

E AND R AMENDMENTS TO LB 644

Introduced by Wishart, 27, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 2-301, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 2-301 Sections 2-301 to 2-304 ~~2-305~~ shall be known and may be cited
6 as the Community Gardens Act.

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

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

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

22 ~~In order to carry out the purposes of this section, the program~~
23 ~~director may, if he or she deems necessary, convene an advisory committee~~
24 ~~to assist the program director in developing and implementing program~~
25 ~~activities. Representatives from the Nebraska Food Processing Center, the~~
26 ~~Cooperative Extension Service of the University of Nebraska, the~~
27 ~~commodity boards, the Department of Economic Development, the United~~

1 ~~States Department of Agriculture grant programs, and the private sector~~
2 ~~may serve on such committee at the request of the program director. If an~~
3 ~~advisory committee is convened, committee members shall not receive any~~
4 ~~reimbursement for expenses.~~

5 (3) The Department of Agriculture shall serve as the facilitator,
6 coordinator, and catalyst for developments through and with the Nebraska
7 Food Processing Center, the Cooperative Extension Service of the
8 University of Nebraska, the commodity boards, the Department of Economic
9 Development, other state agencies, the United States Department of
10 Agriculture grant programs, and the private sector. It is the intent of
11 the Legislature that the department foster close working relationships
12 between production agriculture and existing programs for the purposes of
13 agricultural development and promotion. The department may enter into
14 such contracts as may be necessary to carry out the purposes of this
15 section.

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

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

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

1 Cash Fund on the effective date of this act to the Election
2 Administration Fund.

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

5 38-2701 Sections 38-2701 to 38-2711 ~~38-2712~~ shall be known and may
6 be cited as the Perfusion Practice Act.

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

9 38-2703 For purposes of the Perfusion Practice Act:

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

11 ~~(2) Committee means the Perfusionist Committee created under section~~
12 ~~38-2712;~~

13 (2) ~~(3)~~ Extracorporeal circulation means the diversion of a
14 patient's blood through a heart-lung machine or a similar device that
15 assumes the functions of the patient's heart, lungs, kidney, liver, or
16 other organs;

17 (3) ~~(4)~~ Perfusion means the functions necessary for the support,
18 treatment, measurement, or supplementation of the cardiovascular,
19 circulatory, and respiratory systems or other organs, or a combination of
20 such activities, and to ensure the safe management of physiologic
21 functions by monitoring and analyzing the parameters of the systems under
22 an order and under the supervision of a licensed physician, including:

23 (a) The use of extracorporeal circulation, long-term cardiopulmonary
24 support techniques including extracorporeal carbon dioxide removal and
25 extracorporeal membrane oxygenation, and associated therapeutic and
26 diagnostic technologies;

27 (b) Counterpulsation, ventricular assistance, autotransfusion, blood
28 conservation techniques, myocardial and organ preservation,
29 extracorporeal life support, and isolated limb perfusion;

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

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

3 (i) The administration of:

4 (A) Pharmacological and therapeutic agents; and

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

7 (ii) The performance and use of:

8 (A) Anticoagulation monitoring and analysis;

9 (B) Physiologic monitoring and analysis;

10 (C) Blood gas and chemistry monitoring and analysis;

11 (D) Hematologic monitoring and analysis;

12 (E) Hypothermia and hyperthermia;

13 (F) Hemoconcentration and hemodilution; and

14 (G) Hemodialysis; and

15 (iii) The observation of signs and symptoms related to perfusion
16 services, the determination of whether the signs and symptoms exhibit
17 abnormal characteristics, and the implementation of appropriate
18 reporting, clinical perfusion protocols, or changes in, or the initiation
19 of, emergency procedures; and

20 ~~(4)~~ (5) Perfusionist means a person who is licensed to practice
21 perfusion pursuant to the Perfusion Practice Act.

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

24 44-5224 The purposes of the Small Employer Health Insurance
25 Availability Act are to promote the availability of health insurance
26 coverage to small employers regardless of their health status or claims
27 experience, to prevent abusive rating practices, to require disclosure of
28 rating practices to purchasers, to establish rules regarding renewability
29 of coverage, to establish limitations on the use of preexisting condition
30 exclusions, to provide for development of basic and standard health
31 benefit plans to be offered to all small employers, ~~to provide for~~

1 ~~establishment of a reinsurance program,~~ and to improve the overall
2 fairness and efficiency of the small group health insurance market. The
3 act is not intended to provide a comprehensive solution to the problem of
4 affordability of health care or health insurance.

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

7 44-5230 Basic health benefit plan shall mean a lower cost health
8 benefit plan regulated by the Department of Insurance board.

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

11 44-5255 Standard health benefit plan shall mean a health benefit
12 plan regulated by the Department of Insurance board.

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

15 44-5258 (1) Premium rates for health benefit plans subject to the
16 Small Employer Health Insurance Availability Act shall be subject to the
17 following provisions:

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

21 (b) For a class of business, the premium rates charged during a
22 rating period to small employers with similar case characteristics for
23 the same or similar coverage or the rates that could be charged to such
24 employers under the rating system for that class of business shall not
25 vary from the index rate by more than twenty-five percent of the index
26 rate;

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

29 (i) The percentage change in the new business premium rate measured
30 from the first day of the prior rating period to the first day of the new
31 rating period. In the case of a health benefit plan into which the small

1 employer carrier is no longer enrolling new small employers, the small
2 employer carrier shall use the percentage change in the base premium rate
3 if such change does not exceed, on a percentage basis, the change in the
4 new business premium rate for the most similar health benefit plan into
5 which the small employer carrier is actively enrolling new small
6 employers;

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

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

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

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

22 (f) A small employer carrier may utilize industry as a case
23 characteristic in establishing premium rates, provided that the highest
24 rate factor associated with any industry classification shall not exceed
25 the lowest rate factor associated with any industry classification by
26 more than fifteen percent;

27 (g) In the case of health benefit plans delivered or issued for
28 delivery prior to January 1, 1995, a premium rate for a rating period may
29 exceed the ranges set forth in subdivisions (a) and (b) of this
30 subsection for a period of three years following January 1, 1995. In such
31 case, the percentage increase in the premium rate charged to a small

1 employer for a new rating period shall not exceed the sum of the
2 following:

3 (i) The percentage change in the new business premium rate measured
4 from the first day of the prior rating period to the first day of the new
5 rating period. In the case of a health benefit plan into which the small
6 employer carrier is no longer enrolling new small employers, the small
7 employer carrier shall use the percentage change in the base premium rate
8 if such change does not exceed, on a percentage basis, the change in the
9 new business premium rate for the most similar health benefit plan into
10 which the small employer carrier is actively enrolling new small
11 employers; and

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

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

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

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

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

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

5 (i) Assure that differences in rates charged for health benefit
6 plans by small employer carriers are reasonable and reflect objective
7 differences in plan design, not including differences due to the nature
8 of the groups assumed to select particular health benefit plans; and

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

11 (2) A small employer carrier shall not transfer a small employer
12 involuntarily into or out of a class of business. A small employer
13 carrier shall not offer to transfer a small employer into or out of a
14 class of business unless such offer is made to transfer all small
15 employers in the class of business without regard to case
16 characteristics, claim experience, health status, or duration of coverage
17 since issue.

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

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

30 (a) The extent to which premium rates for a specified small employer
31 are established or adjusted based upon the actual or expected variation

1 in claims costs or actual or expected variation in health status of the
2 employees of the small employer and their dependents;

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

6 (c) The provisions relating to the renewability of policies and
7 contracts; and

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

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

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

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

31 Sec. 10. Section 44-5266, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 44-5266 (1) Each small employer carrier shall actively market health
3 benefit plan coverage, including the basic health benefit plans and
4 standard health benefit plans, to eligible small employers in the state.
5 If a small employer carrier denies coverage to a small employer on the
6 basis of the health status or claims experience of the small employer or
7 its employees or dependents, the small employer carrier shall offer the
8 small employer the opportunity to purchase a basic health benefit plan
9 and a standard health benefit plan.

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

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

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

20 (b) The provisions of subdivision (a) of this subsection shall not
21 apply with respect to information provided by a small employer carrier,
22 an agent, or a broker to a small employer regarding the established
23 geographic service area or a restricted network provision of a small
24 employer carrier.

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

1 (b) The provisions of subdivision (a) of this subsection shall not
2 apply with respect to a compensation arrangement that provides
3 compensation to an agent or broker on the basis of percentage of premium
4 except that the percentage shall not vary because of the health status,
5 claims experience, industry, occupation, or geographic area of the small
6 employer.

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

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

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

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

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

24 (b) If a small employer carrier enters into a contract, agreement,
25 or other arrangement with a third-party administrator to provide
26 administrative, marketing, or other services related to the offering of
27 health benefit plans to small employers in this state, the third-party
28 administrator shall be subject to this section as if it were a small
29 employer carrier.

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

1 60-4,105 (1) Unless otherwise provided by statute, any person
2 aggrieved by a final decision or order of the director or the Department
3 of Motor Vehicles to cancel, suspend, revoke, or refuse to issue or renew
4 any operator's license, any decision of the director—~~made after~~
5 ~~consideration of advice from the Health Advisory Board~~, or suspension of
6 an operator's license under the License Suspension Act may appeal to
7 either the district court of the county in which the person originally
8 applied for the license or the district court of the county in which such
9 person resides or, in the case of a nonresident, to the district court of
10 Lancaster County within thirty days after the date of the final decision
11 or order.

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

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

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

27 Sec. 12. Section 60-4,114, Revised Statutes Cumulative Supplement,
28 2016, is amended to read:

29 60-4,114 (1) The county treasurer may employ such additional
30 clerical help as may be necessary to assist him or her in the performance
31 of the ministerial duties required of him or her under the Motor Vehicle

1 Operator's License Act and, for such additional expense, shall be
2 reimbursed as set out in section 60-4,115.

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

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

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

12 (b) An inquiry into the applicant's ability to drive and maneuver a
13 motor vehicle, except that no driving skills test shall be conducted
14 using an auticycle; and

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

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

1 this section shall notify the director in writing if he or she intends to
2 submit records or reports for consideration. Such notice must be received
3 by the director not later than ten days after an appeal is filed pursuant
4 to this section to stay the director's decision until after the
5 consideration of such records or reports as provided in section
6 60-4,118.03. After consideration of evidence in the records of the
7 applicant or licensee, including any records submitted by the applicant
8 or licensee the advice of the board, the director shall make a
9 determination of the applicant's physical or mental ability of the
10 applicant or licensee to operate a motor vehicle and shall issue a final
11 order. The order shall be in writing, shall be accompanied by findings of
12 fact and conclusions of law, and shall be sent by regular United States
13 mail to the applicant's last-known address of the applicant or licensee.
14 The order may be appealed as provided in section 60-4,105.

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

17 60-4,118 (1) No operator's license shall be granted to any applicant
18 until such applicant satisfies the examiner that he or she possesses
19 sufficient powers of eyesight to enable him or her to obtain a Class 0
20 license and to operate a motor vehicle on the highways of this state with
21 a reasonable degree of safety. The Department of Motor Vehicles, ~~with the~~
22 ~~advice of the Health Advisory Board,~~ shall adopt and promulgate rules and
23 regulations:

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

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

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

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

1 area as the license shall designate.

2 (4)(a) The director may, when requested by a law enforcement
3 officer, when the director has reason to believe that a person may be
4 physically or mentally incompetent to operate a motor vehicle, or when a
5 person's driving record appears to the department to justify an
6 examination, ~~request the advice of the Health Advisory Board and may give~~
7 notice to the person to appear before an examiner, ~~the board,~~ or a
8 designee of the director for examination concerning the person's ability
9 to operate a motor vehicle safely. Any such request by a law enforcement
10 officer shall be accompanied by written justification for such request
11 and shall be approved by a supervisory law enforcement officer, police
12 chief, or county sheriff.

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

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

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

29 (e) Refusal to surrender an operator's license on demand shall be
30 unlawful, and any person failing to surrender his or her operator's
31 license as required by this subsection shall be guilty of a Class III

1 misdemeanor.

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

4 60-4,118.03 Whenever the director reviews the denial or cancellation
5 of an operator's license because of mental, medical, or vision problems
6 that may affect the person's ability to safely operate a motor vehicle
7 ~~requests the advice of the Health Advisory Board concerning the physical~~
8 ~~or mental ability of an applicant for or holder of an operator's license~~
9 ~~to operate a motor vehicle as provided in sections 60-4,114 and 60-4,118,~~
10 ~~the director may consider board may formulate its advice from records and~~
11 ~~reports from a qualified physician or may cause an examination and report~~
12 ~~to be made by one or more members of the board or any qualified person~~
13 ~~designated by the board.~~ The applicant or licensee may cause a written
14 report to be forwarded to the director ~~board~~ by a physician of his or her
15 choice pursuant to an immediate appeal to the director under section
16 60-4,114. The director shall grant reasonable time for the applicant or
17 licensee to submit such records. The director shall give due
18 consideration to any such report.

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

29 No ~~member of the board and no~~ person examining any applicant or
30 licensee shall be liable in tort or otherwise for any opinion,
31 recommendation, or report presented to ~~the board or the director~~ if such

1 action was taken in good faith and without malice.

2 Sec. 15. Section 60-4,146, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 60-4,146 (1) In addition to certifying himself or herself under this
5 section, an applicant shall also certify himself or herself under section
6 60-4,144.01.

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

15 (3) Upon making application pursuant to section 60-4,144 or
16 60-4,148.01, any applicant who operates or expects to operate a
17 commercial motor vehicle solely in intrastate commerce and who is subject
18 to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify
19 that the applicant meets the qualification requirements of 49 C.F.R. part
20 391.

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

30 (5) An applicant who certifies that he or she is not subject to 49
31 C.F.R. part 391 under subsection (2) or (4) of this section shall answer

1 the following questions on the application:

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

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

6 (ii) experienced vertigo or multiple episodes of dizziness or
7 fainting ... yes ... no

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

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

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

11 Please explain:

12 (b) Do you experience any condition which affects your ability to
13 operate a motor vehicle? (e.g. due to loss of, or impairment of, foot,
14 leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ...
15 no

16 Please explain:

17 (c) Since the issuance of your last driver's license/permit has your
18 health or medical condition changed or worsened? ... yes ... no

19 Please explain, including how the above affects your ability to
20 drive:

21 Sec. 16. Section 68-908, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 68-908 (1) The department shall administer the medical assistance
24 program.

25 (2) The department may (a) enter into contracts and interagency
26 agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee
27 schedules, (d) apply for and implement waivers and managed care plans for
28 services for eligible recipients, including services under the Nebraska
29 Behavioral Health Services Act, and (e) perform such other activities as
30 necessary and appropriate to carry out its duties under the Medical
31 Assistance Act. A covered item or service as described in section 68-911

1 that is furnished through a school-based health center, furnished by a
2 provider, and furnished under a managed care plan pursuant to a waiver
3 does not require prior consultation or referral by a patient's primary
4 care physician to be covered. Any federally qualified health center
5 providing services as a sponsoring facility of a school-based health
6 center shall be reimbursed for such services provided at a school-based
7 health center at the federally qualified health center reimbursement
8 rate.

9 (3) The department shall maintain the confidentiality of information
10 regarding applicants for or recipients of medical assistance and such
11 information shall only be used for purposes related to administration of
12 the medical assistance program and the provision of such assistance or as
13 otherwise permitted by federal law.

14 (4)(a) The department shall prepare an annual summary and analysis
15 of the medical assistance program for legislative and public review,
16 including, but not limited to, a description of eligible recipients,
17 covered services, provider reimbursement, program trends and projections,
18 program budget and expenditures, the status of implementation of the
19 Medicaid Reform Plan, and recommendations for program changes.

20 (b) The department shall provide a draft report of such summary and
21 analysis ~~to the Medicaid Reform Council~~ no later than September 15 of
22 each year. The department council shall conduct a public meeting no later
23 than October 1 of each year to discuss and receive public comment
24 regarding such report. The department council shall include ~~provide~~ any
25 comments and recommendations regarding such report in writing in a final
26 report ~~to the department no later than November 1 of each year~~. The
27 department shall submit the a final report of such summary and analysis
28 to the Governor, and the Legislature, ~~and the council~~ no later than
29 December 1 of each year. The report submitted to the Legislature shall be
30 submitted electronically. ~~Such final report shall include a response to~~
31 ~~each written recommendation provided by the council.~~

1 Sec. 17. Section 68-909, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 68-909 (1) All contracts, agreements, rules, and regulations
4 relating to the medical assistance program as entered into or adopted and
5 promulgated by the department prior to July 1, 2006, and all provisions
6 of the medicaid state plan and waivers adopted by the department prior to
7 July 1, 2006, shall remain in effect until revised, amended, repealed, or
8 nullified pursuant to law.

9 (2) Prior to the adoption and promulgation of proposed rules and
10 regulations under section 68-912 or relating to the implementation of
11 medicaid state plan amendments or waivers, the department shall provide a
12 report to the Governor, and the Legislature, ~~and the Medicaid Reform~~
13 ~~Council~~ no later than December 1 before the next regular session of the
14 Legislature summarizing the purpose and content of such proposed rules
15 and regulations and the projected impact of such proposed rules and
16 regulations on recipients of medical assistance and medical assistance
17 expenditures. The report submitted to the Legislature shall be submitted
18 electronically. Any changes in medicaid copayments in fiscal year 2011-12
19 are exempt from the reporting requirement of this subsection and the
20 requirements of section 68-912.

21 ~~(3) The Medicaid Reform Council, no later than thirty days after the~~
22 ~~date of receipt of any report under subsection (2) of this section, may~~
23 ~~conduct a public meeting to receive public comment regarding such report.~~
24 ~~The council shall promptly provide any comments and recommendations~~
25 ~~regarding such report in writing to the department. Such comments and~~
26 ~~recommendations shall be advisory only and shall not be binding on the~~
27 ~~department, but the department shall promptly provide a written response~~
28 ~~to such comments or recommendations to the council.~~

29 ~~(3)~~ (4) The department shall monitor and shall periodically, as
30 necessary, but no less than biennially, report to the Governor, and the
31 Legislature, ~~and the Medicaid Reform Council~~ on the implementation of

1 rules and regulations, medicaid state plan amendments, and waivers
2 adopted under the Medical Assistance Act and the effect of such rules and
3 regulations, amendments, or waivers on eligible recipients of medical
4 assistance and medical assistance expenditures. The report submitted to
5 the Legislature shall be submitted electronically.

6 Sec. 18. Section 68-949, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 68-949 (1) It is the intent of the Legislature that the department
9 implement reforms to the medical assistance program such as those
10 contained in the Medicaid Reform Plan, including (a) an incremental
11 expansion of home and community-based services for aged persons and
12 persons with disabilities consistent with such plan, (b) an increase in
13 care coordination or disease management initiatives to better manage
14 medical assistance expenditures on behalf of high-cost recipients with
15 multiple or chronic medical conditions, and (c) other reforms as deemed
16 necessary and appropriate by the department, in consultation with the
17 committee and the Medicaid Reform Council.

18 (2) ~~(2)(a)~~ The department shall develop recommendations based on a
19 comprehensive analysis of various options available to the state under
20 applicable federal law for the provision of medical assistance to persons
21 with disabilities who are employed, including persons with a medically
22 improved disability, to enhance and replace current eligibility
23 provisions contained in subdivision (8) of section 68-915.

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

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

19 Sec. 19. Section 68-1108, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 68-1108 ~~(1) On or before December 15, 2014, the Aging Nebraskans~~
22 ~~Task Force shall present electronically to the Legislature a report of~~
23 ~~recommendations for the statewide strategic plan described in section~~
24 ~~68-1107. The Department of Health and Human Services shall also annually~~
25 ~~report electronically to the Legislature the percentage growth of~~
26 ~~medicaid spending for people over sixty-five years of age for no fewer~~
27 ~~than five years following acceptance of the application to the State~~
28 ~~Balancing Incentive Payments Program pursuant to section 81-3138.~~

29 ~~(2) The task force shall develop a state plan as provided in section~~
30 ~~68-1110 and electronically deliver the state plan to the Governor and the~~
31 ~~Legislature on or before December 15, 2016. The task force shall make a~~

1 ~~presentation of the state plan to the Health and Human Services Committee~~
2 ~~of the Legislature on or before December 15, 2016.~~

3 Sec. 20. Section 71-457, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 71-457 (1) To protect the health, safety, and welfare of the public
6 and to insure to the greatest extent possible the efficient, adequate,
7 and safe practice of health care in any health care facility or health
8 care service licensed under the Health Care Facility Licensure Act, the
9 department shall adopt, promulgate, and enforce rules, regulations, and
10 standards with respect to the different types of health care facilities
11 and health care services, except nursing facilities and skilled nursing
12 facilities, designed to further the accomplishment of the purposes of the
13 act. Such rules, regulations, and standards shall be modified, amended,
14 or rescinded from time to time in the public interest by the department.

15 (2) The department, ~~with the advice of the Nursing Home Advisory~~
16 ~~Council,~~ shall adopt, promulgate, and enforce rules, regulations, and
17 standards with respect to nursing facilities and skilled nursing
18 facilities. Such rules, regulations, and standards shall be in compliance
19 with the Nebraska Nursing Home Act. Such rules, regulations, and
20 standards shall be modified, amended, or rescinded from time to time in
21 the public interest by the department ~~with the advice of the Nursing Home~~
22 ~~Advisory Council.~~

23 Sec. 21. Original sections 2-3815, 32-204, 38-2701, 38-2703,
24 44-5224, 44-5230, 44-5255, 44-5258, 44-5266, 60-4,105, 60-4,118,
25 60-4,118.03, 68-949, and 71-457, Reissue Revised Statutes of Nebraska,
26 and sections 2-301, 60-4,114, 60-4,146, 68-908, 68-909, and 68-1108,
27 Revised Statutes Cumulative Supplement, 2016, are repealed.

28 Sec. 22. The following sections are outright repealed: Sections
29 2-5301, 2-5302, 2-5303, 2-5305, 2-5306, 38-2712, 44-5231, 44-5246,
30 44-5248, 44-5251, 44-5261, 44-5263, 60-4,118.02, 60-4,118.04, 68-948,
31 71-6043, 71-6044, 71-6045, 71-6046, 71-6047, 71-6048, 71-6049, 71-6050,

1 71-6051, 71-6052, and 84-1205.01, Reissue Revised Statutes of Nebraska,
2 and sections 2-305, 44-8701, 44-8702, 44-8703, 44-8704, 44-8705, 44-8706,
3 50-429, 50-430, 50-431, 50-432, 50-433, 68-1107, 68-1109, 68-1110,
4 71-9201, 71-9202, 71-9203, and 71-9204, Revised Statutes Cumulative
5 Supplement, 2016.

6 2. On page 1, strike beginning with "2-945.02" in line 1 through
7 line 22 and insert "2-3815, 32-204, 38-2701, 38-2703, 44-5224, 44-5230,
8 44-5255, 44-5258, 44-5266, 60-4,105, 60-4,118, 60-4,118.03, 68-949, and
9 71-457, Reissue Revised Statutes of Nebraska, and sections 2-301,
10 60-4,114, 60-4,146, 68-908, 68-909, and 68-1108, Revised Statutes
11 Cumulative Supplement, 2016; to provide, change, and eliminate powers and
12 duties relating to the Department of Agriculture, the Department of
13 Health and Human Services, the Department of Insurance, the Department of
14 Motor Vehicles, and the Director of Natural Resources; to provide for a
15 transfer of funds; to eliminate the community gardens task force, the
16 advisory committee for value-added agricultural promotion and
17 development, the Carbon Sequestration Advisory Committee, the
18 Perfusionist Committee, the Nebraska Small Employer Health Reinsurance
19 Program, the Nebraska Exchange Stakeholder Commission, the Nebraska
20 Exchange Transparency Act, the Intergenerational Poverty Task Force, the
21 Health Advisory Board, the Medicaid Reform Council, the Aging Nebraskans
22 Task Force, the Nursing Home Advisory Council, the Health Care
23 Transparency Act, the Health Care Data Base Advisory Committee, and a
24 technical advisory committee to the State Records Board; to change and
25 eliminate definitions; to change provisions relating to certain appeals
26 under the Motor Vehicle Operator's License Act; to eliminate programs,
27 councils, committees, and cash funds; to eliminate obsolete provisions;
28 to harmonize provisions; to repeal the original sections; and to outright
29 repeal sections 2-5301, 2-5302, 2-5303, 2-5305, 2-5306, 38-2712, 44-5231,
30 44-5246, 44-5248, 44-5251, 44-5261, 44-5263, 60-4,118.02, 60-4,118.04,
31 68-948, 71-6043, 71-6044, 71-6045, 71-6046, 71-6047, 71-6048, 71-6049,

1 71-6050, 71-6051, 71-6052, and 84-1205.01, Reissue Revised Statutes of
2 Nebraska, and sections 2-305, 44-8701, 44-8702, 44-8703, 44-8704,
3 44-8705, 44-8706, 50-429, 50-430, 50-431, 50-432, 50-433, 68-1107,
4 68-1109, 68-1110, 71-9201, 71-9202, 71-9203, and 71-9204, Revised
5 Statutes Cumulative Supplement, 2016."

6 3. On page 2, strike lines 1 through 25.