

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 644**

FINAL READING

Introduced by Government, Military and Veterans Affairs Committee:  
Murante, 49, Chairperson; Brewer, 43; Briese, 41;  
Craighead, 6; Hilgers, 21; Lowe, 37; Wayne, 13.

Read first time January 18, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to government; to amend sections 2-3815,  
2 32-204, 38-2701, 38-2703, 44-5224, 44-5230, 44-5255, 44-5258,  
3 44-5266, 60-4,105, 60-4,118, 60-4,118.03, 68-949, and 71-457,  
4 Reissue Revised Statutes of Nebraska, and sections 2-301, 60-4,114,  
5 60-4,146, 68-909, and 68-1108, Revised Statutes Cumulative  
6 Supplement, 2016; to provide, change, and eliminate powers and  
7 duties relating to the Department of Agriculture, the Department of  
8 Health and Human Services, the Department of Insurance, the  
9 Department of Motor Vehicles, and the Director of Natural Resources;  
10 to provide for a transfer of funds; to eliminate the community  
11 gardens task force, the advisory committee for value-added  
12 agricultural promotion and development, the Carbon Sequestration  
13 Advisory Committee, the Perfusionist Committee, the Nebraska Small  
14 Employer Health Reinsurance Program, the Nebraska Exchange  
15 Stakeholder Commission, the Nebraska Exchange Transparency Act, the  
16 Intergenerational Poverty Task Force, the Health Advisory Board, the  
17 Medicaid Reform Council, the Aging Nebraskans Task Force, the  
18 Nursing Home Advisory Council, the Health Care Transparency Act, the  
19 Health Care Data Base Advisory Committee, and a technical advisory  
20 committee to the State Records Board; to change and eliminate  
21 definitions; to change provisions relating to certain appeals under

1 the Motor Vehicle Operator's License Act; to eliminate programs,  
2 councils, committees, and cash funds; to eliminate obsolete  
3 provisions; to harmonize provisions; to repeal the original  
4 sections; and to outright repeal sections 2-5301, 2-5302, 2-5303,  
5 2-5305, 2-5306, 38-2712, 44-5231, 44-5246, 44-5248, 44-5251,  
6 44-5261, 44-5263, 60-4,118.02, 60-4,118.04, 68-948, 71-6043,  
7 71-6044, 71-6045, 71-6046, 71-6047, 71-6048, 71-6049, 71-6050,  
8 71-6051, 71-6052, and 84-1205.01, Reissue Revised Statutes of  
9 Nebraska, and sections 2-305, 44-8701, 44-8702, 44-8703, 44-8704,  
10 44-8705, 44-8706, 50-429, 50-430, 50-431, 50-432, 50-433, 68-1107,  
11 68-1109, 68-1110, 71-9201, 71-9202, 71-9203, and 71-9204, Revised  
12 Statutes Cumulative Supplement, 2016.

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

1 Section 1. Section 2-301, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 2-301 Sections 2-301 to 2-304 ~~2-305~~ shall be known and may be cited  
4 as the Community Gardens Act.

5 Sec. 2. Section 2-3815, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 2-3815 (1) The Department of Agriculture shall establish an  
8 agriculture promotion and development program. The department shall  
9 employ a program director and one specialist in research techniques and  
10 market development. Both individuals shall report directly to the  
11 Director of Agriculture.

12 (2) The program shall concentrate on the identification and  
13 development of opportunities to enhance profitability in agriculture and  
14 to stimulate agriculture-related economic development. Program activities  
15 may include, but not be limited to, (a) ~~(1)~~ promotion and market  
16 development, (b) ~~(2)~~ value-added processing of alternative and  
17 traditional commodities, (c) ~~(3)~~ agricultural diversification, including  
18 poultry development and aquaculture, (d) ~~(4)~~ agricultural cooperatives,  
19 and (e) ~~(5)~~ alternative crops.

20 ~~In order to carry out the purposes of this section, the program~~  
21 ~~director may, if he or she deems necessary, convene an advisory committee~~  
22 ~~to assist the program director in developing and implementing program~~  
23 ~~activities. Representatives from the Nebraska Food Processing Center, the~~  
24 ~~Cooperative Extension Service of the University of Nebraska, the~~  
25 ~~commodity boards, the Department of Economic Development, the United~~  
26 ~~States Department of Agriculture grant programs, and the private sector~~  
27 ~~may serve on such committee at the request of the program director. If an~~  
28 ~~advisory committee is convened, committee members shall not receive any~~  
29 ~~reimbursement for expenses.~~

30 (3) The Department of Agriculture shall serve as the facilitator,  
31 coordinator, and catalyst for developments through and with the Nebraska

1 Food Processing Center, the Cooperative Extension Service of the  
2 University of Nebraska, the commodity boards, the Department of Economic  
3 Development, other state agencies, the United States Department of  
4 Agriculture grant programs, and the private sector. It is the intent of  
5 the Legislature that the department foster close working relationships  
6 between production agriculture and existing programs for the purposes of  
7 agricultural development and promotion. The department may enter into  
8 such contracts as may be necessary to carry out the purposes of this  
9 section.

10 (4) For purposes of this section, unless the context otherwise  
11 requires, private sector includes ~~shall include~~, but is not ~~be~~ limited  
12 to, representatives of food industry associations, lenders, or venture  
13 capital groups.

14 Sec. 3. Section 32-204, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 32-204 The Election Administration Fund is hereby created. The fund  
17 shall consist of federal funds, state funds, gifts, and grants  
18 appropriated for the administration of elections. The Secretary of State  
19 shall use the fund for voting systems, provisional voting, computerized  
20 statewide voter registration lists, voter registration, training or  
21 informational materials related to elections, and any other costs related  
22 to elections. Any money in the fund available for investment shall be  
23 invested by the state investment officer pursuant to the Nebraska Capital  
24 Expansion Act and the Nebraska State Funds Investment Act. The State  
25 Treasurer shall transfer any funds in the Carbon Sequestration Assessment  
26 Cash Fund on the effective date of this act to the Election  
27 Administration Fund.

28 Sec. 4. Section 38-2701, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 38-2701 Sections 38-2701 to 38-2711 ~~38-2712~~ shall be known and may  
31 be cited as the Perfusion Practice Act.

1           Sec. 5. Section 38-2703, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           38-2703 For purposes of the Perfusion Practice Act:

4           (1) Board means the Board of Medicine and Surgery;

5           ~~(2) Committee means the Perfusionist Committee created under section~~  
6 ~~38-2712;~~

7           (2) ~~(3)~~ Extracorporeal circulation means the diversion of a  
8 patient's blood through a heart-lung machine or a similar device that  
9 assumes the functions of the patient's heart, lungs, kidney, liver, or  
10 other organs;

11           (3) ~~(4)~~ Perfusion means the functions necessary for the support,  
12 treatment, measurement, or supplementation of the cardiovascular,  
13 circulatory, and respiratory systems or other organs, or a combination of  
14 such activities, and to ensure the safe management of physiologic  
15 functions by monitoring and analyzing the parameters of the systems under  
16 an order and under the supervision of a licensed physician, including:

17           (a) The use of extracorporeal circulation, long-term cardiopulmonary  
18 support techniques including extracorporeal carbon dioxide removal and  
19 extracorporeal membrane oxygenation, and associated therapeutic and  
20 diagnostic technologies;

21           (b) Counterpulsation, ventricular assistance, autotransfusion, blood  
22 conservation techniques, myocardial and organ preservation,  
23 extracorporeal life support, and isolated limb perfusion;

24           (c) The use of techniques involving blood management, advanced life  
25 support, and other related functions; and

26           (d) In the performance of the acts described in subdivisions (a)  
27 through (c) of this subdivision:

28           (i) The administration of:

29           (A) Pharmacological and therapeutic agents; and

30           (B) Blood products or anesthetic agents through the extracorporeal  
31 circuit or through an intravenous line as ordered by a physician;

- 1 (ii) The performance and use of:
- 2 (A) Anticoagulation monitoring and analysis;
- 3 (B) Physiologic monitoring and analysis;
- 4 (C) Blood gas and chemistry monitoring and analysis;
- 5 (D) Hematologic monitoring and analysis;
- 6 (E) Hypothermia and hyperthermia;
- 7 (F) Hemoconcentration and hemodilution; and
- 8 (G) Hemodialysis; and

9 (iii) The observation of signs and symptoms related to perfusion  
10 services, the determination of whether the signs and symptoms exhibit  
11 abnormal characteristics, and the implementation of appropriate  
12 reporting, clinical perfusion protocols, or changes in, or the initiation  
13 of, emergency procedures; and

14 (4) ~~(5)~~ Perfusionist means a person who is licensed to practice  
15 perfusion pursuant to the Perfusion Practice Act.

16 Sec. 6. Section 44-5224, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 44-5224 The purposes of the Small Employer Health Insurance  
19 Availability Act are to promote the availability of health insurance  
20 coverage to small employers regardless of their health status or claims  
21 experience, to prevent abusive rating practices, to require disclosure of  
22 rating practices to purchasers, to establish rules regarding renewability  
23 of coverage, to establish limitations on the use of preexisting condition  
24 exclusions, to provide for development of basic and standard health  
25 benefit plans to be offered to all small employers, ~~to provide for~~  
26 ~~establishment of a reinsurance program,~~ and to improve the overall  
27 fairness and efficiency of the small group health insurance market. The  
28 act is not intended to provide a comprehensive solution to the problem of  
29 affordability of health care or health insurance.

30 Sec. 7. Section 44-5230, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           44-5230 Basic health benefit plan shall mean a lower cost health  
2 benefit plan regulated by the Department of Insurance board.

3           Sec. 8. Section 44-5255, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           44-5255 Standard health benefit plan shall mean a health benefit  
6 plan regulated by the Department of Insurance board.

7           Sec. 9. Section 44-5258, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9           44-5258 (1) Premium rates for health benefit plans subject to the  
10 Small Employer Health Insurance Availability Act shall be subject to the  
11 following provisions:

12           (a) The index rate for a rating period for any class of business  
13 shall not exceed the index rate for any other class of business by more  
14 than twenty percent;

15           (b) For a class of business, the premium rates charged during a  
16 rating period to small employers with similar case characteristics for  
17 the same or similar coverage or the rates that could be charged to such  
18 employers under the rating system for that class of business shall not  
19 vary from the index rate by more than twenty-five percent of the index  
20 rate;

21           (c) The percentage increase in the premium rate charged to a small  
22 employer for a new rating period may not exceed the sum of the following:

23           (i) The percentage change in the new business premium rate measured  
24 from the first day of the prior rating period to the first day of the new  
25 rating period. In the case of a health benefit plan into which the small  
26 employer carrier is no longer enrolling new small employers, the small  
27 employer carrier shall use the percentage change in the base premium rate  
28 if such change does not exceed, on a percentage basis, the change in the  
29 new business premium rate for the most similar health benefit plan into  
30 which the small employer carrier is actively enrolling new small  
31 employers;

1 (ii) Any adjustment, not to exceed fifteen percent annually and  
2 adjusted pro rata for rating periods of less than one year, due to the  
3 claim experience, health status, or duration of coverage of the employees  
4 or dependents of the small employer as determined from the small employer  
5 carrier's rate manual for the class of business; and

6 (iii) Any adjustment due to change in coverage or change in the case  
7 characteristics of the small employer as determined from the small  
8 employer carrier's rate manual for the class of business;

9 (d) Adjustments in rates for claim experience, health status, and  
10 duration of coverage shall not be charged to individual employees or  
11 dependents. Any such adjustment shall be applied uniformly to the rates  
12 charged for all employees and dependents of the small employer;

13 (e) Premium rates for health benefit plans shall comply with the  
14 requirements of this section ~~notwithstanding any assessments paid or~~  
15 ~~payable by small employer carriers pursuant to section 44-5261;~~

16 (f) A small employer carrier may utilize industry as a case  
17 characteristic in establishing premium rates, provided that the highest  
18 rate factor associated with any industry classification shall not exceed  
19 the lowest rate factor associated with any industry classification by  
20 more than fifteen percent;

21 (g) In the case of health benefit plans delivered or issued for  
22 delivery prior to January 1, 1995, a premium rate for a rating period may  
23 exceed the ranges set forth in subdivisions (a) and (b) of this  
24 subsection for a period of three years following January 1, 1995. In such  
25 case, the percentage increase in the premium rate charged to a small  
26 employer for a new rating period shall not exceed the sum of the  
27 following:

28 (i) The percentage change in the new business premium rate measured  
29 from the first day of the prior rating period to the first day of the new  
30 rating period. In the case of a health benefit plan into which the small  
31 employer carrier is no longer enrolling new small employers, the small



1 employer carrier shall use the percentage change in the base premium rate  
2 if such change does not exceed, on a percentage basis, the change in the  
3 new business premium rate for the most similar health benefit plan into  
4 which the small employer carrier is actively enrolling new small  
5 employers; and

6 (ii) Any adjustment due to change in coverage or change in the case  
7 characteristics of the small employer as determined from the carrier's  
8 rate manual for the class of business;

9 (h)(i) Small employer carriers shall apply rating factors, including  
10 case characteristics, consistently with respect to all small employers in  
11 a class of business. Rating factors shall produce premiums for identical  
12 groups which differ only by the amounts attributable to plan design and  
13 do not reflect differences due to the nature of the groups assumed to  
14 select particular health benefit plans.

15 (ii) A small employer carrier shall treat all health benefit plans  
16 issued or renewed in the same calendar month as having the same rating  
17 period;

18 (i) For the purposes of this subsection, a health benefit plan that  
19 contains a restricted network provision shall not be considered similar  
20 coverage to a health benefit plan that does not contain such a provision  
21 if the restriction of benefits to network providers results in  
22 substantial differences in claim costs;

23 (j) The small employer carrier shall not use case characteristics,  
24 other than age, gender, industry, geographic area, family composition,  
25 and group size without the prior approval of the director; and

26 (k) The director may establish regulations to implement the  
27 provisions of this section and to assure that rating practices used by  
28 small employer carriers are consistent with the purposes of the act,  
29 including regulations that:

30 (i) Assure that differences in rates charged for health benefit  
31 plans by small employer carriers are reasonable and reflect objective

1 differences in plan design, not including differences due to the nature  
2 of the groups assumed to select particular health benefit plans; and

3 (ii) Prescribe the manner in which case characteristics may be used  
4 by small employer carriers.

5 (2) A small employer carrier shall not transfer a small employer  
6 involuntarily into or out of a class of business. A small employer  
7 carrier shall not offer to transfer a small employer into or out of a  
8 class of business unless such offer is made to transfer all small  
9 employers in the class of business without regard to case  
10 characteristics, claim experience, health status, or duration of coverage  
11 since issue.

12 (3) The director may suspend for a specified period the application  
13 of subdivision (1)(a) of this section as to the premium rates applicable  
14 to one or more small employers included within a class of business of a  
15 small employer carrier for one or more rating periods upon a filing by  
16 the small employer carrier and a finding by the director either that the  
17 suspension is reasonable in light of the financial condition of the small  
18 employer carrier or that the suspension would enhance the efficiency and  
19 fairness of the marketplace for small employer health insurance.

20 (4) In connection with the offering for sale of any health benefit  
21 plan to a small employer, a small employer carrier shall make a  
22 reasonable disclosure, as part of its solicitation and sales materials,  
23 of all of the following:

24 (a) The extent to which premium rates for a specified small employer  
25 are established or adjusted based upon the actual or expected variation  
26 in claims costs or actual or expected variation in health status of the  
27 employees of the small employer and their dependents;

28 (b) The provisions of the health benefit plan concerning the small  
29 employer carrier's right to change premium rates and the factors, other  
30 than claim experience, that affect changes in premium rates;

31 (c) The provisions relating to the renewability of policies and

1 contracts; and

2 (d) The provisions relating to any preexisting condition provision.

3 (5)(a) Each small employer carrier shall maintain at its principal  
4 place of business a complete and detailed description of its rating  
5 practices and renewal underwriting practices, including information and  
6 documentation that demonstrate that its rating methods and practices are  
7 based upon commonly accepted actuarial assumptions and are in accordance  
8 with sound actuarial principles.

9 (b) Each small employer carrier shall file with the director  
10 annually on or before March 15, an actuarial certification certifying  
11 that the carrier is in compliance with the act and that the rating  
12 methods of the small employer carrier are actuarially sound. Such  
13 certification shall be in a form and manner, and shall contain such  
14 information, as specified by the director. A copy of the certification  
15 shall be retained by the small employer carrier at its principal place of  
16 business.

17 (c) A small employer carrier shall make the information and  
18 documentation described in subdivision (a) of this subsection available  
19 to the director upon request. Except in cases of violations of the act,  
20 the information shall be considered proprietary and trade secret  
21 information and shall not be subject to disclosure by the director to  
22 persons outside of the Department of Insurance except as agreed to by the  
23 small employer carrier or as ordered by a court of competent  
24 jurisdiction.

25 Sec. 10. Section 44-5266, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 44-5266 (1) Each small employer carrier shall actively market health  
28 benefit plan coverage, including the basic health benefit plans and  
29 standard health benefit plans, to eligible small employers in the state.  
30 If a small employer carrier denies coverage to a small employer on the  
31 basis of the health status or claims experience of the small employer or

1 its employees or dependents, the small employer carrier shall offer the  
2 small employer the opportunity to purchase a basic health benefit plan  
3 and a standard health benefit plan.

4 (2)(a) Except as provided in subdivision (b) of this subsection, no  
5 small employer carrier, agent, or broker shall, directly or indirectly,  
6 engage in the following activities:

7 (i) Encouraging or directing small employers to refrain from filing  
8 an application for coverage with the small employer carrier because of  
9 the health status, claims experience, industry, occupation, or geographic  
10 location of the small employer; or

11 (ii) Encouraging or directing small employers to seek coverage from  
12 another carrier because of the health status, claims experience,  
13 industry, occupation, or geographic location of the small employer.

14 (b) The provisions of subdivision (a) of this subsection shall not  
15 apply with respect to information provided by a small employer carrier,  
16 an agent, or a broker to a small employer regarding the established  
17 geographic service area or a restricted network provision of a small  
18 employer carrier.

19 (3)(a) Except as provided in subdivision (b) of this subsection, no  
20 small employer carrier shall, directly or indirectly, enter into any  
21 contract, agreement, or arrangement with an agent or broker that provides  
22 for or results in the compensation paid to an agent or broker for the  
23 sale of a health benefit plan to be varied because of the health status,  
24 claims experience, industry, occupation, or geographic location of the  
25 small employer.

26 (b) The provisions of subdivision (a) of this subsection shall not  
27 apply with respect to a compensation arrangement that provides  
28 compensation to an agent or broker on the basis of percentage of premium  
29 except that the percentage shall not vary because of the health status,  
30 claims experience, industry, occupation, or geographic area of the small  
31 employer.

1 (4) A small employer carrier shall provide reasonable compensation,  
2 ~~as provided under the plan of operation of the program,~~ to an agent or  
3 broker, if any, for the sale of a basic health benefit plan or a standard  
4 health benefit plan.

5 (5) No small employer carrier, agent, or broker may induce or  
6 otherwise encourage a small employer to separate or otherwise exclude an  
7 employee from health coverage or benefits provided in connection with the  
8 employee's employment.

9 (6) Denial by a small employer carrier of an application for  
10 coverage from a small employer shall be in writing and shall state the  
11 reason or reasons for the denial.

12 (7) The director may establish rules and regulations setting forth  
13 additional standards to provide for the fair marketing and broad  
14 availability of health benefit plans to small employers in this state.

15 (8)(a) A violation of this section by a small employer carrier, an  
16 agent, or a broker shall be an unfair trade practice in the business of  
17 insurance under the Unfair Insurance Trade Practices Act.

18 (b) If a small employer carrier enters into a contract, agreement,  
19 or other arrangement with a third-party administrator to provide  
20 administrative, marketing, or other services related to the offering of  
21 health benefit plans to small employers in this state, the third-party  
22 administrator shall be subject to this section as if it were a small  
23 employer carrier.

24 Sec. 11. Section 60-4,105, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 60-4,105 (1) Unless otherwise provided by statute, any person  
27 aggrieved by a final decision or order of the director or the Department  
28 of Motor Vehicles to cancel, suspend, revoke, or refuse to issue or renew  
29 any operator's license, any decision of the director ~~made after~~  
30 ~~consideration of advice from the Health Advisory Board,~~ or suspension of  
31 an operator's license under the License Suspension Act may appeal to

1 either the district court of the county in which the person originally  
2 applied for the license or the district court of the county in which such  
3 person resides or, in the case of a nonresident, to the district court of  
4 Lancaster County within thirty days after the date of the final decision  
5 or order.

6 (2) Summons shall be served on the department within thirty days  
7 after the filing of the petition in the manner provided for service of a  
8 summons in section 25-510.02. Within thirty days after service of the  
9 petition and summons, the department shall prepare and transmit to the  
10 petitioner a certified copy of the official record of the proceedings  
11 before the department. The department shall require payment of a five-  
12 dollar fee prior to the transmittal of the official record. The  
13 petitioner shall file the transcript with the court within fourteen days  
14 after receiving the transcript from the department.

15 (3) The district court shall hear the appeal as in equity without a  
16 jury and determine anew all questions raised before the director. Either  
17 party may appeal from the decision of the district court to the Court of  
18 Appeals.

19 (4) The appeal procedures described in the Administrative Procedure  
20 Act shall not apply to this section.

21 Sec. 12. Section 60-4,114, Revised Statutes Cumulative Supplement,  
22 2016, is amended to read:

23 60-4,114 (1) The county treasurer may employ such additional  
24 clerical help as may be necessary to assist him or her in the performance  
25 of the ministerial duties required of him or her under the Motor Vehicle  
26 Operator's License Act and, for such additional expense, shall be  
27 reimbursed as set out in section 60-4,115.

28 (2) The director may, in his or her discretion, appoint department  
29 personnel to examine all applicants who apply for an initial license or  
30 whose licenses have been revoked or canceled to ascertain such person's  
31 ability to operate a motor vehicle properly and safely.

1           (3) Except as otherwise provided in section 60-4,122, the  
2 application process, in addition to the other requisites of the act,  
3 shall include the following:

4           (a) An inquiry into the medical condition and visual ability of the  
5 applicant to operate a motor vehicle;

6           (b) An inquiry into the applicant's ability to drive and maneuver a  
7 motor vehicle, except that no driving skills test shall be conducted  
8 using an autocycle; and

9           (c) An inquiry touching upon the applicant's knowledge of the motor  
10 vehicle laws of this state, which shall include sufficient questions to  
11 indicate familiarity with the provisions thereof.

12           (4) If an applicant is denied or refused a certificate for license  
13 or a license is canceled, such applicant or licensee shall have the right  
14 to an immediate appeal to the director from the decision. It shall be the  
15 duty of the director to review the appeal and issue a final order, to be  
16 made not later than ten days after the receipt of the appeal by the  
17 director. ~~The director , except that if the director requests the advice~~  
18 ~~of the Health Advisory Board on the matter, the director shall have up to~~  
19 ~~forty-five days after the day a medical or vision problem is referred to~~  
20 ~~him or her to consult with members of the board to obtain the medical~~  
21 ~~opinion necessary to make a decision and shall issue a final order not~~  
22 later than ten days following receipt of the medical opinion if the  
23 applicant or licensee submits reports from a physician of his or her  
24 choice for the director's consideration as provided in section  
25 60-4,118.03. The applicant or licensee who files an appeal pursuant to  
26 this section shall notify the director in writing if he or she intends to  
27 submit records or reports for consideration. Such notice must be received  
28 by the director not later than ten days after an appeal is filed pursuant  
29 to this section to stay the director's decision until after the  
30 consideration of such records or reports as provided in section  
31 60-4,118.03. After consideration of evidence in the records of the

1 applicant or licensee, including any records submitted by the applicant  
2 or licensee ~~the advice of the board~~, the director shall make a  
3 determination of the ~~applicant's~~ physical or mental ability of the  
4 applicant or licensee to operate a motor vehicle and shall issue a final  
5 order. The order shall be in writing, shall be accompanied by findings of  
6 fact and conclusions of law, and shall be sent by regular United States  
7 mail to the ~~applicant's~~ last-known address of the applicant or licensee.  
8 The order may be appealed as provided in section 60-4,105.

9       Sec. 13. Section 60-4,118, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11       60-4,118 (1) No operator's license shall be granted to any applicant  
12 until such applicant satisfies the examiner that he or she possesses  
13 sufficient powers of eyesight to enable him or her to obtain a Class O  
14 license and to operate a motor vehicle on the highways of this state with  
15 a reasonable degree of safety. The Department of Motor Vehicles, ~~with the~~  
16 ~~advice of the Health Advisory Board,~~ shall adopt and promulgate rules and  
17 regulations:

18       (a) Requiring a minimum acuity level of vision. Such level may be  
19 obtained through the use of standard eyeglasses, contact lenses, or  
20 bioptic or telescopic lenses which are specially constructed vision  
21 correction devices which include a lens system attached to or used in  
22 conjunction with a carrier lens; and

23       (b) Requiring a minimum field of vision. Such field of vision may be  
24 obtained through standard eyeglasses, contact lenses, or the carrier lens  
25 of the bioptic or telescopic lenses.

26       (2) If a vision aid is used by the applicant to meet the vision  
27 requirements of this section, the operator's license of the applicant  
28 shall be restricted to the use of such vision aid when operating the  
29 motor vehicle. If the applicant fails to meet the vision requirements,  
30 the examiner shall require the applicant to present an optometrist's or  
31 ophthalmologist's statement certifying the vision reading obtained when



1 testing the applicant within ninety days of the applicant's license  
2 examination. If the vision reading meets the vision requirements  
3 prescribed by the department, the vision requirements of this section  
4 shall have been met. If the vision reading demonstrates that the  
5 applicant is required to use bioptic or telescopic lenses to operate a  
6 motor vehicle, the statement from the optometrist or ophthalmologist  
7 shall also indicate when the applicant needs to be reexamined for  
8 purposes of meeting the vision requirements for an operator's license as  
9 prescribed by the department. If such time period is two years or more  
10 after the date of the application, the license shall be valid for two  
11 years. If such time period is less than two years, the license shall be  
12 valid for such time period.

13 (3) If the applicant for an operator's license discloses that he or  
14 she has any other physical impairment which may affect the safety of  
15 operation by such applicant of a motor vehicle, the examiner shall  
16 require the applicant to show cause why such license should be granted  
17 and, through such personal examination and demonstration as may be  
18 prescribed by the director ~~with the advice of the Health Advisory Board,~~  
19 to show the necessary ability to safely operate a motor vehicle on the  
20 highways. ~~The director may also require the person to appear before the~~  
21 ~~board or a designee of the board.~~ If the examiner, ~~board, or designee~~ is  
22 then satisfied that such applicant has the ability to safely operate a  
23 motor vehicle, an operator's license may be issued to the applicant  
24 subject, at the discretion of the director, to a limitation to operate  
25 only such motor vehicles at such time, for such purpose, and within such  
26 area as the license shall designate.

27 (4)(a) The director may, when requested by a law enforcement  
28 officer, when the director has reason to believe that a person may be  
29 physically or mentally incompetent to operate a motor vehicle, or when a  
30 person's driving record appears to the department to justify an  
31 examination, ~~request the advice of the Health Advisory Board and may give~~

1 notice to the person to appear before an examiner,~~the board,~~ or a  
2 designee of the director for examination concerning the person's ability  
3 to operate a motor vehicle safely. Any such request by a law enforcement  
4 officer shall be accompanied by written justification for such request  
5 and shall be approved by a supervisory law enforcement officer, police  
6 chief, or county sheriff.

7 (b) A refusal to appear before an examiner,~~the board,~~ or a designee  
8 of the director for an examination after notice to do so shall be  
9 unlawful and shall result in the immediate cancellation of the person's  
10 operator's license by the director.

11 (c) If the person cannot qualify at the examination by an examiner,  
12 his or her operator's license shall be immediately surrendered to the  
13 examiner and forwarded to the director who shall cancel the person's  
14 operator's license.

15 ~~(d) If in the opinion of the board the person cannot qualify at the~~  
16 ~~examination by the board, the board shall advise the director.~~ If the  
17 director determines ~~after consideration of the advice of the board~~ that  
18 the person lacks the physical or mental ability to operate a motor  
19 vehicle, the director shall notify the person in writing of the decision.  
20 Upon receipt of the notice, the person shall immediately surrender his or  
21 her operator's license to the director who shall cancel the person's  
22 operator's license.

23 (e) Refusal to surrender an operator's license on demand shall be  
24 unlawful, and any person failing to surrender his or her operator's  
25 license as required by this subsection shall be guilty of a Class III  
26 misdemeanor.

27 Sec. 14. Section 60-4,118.03, Reissue Revised Statutes of Nebraska,  
28 is amended to read:

29 60-4,118.03 Whenever the director reviews the denial or cancellation  
30 of an operator's license because of mental, medical, or vision problems  
31 that may affect the person's ability to safely operate a motor vehicle

1 ~~requests the advice of the Health Advisory Board concerning the physical~~  
2 ~~or mental ability of an applicant for or holder of an operator's license~~  
3 ~~to operate a motor vehicle as provided in sections 60-4,114 and 60-4,118,~~  
4 ~~the director may consider board may formulate its advice from records and~~  
5 ~~reports from a qualified physician or may cause an examination and report~~  
6 ~~to be made by one or more members of the board or any qualified person~~  
7 ~~designated by the board. The applicant or licensee may cause a written~~  
8 ~~report to be forwarded to the director board by a physician of his or her~~  
9 ~~choice pursuant to an immediate appeal to the director under section~~  
10 ~~60-4,114. The director shall grant reasonable time for the applicant or~~  
11 ~~licensee to submit such records. The director shall give due~~  
12 ~~consideration to any such report.~~

13 Reports received by the director ~~or made by the board or any of its~~  
14 ~~members~~ for the purpose of assisting the director in determining whether  
15 a person is qualified to be licensed shall be for the confidential use of  
16 ~~the board,~~ the director, and any designees of the director and may not be  
17 divulged to any person other than the applicant or licensee or used in  
18 evidence in any legal proceeding, except that a report may be admitted in  
19 an appeal of an order of the director based on the report. Any person  
20 aggrieved by a decision of the director made pursuant to this section  
21 ~~after consideration of advice given by the board~~ may appeal the decision  
22 as provided in section 60-4,105.

23 No ~~member of the board and no~~ person examining any applicant or  
24 licensee shall be liable in tort or otherwise for any opinion,  
25 recommendation, or report presented to ~~the board or~~ the director if such  
26 action was taken in good faith and without malice.

27 Sec. 15. Section 60-4,146, Revised Statutes Cumulative Supplement,  
28 2016, is amended to read:

29 60-4,146 (1) In addition to certifying himself or herself under this  
30 section, an applicant shall also certify himself or herself under section  
31 60-4,144.01.

1           (2) Upon making application pursuant to section 60-4,144 or  
2 60-4,148.01, any applicant who operates or expects to operate a  
3 commercial motor vehicle in interstate or foreign commerce and who is not  
4 subject to 49 C.F.R. part 391 shall certify that he or she is not subject  
5 to 49 C.F.R. part 391. Any applicant making certification pursuant to  
6 this subsection shall meet the physical and vision requirements  
7 established in section 60-4,118 and shall be subject to the provisions of  
8 such section ~~relating to the Health Advisory Board~~.

9           (3) Upon making application pursuant to section 60-4,144 or  
10 60-4,148.01, any applicant who operates or expects to operate a  
11 commercial motor vehicle solely in intrastate commerce and who is subject  
12 to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify  
13 that the applicant meets the qualification requirements of 49 C.F.R. part  
14 391.

15           (4) Upon making application for a CLP-commercial learner's permit or  
16 commercial driver's license, any applicant who operates or expects to  
17 operate a commercial motor vehicle solely in intrastate commerce and who  
18 is not subject to 49 C.F.R. part 391 adopted pursuant to section 75-363  
19 shall certify that he or she is not subject to 49 C.F.R. part 391. Any  
20 applicant making certification pursuant to this subsection shall meet the  
21 physical and vision requirements established in section 60-4,118 and  
22 shall be subject to the provisions of such section ~~relating to the Health~~  
23 ~~Advisory Board~~.

24           (5) An applicant who certifies that he or she is not subject to 49  
25 C.F.R. part 391 under subsection (2) or (4) of this section shall answer  
26 the following questions on the application:

27           (a) Have you within the last three months (e.g. due to diabetes,  
28 epilepsy, mental illness, head injury, stroke, heart condition,  
29 neurological disease, etc.):

30           (i) lost voluntary control or consciousness ... yes ... no

31           (ii) experienced vertigo or multiple episodes of dizziness or

1 fainting ... yes ... no

2 (iii) experienced disorientation ... yes ... no

3 (iv) experienced seizures ... yes ... no

4 (v) experienced impairment of memory, memory loss ... yes ... no

5 Please explain: .....

6 (b) Do you experience any condition which affects your ability to

7 operate a motor vehicle? (e.g. due to loss of, or impairment of, foot,

8 leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ...

9 no

10 Please explain: .....

11 (c) Since the issuance of your last driver's license/permit has your

12 health or medical condition changed or worsened? ... yes ... no

13 Please explain, including how the above affects your ability to

14 drive: .....

15 Sec. 16. Section 68-909, Revised Statutes Cumulative Supplement,  
16 2016, is amended to read:

17 68-909 (1) All contracts, agreements, rules, and regulations  
18 relating to the medical assistance program as entered into or adopted and  
19 promulgated by the department prior to July 1, 2006, and all provisions  
20 of the medicaid state plan and waivers adopted by the department prior to  
21 July 1, 2006, shall remain in effect until revised, amended, repealed, or  
22 nullified pursuant to law.

23 (2) Prior to the adoption and promulgation of proposed rules and  
24 regulations under section 68-912 or relating to the implementation of  
25 medicaid state plan amendments or waivers, the department shall provide a  
26 report to the Governor, and the Legislature, ~~and the Medicaid Reform~~  
27 ~~Council~~ no later than December 1 before the next regular session of the  
28 Legislature summarizing the purpose and content of such proposed rules  
29 and regulations and the projected impact of such proposed rules and  
30 regulations on recipients of medical assistance and medical assistance  
31 expenditures. The report submitted to the Legislature shall be submitted

1 electronically. Any changes in medicaid copayments in fiscal year 2011-12  
2 are exempt from the reporting requirement of this subsection and the  
3 requirements of section 68-912.

4 ~~(3) The Medicaid Reform Council, no later than thirty days after the~~  
5 ~~date of receipt of any report under subsection (2) of this section, may~~  
6 ~~conduct a public meeting to receive public comment regarding such report.~~  
7 ~~The council shall promptly provide any comments and recommendations~~  
8 ~~regarding such report in writing to the department. Such comments and~~  
9 ~~recommendations shall be advisory only and shall not be binding on the~~  
10 ~~department, but the department shall promptly provide a written response~~  
11 ~~to such comments or recommendations to the council.~~

12 ~~(3) (4)~~ The department shall monitor and shall periodically, as  
13 necessary, but no less than biennially, report to the Governor, and the  
14 Legislature, ~~and the Medicaid Reform Council~~ on the implementation of  
15 rules and regulations, medicaid state plan amendments, and waivers  
16 adopted under the Medical Assistance Act and the effect of such rules and  
17 regulations, amendments, or waivers on eligible recipients of medical  
18 assistance and medical assistance expenditures. The report submitted to  
19 the Legislature shall be submitted electronically.

20 Sec. 17. Section 68-949, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 68-949 (1) It is the intent of the Legislature that the department  
23 implement reforms to the medical assistance program such as those  
24 contained in the Medicaid Reform Plan, including (a) an incremental  
25 expansion of home and community-based services for aged persons and  
26 persons with disabilities consistent with such plan, (b) an increase in  
27 care coordination or disease management initiatives to better manage  
28 medical assistance expenditures on behalf of high-cost recipients with  
29 multiple or chronic medical conditions, and (c) other reforms as deemed  
30 necessary and appropriate by the department, in consultation with the  
31 committee ~~and the Medicaid Reform Council.~~

1           (2) ~~(2)(a)~~ The department shall develop recommendations based on a  
2 comprehensive analysis of various options available to the state under  
3 applicable federal law for the provision of medical assistance to persons  
4 with disabilities who are employed, including persons with a medically  
5 improved disability, to enhance and replace current eligibility  
6 provisions contained in subdivision (8) of section 68-915.

7           ~~(b) The department shall provide a draft report of such~~  
8 ~~recommendations to the committee and the Medicaid Reform Council no later~~  
9 ~~than October 1, 2008. The council shall conduct a public meeting no later~~  
10 ~~than October 15, 2008, to discuss and receive public comment regarding~~  
11 ~~such report. The council shall provide any comments and recommendations~~  
12 ~~regarding such report in writing to the department and the committee no~~  
13 ~~later than November 1, 2008. The department shall provide a final report~~  
14 ~~of such recommendations to the Governor, the committee, and the council~~  
15 ~~no later than December 1, 2008.~~

16           (3) ~~(3)(a)~~ The department shall develop recommendations for further  
17 modification or replacement of the defined benefit structure of the  
18 medical assistance program. Such recommendations shall be consistent with  
19 the public policy in section 68-905 and shall consider the needs and  
20 resources of low-income Nebraska residents who are eligible or may become  
21 eligible for medical assistance, the experience and outcomes of other  
22 states that have developed and implemented such changes, and other  
23 relevant factors as determined by the department.

24           ~~(b) The department shall provide a draft report of such~~  
25 ~~recommendations to the committee and the Medicaid Reform Council no later~~  
26 ~~than October 1, 2008. The council shall conduct a public meeting no later~~  
27 ~~than October 15, 2008, to discuss and receive public comment regarding~~  
28 ~~such report. The council shall provide any comments and recommendations~~  
29 ~~regarding such report in writing to the department and the committee no~~  
30 ~~later than November 1, 2008. The department shall provide a final report~~  
31 ~~of such recommendations to the Governor, the committee, and the council~~

1 ~~no later than December 1, 2008.~~

2       Sec. 18. Section 68-1108, Revised Statutes Cumulative Supplement,  
3 2016, is amended to read:

4       68-1108 ~~(1) On or before December 15, 2014, the Aging Nebraskans~~  
5 ~~Task Force shall present electronically to the Legislature a report of~~  
6 ~~recommendations for the statewide strategic plan described in section~~  
7 ~~68-1107.~~ The Department of Health and Human Services shall also annually  
8 report electronically to the Legislature the percentage growth of  
9 medicaid spending for people over sixty-five years of age for no fewer  
10 than five years following acceptance of the application to the State  
11 Balancing Incentive Payments Program pursuant to section 81-3138.

12       ~~(2) The task force shall develop a state plan as provided in section~~  
13 ~~68-1110 and electronically deliver the state plan to the Governor and the~~  
14 ~~Legislature on or before December 15, 2016. The task force shall make a~~  
15 ~~presentation of the state plan to the Health and Human Services Committee~~  
16 ~~of the Legislature on or before December 15, 2016.~~

17       Sec. 19. Section 71-457, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19       71-457 (1) To protect the health, safety, and welfare of the public  
20 and to insure to the greatest extent possible the efficient, adequate,  
21 and safe practice of health care in any health care facility or health  
22 care service licensed under the Health Care Facility Licensure Act, the  
23 department shall adopt, promulgate, and enforce rules, regulations, and  
24 standards with respect to the different types of health care facilities  
25 and health care services, except nursing facilities and skilled nursing  
26 facilities, designed to further the accomplishment of the purposes of the  
27 act. Such rules, regulations, and standards shall be modified, amended,  
28 or rescinded from time to time in the public interest by the department.

29       (2) The department, ~~with the advice of the Nursing Home Advisory~~  
30 ~~Council,~~ shall adopt, promulgate, and enforce rules, regulations, and  
31 standards with respect to nursing facilities and skilled nursing



1 facilities. Such rules, regulations, and standards shall be in compliance  
2 with the Nebraska Nursing Home Act. Such rules, regulations, and  
3 standards shall be modified, amended, or rescinded from time to time in  
4 the public interest by the department ~~with the advice of the Nursing Home~~  
5 ~~Advisory Council.~~

6       Sec. 20.     Original sections 2-3815, 32-204, 38-2701, 38-2703,  
7 44-5224, 44-5230, 44-5255, 44-5258, 44-5266, 60-4,105, 60-4,118,  
8 60-4,118.03, 68-949, and 71-457, Reissue Revised Statutes of Nebraska,  
9 and sections 2-301, 60-4,114, 60-4,146, 68-909, and 68-1108, Revised  
10 Statutes Cumulative Supplement, 2016, are repealed.

11       Sec. 21.     The following sections are outright repealed: Sections  
12 2-5301, 2-5302, 2-5303, 2-5305, 2-5306, 38-2712, 44-5231, 44-5246,  
13 44-5248, 44-5251, 44-5261, 44-5263, 60-4,118.02, 60-4,118.04, 68-948,  
14 71-6043, 71-6044, 71-6045, 71-6046, 71-6047, 71-6048, 71-6049, 71-6050,  
15 71-6051, 71-6052, and 84-1205.01, Reissue Revised Statutes of Nebraska,  
16 and sections 2-305, 44-8701, 44-8702, 44-8703, 44-8704, 44-8705, 44-8706,  
17 50-429, 50-430, 50-431, 50-432, 50-433, 68-1107, 68-1109, 68-1110,  
18 71-9201, 71-9202, 71-9203, and 71-9204, Revised Statutes Cumulative  
19 Supplement, 2016.