

E & R AMENDMENTS TO LB 352

1 1. Because of the reissuance of Volume 5A of the Reissue
2 Revised Statutes of Nebraska, strike the original sections and all
3 amendments thereto and insert the following new sections:

4 "Section 1. Sections 1 to 16 of this act shall be known
5 and may be cited as the Commission for the Blind and Visually
6 Impaired Act.

7 Sec. 2. The purposes of the Commission for the Blind and
8 Visually Impaired Act are to assist blind persons in gaining
9 remunerative employment, to enlarge economic opportunities for
10 blind persons, to increase the available occupational range and
11 diversity for blind persons, and to stimulate other efforts that
12 aid blind persons in becoming self-supporting.

13 Sec. 3. For purposes of the Commission for the Blind and
14 Visually Impaired Act:

15 (1) Blind person means:

16 (a) A person having sight which is so defective as to
17 seriously limit his or her ability to engage in the ordinary
18 vocations and activities of life; or

19 (b) A person, to be eligible and licensed as a blind
20 vending facility operator under section 11 of this act:

21 (i) Having no greater than 20/200 central visual acuity
22 in the better eye after correction; or

23 (ii) Having an equally disabling loss of the visual field
24 in which the widest diameter of the visual field subtends an angle

1 no greater than twenty degrees;

2 (2) Board means the governing board of the commission;

3 (3) Commission means the Commission for the Blind and
4 Visually Impaired;

5 (4) Committee of Blind Vendors means the committee
6 created pursuant to 20 U.S.C. 107b-1;

7 (5) State workforce investment board means the board
8 authorized by the federal Workforce Investment Partnership Act of
9 1998 and established in Nebraska;

10 (6) Vending facility means:

11 (a) Shelters, counters, shelving, display and wall cases,
12 refrigerating apparatus, and other appropriate auxiliary equipment
13 necessary for the vending of articles approved by the office,
14 agency, or person having control of the property on which the
15 vending facility is located; and

16 (b) Manual or coin-operated vending machines or similar
17 devices for vending articles approved by the office, agency, or
18 person having control of the property on which the vending facility
19 is located; and

20 (7) Vending facility program means the program
21 established and maintained pursuant to section 11 of this act.

22 Sec. 4. (1) The Commission for the Blind and Visually
23 Impaired is created. The governing board of the commission shall
24 consist of five members appointed by the Governor with the approval
25 of a majority of the members of the Legislature. All board members
26 shall have reasonable knowledge or experience in issues related to
27 blindness which may include, but is not limited to, reasonable

1 knowledge or experience acquired through membership in consumer
2 organizations of the blind. No board member or his or her
3 immediate family shall be a current employee of the commission. At
4 least three board members shall be blind persons: One member shall
5 be a member or designee of the National Federation of the Blind of
6 Nebraska; one member shall be a member or designee of the American
7 Council of the Blind of Nebraska; and one member may be a member of
8 another consumer organization of the blind.

9 (2) Board members shall be appointed for staggered terms
10 with the initial members appointed for terms as follows: Two
11 members for terms ending on December 31, 2001, and three members
12 for terms ending December 31, 2003. Subsequent appointments shall
13 be for terms of four years with no board member appointed to more
14 than two consecutive terms. Board members whose terms have expired
15 shall continue to serve until their successors have been appointed.
16 In the case of a vacancy, the Governor shall appoint a successor
17 for the unexpired term. Board members may be removed for cause.

18 (3) A majority of the board members constitutes a quorum
19 for the transaction of business. The board shall annually elect a
20 chairperson from its membership.

21 (4) Board members shall receive a per diem of seventy
22 dollars for each day spent in the performance of their official
23 duties and shall be reimbursed for their actual and necessary
24 expenses incurred in the performance of their official duties as
25 provided in sections 81-1174 to 81-1177. Aside from the provisions
26 of this subsection, a board member shall not receive other
27 compensation, perquisites, or allowances for the performance of

1 official duties.

2 Sec. 5. Section 83-211, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~83-211.~~ (1) The commission shall employ a director who
5 is the administrative officer of the commission. The director
6 shall hire employees as necessary for the efficient operation of
7 the commission. The director shall serve at the pleasure of the
8 commission.

9 (2) The commission ~~The Department of Health and Human~~
10 ~~Services~~ shall have power in each instance ~~(1)~~ (a) to establish
11 standards of qualification for personnel employed ~~in carrying out~~
12 ~~sections 83-210.01 to 83-210.07 and (2)~~ pursuant to the Commission
13 for the Blind and Visually Impaired Act and (b) to employ necessary
14 field agents, teachers, and other personnel in accordance with such
15 standards and fix their compensation. All employees of the
16 commission, except the director, shall be included within the State
17 Personnel System.

18 Sec. 6. Section 83-211.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~83-211.02.~~ (1) The rehabilitation ~~advisory~~ council to
21 the ~~Department of Health and Human Services~~ commission is created
22 to aid in providing services for the ~~visually impaired~~ blind
23 persons. The council shall consist of not to exceed fifteen
24 members who shall be appointed by the Governor. Five members shall
25 be appointed for terms of one year, five members for terms of two
26 years, and ~~five~~ the remaining members for terms of three years with
27 the Governor designating the expiration of the term of office of

1 each member of the council when first appointed. Thereafter their
2 successors shall serve for terms of three years. In appointing
3 members to the council, the Governor shall give due consideration
4 to the geographical distribution of ~~visually impaired~~ blind persons
5 within the state with a view to apportioning membership on the
6 council in accordance with such distribution. ~~The~~ After the
7 operative date of this act, the Governor shall appoint
8 representatives of the following as terms expire or vacancies
9 occur: (a) At least two representatives of blindness advocacy
10 groups representing blind persons, to accord fair representation to
11 the several organizations of the blind; (b) at least one
12 representative who is a current or former applicant or recipient of
13 vocational rehabilitation services; (c) a representative from the
14 Client Assistance Program; (d) a qualified vocational
15 rehabilitation counselor with knowledge of and experience with
16 vocational rehabilitation programs, who shall be a nonvoting member
17 if employed by the commission; (e) a representative of a community
18 rehabilitation program service provider; (f) four representatives
19 of business, industry, and labor; (g) a representative of a parent
20 training and information center; (h) at least one representative of
21 individuals with multiple disabilities, including blindness, who
22 have difficulty in representing themselves or are unable to
23 represent themselves due to their disabilities; and (i) a
24 representative of the statewide Independent Living Council. a
25 vocational rehabilitation counselor who, if employed by the
26 Director of Rehabilitation Services for the Visually Impaired,
27 shall be a nonvoting member, and at least one representative from

1 each of the following: (a) The statewide Independent Living
2 Council; (b) a parent training and information center; (c) the
3 Client Assistance Program; (d) a community rehabilitation program
4 service provider; (e) business, industry, or labor; (f) advocacy
5 groups of blind and visually impaired persons to accord fair
6 representation to the several organizations of the blind and
7 visually impaired; and (g) applicants or recipients of vocational
8 rehabilitation services at the time of appointment or at some time
9 prior to being appointed. A majority of the members of the council
10 shall be blind ~~or visually impaired~~ persons who are not employed by
11 the commission. In case of vacancy in the office of any member,
12 his or her successor shall be appointed for the unexpired term.

13 (2) Members of the council who are not state employees
14 shall receive thirty dollars per day for each day engaged in the
15 duties of the council. Members of the council shall be reimbursed
16 for their actual and necessary expenses incurred in the performance
17 of their official duties as provided in sections 81-1174 to
18 81-1177.

19 (3) The council shall hold four meetings a year at such
20 times and places as determined by the council. A chairperson and
21 such other officers as may be necessary shall be elected by the
22 council by majority vote for terms of office as determined by the
23 council.

24 (4) ~~The individual designated by the Department of Health~~
25 ~~and Human Services as the Director of Rehabilitation Services for~~
26 ~~the Visually Impaired~~ director of the commission employed pursuant
27 to section 5 of this act shall serve as an ex officio member of the

1 council in a nonvoting capacity. The director shall furnish any
2 data required by the council in carrying out its functions subject
3 to the limitations prescribed by law relating to the
4 confidentiality of information with respect to individual clients.

5 (5) The council shall, after consulting with the state
6 workforce investment board:

7 (a) Review and analyze the rehabilitation services
8 provided by the ~~Director of Rehabilitation Services for the~~
9 ~~Visually Impaired~~ commission and provide advice to the director of
10 the commission, particularly with respect to eligibility for and
11 the extent, scope, and effectiveness of services and the impact of
12 other agencies on the success of clients;

13 (b) ~~Advise the Director of Rehabilitation Services for~~
14 ~~the Visually Impaired~~ In partnership with the commission and its
15 director, develop, agree to, and review state goals and priorities
16 on the preparation of applications, the state plan, the strategic
17 plan, reports, needs assessments, and evaluations required by
18 federal law;

19 (c) Review and analyze the effectiveness of and consumer
20 satisfaction with other public and private agencies providing
21 services to blind ~~or visually impaired persons~~ persons, including
22 achieved employment outcomes and the provision of health and
23 related benefits;

24 (d) Prepare and submit an annual report to the ~~Director~~
25 ~~of Health and Human Services~~ director of the commission, the
26 Governor, and the Commissioner of Rehabilitation Services on the
27 status of vocational rehabilitation services operated by the

1 ~~Director of Rehabilitation Services for the Visually Impaired~~
2 commission. This report shall also be made available to the
3 public;

4 (e) Coordinate with other councils in the state that
5 serve disabled persons;

6 (f) Advise the ~~Director of Rehabilitation Services for~~
7 the Visually Impaired commission and provide for coordination and
8 the establishment of working relations with the statewide
9 Independent Living Council and centers for independent living; and

10 (g) Perform other duties that the council determines to
11 be appropriate.

12 Sec. 7. (1) The commission shall:

13 (a) Apply for, receive, and administer money from any
14 state or federal agency to be used for purposes relating to
15 blindness, including federal funds relating to vocational
16 rehabilitation of blind persons as provided in subsection (1) of
17 section 10 of this act;

18 (b) Receive on behalf of the state any gifts, donations,
19 or bequests from any source to be used in carrying out the purposes
20 of the Commission for the Blind and Visually Impaired Act;

21 (c) Promote self-support of blind persons as provided in
22 sections 8, 9, and 11 of this act;

23 (d) Provide itinerant training of alternative skills of
24 blindness, including, but not limited to, braille, the long white
25 cane for independent travel, adaptive technology, and lifestyle
26 maintenance;

27 (e) Establish, equip, and maintain a residential training

1 center with qualified instructors for comprehensive prevocational
2 training of eligible blind persons. The center shall also provide
3 comprehensive independent living training as well as orientation
4 and adjustment counseling for blind persons;

5 (f) Administer and operate a vending facility program in
6 the state, in its capacity as the designated licensing agency
7 pursuant to the federal Randolph-Sheppard Act, as amended, 20
8 U.S.C. 107 et seq., for the benefit of blind persons;

9 (g) Contract for the purchase of information services for
10 blind persons; and

11 (h) Perform other duties necessary to fulfill the
12 purposes of the act.

13 (2) The commission may perform educational services
14 relating to blindness and may cooperate and consult with other
15 public and private agencies relating to educational issues.

16 Sec. 8. To promote self-support of blind persons:

17 (1) The commission shall:

18 (a) Provide placement and career development services;

19 (b) Provide prevocational training;

20 (c) Support integration with and access to
21 community-based educational and vocational training opportunities;

22 (d) Implement employer outreach and cultivation; and

23 (e) Develop inservice community-based recruitment and
24 networking resources; and

25 (2) The commission may:

26 (a) Maintain employment data bases;

27 (b) Facilitate small business incubation; and

1 (c) Develop recommendations for state contract
2 preferences.

3 Sec. 9. (1) For a person to qualify for
4 blindness-related services from the commission, the commission
5 shall find such person to be (a) a blind person as defined in
6 subdivision (1)(a) of section 3 of this act or (b) a person who is
7 experiencing a deteriorating condition which is expected to result
8 in blindness. A person seeking to qualify for blindness-related
9 services may obtain an eye examination from a licensed
10 ophthalmologist or optometrist of his or her choice or provide
11 other certifying evidence of existing or potential visual
12 impairment as required by the rules and regulations of the
13 commission.

14 (2) The commission shall maintain a list of all
15 ophthalmologists and optometrists currently licensed in Nebraska
16 and establish procedures for a person to obtain evidence to verify
17 that he or she qualifies for blindness-related services.

18 (3) When an eye examination is required for a person
19 seeking to qualify for blindness-related services, the commission
20 shall pay the cost pursuant to its rules and regulations. The
21 commission may assist any person seeking to qualify for
22 blindness-related services under the Commission for the Blind and
23 Visually Impaired Act in arranging an eye examination or obtaining
24 other evidence pursuant to this section.

25 Sec. 10. Section 83-210.02, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~83-210.02.~~ (1) The Department of Health and Human

1 ~~Services is hereby~~ commission is authorized to accept the
2 provisions of ~~Public Law 112, Ninety-third Congress of the United~~
3 ~~States and all amendments thereto~~ the federal Rehabilitation Act of
4 1973, as amended, 29 U.S.C. 701 et seq., and to cooperate with the
5 United States Government in any way necessary to enable the
6 ~~department~~ commission to receive federal funds for the vocational
7 rehabilitation of ~~the~~ blind persons as provided in such ~~public law~~
8 act and the provisions of Titles II and XVI of the federal Social
9 Security Act, ~~and any amendments thereto~~ as amended, 42 U.S.C. 301
10 et seq.

11 (2) The Department of Health and Human Services (a) may
12 ~~collect, interpret, and disseminate information relating to the~~
13 ~~cause, prevention, and cure of blindness and~~ (b) commission shall
14 provide vocational rehabilitation services for ~~the~~ blind persons,
15 including, but not limited to, prevocational training, maintenance
16 during training, transportation, occupational tools and equipment,
17 vocational training, medical and surgical care and hospitalization,
18 and prosthetic appliances. ~~7 vocational training, maintenance~~
19 ~~during training, transportation, and occupational tools and~~
20 ~~equipment.~~

21 Sec. 11. Section 83-210.03, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~83-210.03.~~ For the purpose of providing blind persons
24 with remunerative employment, enlarging the economic opportunities
25 of ~~the~~ blind persons, and stimulating ~~the~~ blind persons to greater
26 efforts in striving to make themselves self-supporting, ~~blind~~
27 ~~persons licensed under the provisions of sections 83-210.03 to~~

1 ~~83-210.06~~ shall be authorized to operate vending operations in the
2 commission shall administer and operate vending facilities programs
3 pursuant to the federal Randolph-Sheppard Act, as amended, 20
4 U.S.C. 107 et seq. Blind persons licensed by the commission
5 pursuant to its rules and regulations are authorized to operate
6 vending facilities in any federally owned building or on any
7 federally owned or controlled property, in any state-owned building
8 or on any state-owned or controlled property, or on any county,
9 city, or municipally owned or controlled property with the approval
10 of the local governing body, where when, in the judgment of the
11 Director of Health and Human Services director of the commission,
12 such vending ~~businesses~~ facilities may be properly and
13 satisfactorily operated by blind persons.

14 Sec. 12. Section 83-210.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~83-210.01.~~ There is hereby created a fund, to be known
17 as the Small Business Enterprises Cash Fund, from which shall be
18 appropriated such amounts as are available therefrom and as shall
19 be considered incident to the administration of sections ~~83-210.03~~
20 to ~~83-210.07.~~ The Commission for the Blind and Visually Impaired
21 Cash Fund is created. On the operative date of this act, any money
22 in the Small Business Enterprises Cash Fund and any portion of the
23 Department of Health and Human Services Cash Fund or any other cash
24 funds attributable to the Division of Rehabilitation Services for
25 the Visually Impaired within the Department of Health and Human
26 Services shall be transferred to the Commission for the Blind and
27 Visually Impaired Cash Fund. Any custodial funds, gifts, trusts,

1 and federal grants attributable to the Division of Rehabilitation
2 Services for the Visually Impaired within the Department of Health
3 and Human Services shall be transferred and attributable to the
4 commission. The fund shall contain money received pursuant to the
5 Commission for the Blind and Visually Impaired Act and shall
6 include a percentage of the net proceeds derived from the operation
7 of ~~enterprises provided pursuant to sections 83-210.03 to 83-210.07~~
8 vending facilities which do not employ more than three full-time
9 people or the equivalent thereof if part-time employees are
10 utilized. The net proceeds from the operation of ~~such enterprises~~
11 vending facilities shall accrue to the blind vending facility
12 operator, except for the percentage of the net proceeds that shall
13 revert to the cash fund. Such fund shall be used for supervision
14 and ~~such~~ other administrative purposes as ~~shall be~~ necessary. The
15 commission, in consultation with the Committee of Blind Vendors,
16 shall determine the percentage of the net proceeds that shall
17 ~~revert~~ reverts to the ~~cash~~ fund ~~shall be determined by the~~
18 ~~department~~ after an investigation ~~has been made~~ to reveal the gross
19 proceeds, cost of operation, amount necessary to replenish the
20 stock of merchandise, and the business needs of the blind
21 ~~individual~~ vending facility operator. All equipment purchased from
22 ~~such cash~~ the fund shall be ~~is~~ the property of the state and shall
23 be disposed of only by sale at a fair market price. Any money in
24 the ~~cash~~ fund available for investment shall be invested by the
25 state investment officer pursuant to the Nebraska Capital Expansion
26 Act and the Nebraska State Funds Investment Act.

27 Sec. 13. The commission shall file an annual report with

1 the Governor and the Clerk of the Legislature, prior to each
2 regular session of the Legislature, which details the activities
3 and expenditures of the commission and shall include separately
4 information related to the activities and expenditures of the
5 vending facility program as well as estimates of anticipated
6 expenditures and anticipated revenue available to the vending
7 facility program from all sources.

8 Sec. 14. The commission shall provide an opportunity for
9 a fair hearing to any person applying for or receiving services who
10 is dissatisfied with any action or failure to act arising from the
11 operation or administration of any service or program authorized
12 under the Commission for the Blind and Visually Impaired Act.

13 Sec. 15. The commission shall adopt and promulgate rules
14 and regulations as necessary to implement the purposes of the
15 Commission for the Blind and Visually Impaired Act.

16 Sec. 16. (1) All property, equipment, supplies, and
17 personnel which belonged to, were allocated to, or were used to
18 support the Division of Rehabilitation Services for the Visually
19 Impaired within the Department of Health and Human Services prior
20 to the operative date of this act are transferred to the Commission
21 for the Blind and Visually Impaired.

22 (2) All existing contracts and agreements in effect on
23 the operative date of this act as to the Division of Rehabilitation
24 Services for the Visually Impaired within the Department of Health
25 and Human Services are binding and effective upon the Commission
26 for the Blind and Visually Impaired.

27 Sec. 17. Section 84-1604.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 84-1604.01. Any person who is blind as defined in
3 section ~~83-212~~ 3 of this act and who provides services under
4 contract to the State of Nebraska to a disabled person as defined
5 in section 68-1503 shall be afforded the opportunity to enroll in
6 the state employees group health insurance program until age
7 sixty-five. Eligible persons electing this option shall be
8 responsible for the entire premium cost and an administrative fee
9 consistent with that allowed by federal guidelines for continuation
10 of health insurance.

11 Sec. 18. (1) The Legislature finds that:

12 (a) Newspapers are a significant and important source of
13 daily information;

14 (b) As a written form of media, newspapers are able to
15 provide indepth coverage of issues as well as coverage of a breadth
16 of issues which may be absent in other electronic or broadcast
17 media;

18 (c) While a newspaper's written format has advantages,
19 such written format severely limits the ability of blind and other
20 print-reading-impaired persons to obtain information from
21 newspapers;

22 (d) This information deficit contributes to an
23 unemployment rate estimated at seventy-five percent among
24 working-age blind persons to whom the availability of such detailed
25 news coverage would vastly improve opportunities for meaningful
26 employment;

27 (e) There are a significant number of blind and

1 print-reading-impaired persons in Nebraska who would benefit from
2 having timely and complete access to local and national newspapers;

3 (f) Due to technological advances, newspapers can be
4 efficiently and effectively distributed by voice to enable access
5 by blind and other print-reading-impaired persons; and

6 (g) The state should maintain a system by which blind and
7 other print-reading-impaired persons can access the information
8 newspapers provide.

9 (2) The purpose of this section and section 19 of this
10 act is to provide a digital voice newspaper delivery system to
11 enable blind and other print-reading-impaired persons to access
12 newspapers in a timely and comprehensive manner.

13 Sec. 19. (1) The Commission for the Blind and Visually
14 Impaired shall establish standards and procedures for a statewide
15 digital voice newspaper delivery system and shall oversee its
16 operation. The commission shall:

17 (a) Enter into contracts for the operation of such
18 system;

19 (b) Provide space for the location of distribution
20 devices and other equipment necessary to operate the system;

21 (c) Provide for daily monitoring to assure prompt and
22 accurate functioning;

23 (d) Advertise the system and recruit blind and other
24 print-reading-impaired persons for user certification;

25 (e) Develop and implement procedures for user
26 certification;

27 (f) Serve as a coordinator between the system operator

1 and the certified users; and

2 (g) Adopt and promulgate rules and regulations to carry
3 out this section and section 18 of this act.

4 (2) Any certified user of the system shall not be charged
5 for access to the system other than instate and out-of-state
6 long-distance charges incurred while accessing the system.

7 Sec. 20. This act becomes operative on July 1, 2000.

8 Sec. 21. Original sections 83-210.01 to 83-210.03,
9 83-211, 83-211.02, and 84-1604.01, Reissue Revised Statutes of
10 Nebraska, are repealed.

11 Sec. 22. The following sections are outright repealed:
12 Sections 83-210.04 to 83-210.07 and 83-212, Reissue Revised
13 Statutes of Nebraska.

14 Sec. 23. Since an emergency exists, this act takes
15 effect when passed and approved according to law."

16 2. On page 1, strike lines 2 through 8 and insert "to
17 83-210.03, 83-211, 83-211.02, and 84-1604.01, Reissue Revised
18 Statutes of Nebraska; to adopt the Commission for the Blind and
19 Visually Impaired Act; to eliminate provisions relating to the
20 Department of Health and Human Services; to create a fund; to state
21 intent; to provide for a voice newspaper delivery system; to
22 harmonize provisions; to provide an operative date; to repeal the
23 original sections; to outright repeal sections 83-210.04 to
24 83-210.07 and 83-212, Reissue Revised Statutes of Nebraska; and to
25 declare an emergency."