include in a written report the  
20 reasons such recovery was denied and provide the report within ten  
21 days to the federally designated organ procurement organization ~~in~~  
22 for Nebraska.

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

25 23-1830 (1) If the coroner releases any organ or tissue

1 for recovery, ~~he or she~~ the coroner may request that a blood  
2 sample, a sample of catheterized urine, a sample of bile if the  
3 liver is recovered for the purpose of transplantation, a biopsy  
4 specimen in fixative of the organ or tissue procured, and copies of  
5 any photographs, pictures, or other diagrams of the organ or tissue  
6 made at the time of recovery be delivered to the coroner.

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

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

12 23-1831 Any physician or designated recovery personnel  
13 authorized by the federally designated organ procurement  
14 organization ~~in~~ for Nebraska to recover any organ or tissue  
15 pursuant to section 23-1827 or 23-1828 shall provide to the coroner  
16 a report detailing the recovery of such organ or tissue and any  
17 known relationship to the proximate cause or means of death.  
18 If appropriate, such report shall include a biopsy or medically  
19 approved sample from the recovered organ or tissue and the results  
20 of any diagnostic testing performed upon the recovered organ or  
21 tissue. Such report shall become part of the coroner's report or  
22 coroner's physician's report.

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

25 23-1832 ~~Any~~ A coroner, a coroner's designee, a coroner's

1 physician or his or her designee, a facility at which an organ or  
 2 tissue recovery took place pursuant to sections 23-1825 to 23-1832,  
 3 any authorized recovery personnel, or any other person who acts in  
 4 good faith in compliance with sections 23-1825 to 23-1832 shall be  
 5 immune from criminal liability for recovery of any organ or tissue.

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

8 60-493 When a person applies for an operator's license or  
 9 state identification card, the county treasurer or examiner of the  
 10 Department of Motor Vehicles shall distribute a brochure provided  
 11 by an organ and tissue procurement organization and approved by the  
 12 Department of Health and Human Services containing a description  
 13 and explanation of the Revised Uniform Anatomical Gift Act to each  
 14 person applying for a new or renewal license or card.

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

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

24 60-494 (1) Each operator's license and state  
 25 identification card shall include a special notation on the

1 front of the license or card if the licensee or cardholder  
2 indicates on the application or examiner's certificate under  
3 section 60-484, 60-4,144, or 60-4,181 his or her wish to be an  
4 organ donor, a tissue donor, or both.

5 (2) The status as an organ donor, a tissue donor, or  
6 both shall be renewed upon renewal of each license or card if  
7 the licensee or cardholder, at the time of renewal, indicates  
8 the desire to renew the status and the notation authorized in  
9 subsection (1) of this section has been marked. The status as  
10 an organ donor, a tissue donor, or both is not changed by the  
11 suspension, cancellation, revocation, or impoundment of the license  
12 or card.

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

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

23 (5) The Department of Motor Vehicles shall electronically  
24 transfer to the federally designated organ procurement organization  
25 ~~in~~ for Nebraska all information which appears on the face of an

1 original or replacement operator's license or state identification  
2 card except the image and signature of each person whose license  
3 or card includes the notation described in subsection (1) of this  
4 section.

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

7           60-495 (1) The director shall adopt and promulgate such  
8 rules and regulations and prepare and furnish all forms and  
9 information necessary to carry out sections 60-493 to 60-495,  
10 ~~71-4802, and 71-4804.~~ and the duties of the department under the  
11 Revised Uniform Anatomical Gift Act.

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

25           Sec. 34. Section 60-2907, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           60-2907 The department and any officer, employee, agent,  
3 or contractor of the department having custody of a motor vehicle  
4 record shall, upon the verification of identity and purpose of a  
5 requester, disclose and make available the requested motor vehicle  
6 record, including the personal information in the record, for the  
7 following purposes:

8           (1) For use by any federal, state, or local governmental  
9 agency, including any court or law enforcement agency, in carrying  
10 out the agency's functions or by a private person or entity acting  
11 on behalf of a governmental agency in carrying out the agency's  
12 functions;

13           (2) For use in connection with matters of motor vehicle  
14 or driver safety and theft; motor vehicle emissions; motor vehicle  
15 product alterations, recalls, or advisories; performance monitoring  
16 of motor vehicles, motor vehicle parts, and dealers; motor vehicle  
17 market research activities, including survey research; and removal  
18 of nonowner records from the original owner records of motor  
19 vehicle manufacturers;

20           (3) For use in the normal course of business by a  
21 legitimate business or its agents, employees, or contractors but  
22 only:

23           (a) To verify the accuracy of personal information  
24 submitted by the individual to the business or its agents,  
25 employees, or contractors; and

1           (b) If such information as so submitted is not correct or  
2 is no longer correct, to obtain the correct information, but only  
3 for the purposes of preventing fraud by, pursuing legal remedies  
4 against, or recovering on a debt or security interest against, the  
5 individual;

6           (4) For use in connection with any civil, criminal,  
7 administrative, or arbitral proceeding in any federal, state, or  
8 local court or governmental agency or before any self-regulatory  
9 body, including service of process, investigation in anticipation  
10 of litigation, and execution or enforcement of judgments and  
11 orders, or pursuant to an order of a federal, state, or local  
12 court, an administrative agency, or a self-regulatory body;

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

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

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

22           (8) For use only for a purpose permitted under this  
23 section either by a private detective, plain clothes investigator,  
24 or private investigative agency licensed under sections 71-3201 to  
25 71-3213;

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

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

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

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

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

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

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

7           Sec. 35. Section 71-531, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-531 (1) (a) No person may be tested for the presence  
10 of the human immunodeficiency virus infection unless he or she has  
11 given written informed consent for the performance of such test.  
12 The written informed consent shall provide an explanation of human  
13 immunodeficiency virus infection and the meaning of both positive  
14 and negative test results.

15           (b) If a person signs a general consent form for the  
16 performance of medical tests or procedures which informs the person  
17 that a test for the presence of the human immunodeficiency virus  
18 infection may be performed and that the person may refuse to have  
19 such test performed, the signing of an additional consent for  
20 the specific purpose of consenting to a test related to human  
21 immunodeficiency virus is not required during the time in which the  
22 general consent form is in effect.

23           (2) If a person is unable to provide consent, the  
24 person's legal representative may provide consent. If the person's  
25 legal representative cannot be located or is unavailable, a health

1 care provider may authorize the test when the test results are  
2 necessary for diagnostic purposes to provide appropriate medical  
3 care.

4 (3) A person seeking a human immunodeficiency virus test  
5 shall have the right to remain anonymous. A health care provider  
6 shall confidentially refer such person to a site which provides  
7 anonymous testing.

8 (4) This section shall not apply to:

9 (a) The performance by a health care provider or a health  
10 facility of a human immunodeficiency virus test when the health  
11 care provider or health facility procures, processes, distributes,  
12 or uses a human body part for a purpose specified under the Revised  
13 Uniform Anatomical Gift Act and such test is necessary to assure  
14 medical acceptability of such gift for the purposes intended;

15 (b) The performance by a health care provider or a health  
16 facility of a human immunodeficiency virus test when such test is  
17 performed with the consent and written authorization of the person  
18 being tested and such test is for insurance underwriting purposes,  
19 written information about the human immunodeficiency virus is  
20 provided, including, but not limited to, the identification and  
21 reduction of risks, the person is informed of the result of such  
22 test, and when the result is positive, the person is referred for  
23 posttest counseling;

24 (c) The performance of a human immunodeficiency  
25 virus test by licensed medical personnel of the Department of

1 Correctional Services when the subject of the test is committed  
2 to such department. Posttest counseling shall be required for  
3 the subject if the test is positive. A person committed to  
4 the Department of Correctional Services shall be informed by  
5 the department (i) if he or she is being tested for the human  
6 immunodeficiency virus, (ii) that education shall be provided to  
7 him or her about the human immunodeficiency virus, including, but  
8 not limited to, the identification and reduction of risks, and  
9 (iii) of the test result and the meaning of such result;

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

12 (e) The performance of a human immunodeficiency virus  
13 test performed pursuant to section 29-2290 or sections 71-507 to  
14 71-513 or 71-514.01 to 71-514.05.

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

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

1           ~~(1)~~ (a) Autopsy was authorized by the county coroner;  
2           ~~(2)~~ (b) County coroner receives permission from the  
3 person having control of the disposition of the decedent's remains  
4 pursuant to section 38-1425; and

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

8           (2) An appropriately qualified designee of a physician  
9 with training in ophthalmologic techniques or a funeral director  
10 and embalmer licensed pursuant to the Funeral Directing and  
11 Embalming Practice Act upon (a) successfully completing a course  
12 in eye enucleation and (b) receiving a certificate of competence  
13 from the Department of Ophthalmology of the University of Nebraska  
14 Medical Center, may enucleate the eyes of the donor.

15           (3) The removed eye tissue or pituitary gland shall be  
16 transported to the Department of Health and Human Services or any  
17 desired institution or health facility as prescribed by section  
18 38-1427.

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

21           71-4814 The Legislature finds that the availability of  
22 donor organs and tissue can save the lives and restore the health  
23 and productivity of many Nebraskans. Every hospital in the state  
24 shall develop a protocol, appropriate to the hospital's capability,  
25 for identifying and referring potential donor organ and tissue

1 availability in coordination with the Revised Uniform Anatomical  
2 Gift Act. The protocol shall require utmost care and sensitivity to  
3 the family's circumstances, views, and beliefs in all discussions  
4 regarding donation of organs or tissue. Hospitals shall be required  
5 to consult with existing organ and tissue agencies preparatory  
6 to establishing a staff training and education program in the  
7 protocol. ~~Sections 71-4814 to 71-4818~~ This section and section  
8 71-4816 are for the immediate preservation of the public health and  
9 welfare.

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

12           71-4816 (1) The physician responsible for the completion  
13 and signing of the portion of the certificate of death entitled  
14 medical certificate of death or, if there is no such physician,  
15 the person responsible for signing the certificate of death shall  
16 attest on the death certificate whether organ or tissue donation  
17 was considered and whether consent was granted under the protocol  
18 of the hospital.

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

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

24           71-4822 (1) The federally designated organ procurement  
25 organization ~~is~~ for Nebraska shall use the information received

1 from the Department of Motor Vehicles under section 60-494 to  
2 establish and maintain the Donor Registry of Nebraska. ~~Transplant~~  
3 ~~facilities may obtain needed information from such organization~~  
4 ~~for placement of organs and tissue. Federally designated organ~~  
5 ~~procurement agencies and cadaveric tissue agencies in other states~~  
6 A procurement organization located outside of Nebraska may obtain  
7 information from such organization the Donor Registry of Nebraska  
8 when a Nebraska resident is listed as a donor on the registry and  
9 is not located in Nebraska immediately preceding or at the time  
10 of his or her death. The federally designated organ procurement  
11 organization ~~is~~ for Nebraska may receive donor information from  
12 sources other than the Department of Motor Vehicles and shall pay  
13 all costs associated with creating and maintaining the ~~registry.~~  
14 Donor Registry of Nebraska.

15 (2) It is the intent of the Legislature that the ~~registry~~  
16 Donor Registry of Nebraska facilitate organ and tissue donations  
17 and not inhibit such donations. A person does not need to be listed  
18 on the ~~registry~~ Donor Registry of Nebraska to be an organ and  
19 tissue donor.

20 (3) No person shall obtain information from the ~~registry~~  
21 Donor Registry of Nebraska for the purpose of fundraising or  
22 other commercial use. Information obtained from the ~~registry~~ Donor  
23 Registry of Nebraska may only be used to facilitate the donation  
24 process at the time of the donor's death. General statistical  
25 information may be provided upon request to the federally

1 designated organ procurement organization ~~in~~ for Nebraska.

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

3           Sec. 41. Original sections 60-494, 60-495, 60-2907,  
4 71-531, 71-4813, 71-4814, 71-4816, and 71-4822, Reissue Revised  
5 Statutes of Nebraska, and sections 23-1825, 23-1826, 23-1827,  
6 23-1828, 23-1829, 23-1830, 23-1831, 23-1832, and 60-493, Revised  
7 Statutes Cumulative Supplement, 2008, are repealed.

8           Sec. 42. The following sections are outright repealed:  
9 Sections 71-4801, 71-4802, 71-4803, 71-4804, 71-4805, 71-4806,  
10 71-4807, 71-4809, 71-4810, 71-4811, 71-4812, 71-4815, 71-4817, and  
11 71-4818, Reissue Revised Statutes of Nebraska.