

## LEGISLATIVE BILL 644

Approved by the Governor May 23, 2017

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

A BILL FOR AN ACT relating to government; to amend sections 2-3815, 32-204, 38-2701, 38-2703, 44-5224, 44-5230, 44-5255, 44-5258, 44-5266, 60-4,105, 60-4,118, 60-4,118.03, 68-949, and 71-457, Reissue Revised Statutes of Nebraska, and sections 2-301, 60-4,114, 60-4,146, 68-909, and 68-1108, Revised Statutes Cumulative Supplement, 2016; to provide, change, and eliminate powers and duties relating to the Department of Agriculture, the Department of Health and Human Services, the Department of Insurance, the Department of Motor Vehicles, and the Director of Natural Resources; to provide for a transfer of funds; to eliminate the community gardens task force, the advisory committee for value-added agricultural promotion and development, the Carbon Sequestration Advisory Committee, the Perfusionist Committee, the Nebraska Small Employer Health Reinsurance Program, the Nebraska Exchange Stakeholder Commission, the Nebraska Exchange Transparency Act, the Intergenerational Poverty Task Force, the Health Advisory Board, the Medicaid Reform Council, the Aging Nebraskans Task Force, the Nursing Home Advisory Council, the Health Care Transparency Act, the Health Care Data Base Advisory Committee, and a technical advisory committee to the State Records Board; to change and eliminate definitions; to change provisions relating to certain appeals under the Motor Vehicle Operator's License Act; to eliminate programs, councils, committees, and cash funds; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 2-5301, 2-5302, 2-5303, 2-5305, 2-5306, 38-2712, 44-5231, 44-5246, 44-5248, 44-5251, 44-5261, 44-5263, 60-4,118.02, 60-4,118.04, 68-948, 71-6043, 71-6044, 71-6045, 71-6046, 71-6047, 71-6048, 71-6049, 71-6050, 71-6051, 71-6052, and 84-1205.01, Reissue Revised Statutes of Nebraska, and sections 2-305, 44-8701, 44-8702, 44-8703, 44-8704, 44-8705, 44-8706, 50-429, 50-430, 50-431, 50-432, 50-433, 68-1107, 68-1109, 68-1110, 71-9201, 71-9202, 71-9203, and 71-9204, Revised Statutes Cumulative Supplement, 2016.

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

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

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

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

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

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

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

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

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

groups.

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

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

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

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

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

38-2703 For purposes of the Perfusion Practice Act:

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

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

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

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

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

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

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

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

(i) The administration of:

(A) Pharmacological and therapeutic agents; and

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

(ii) The performance and use of:

(A) Anticoagulation monitoring and analysis;

(B) Physiologic monitoring and analysis;

(C) Blood gas and chemistry monitoring and analysis;

(D) Hematologic monitoring and analysis;

(E) Hypothermia and hyperthermia;

(F) Hemoconcentration and hemodilution; and

(G) Hemodialysis; and

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

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

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

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

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

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

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

44-5255 Standard health benefit plan shall mean a health benefit plan

regulated by the Department of Insurance board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to select particular health benefit plans; and

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

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

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

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

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

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

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

and

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

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

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

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

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

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

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

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

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

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

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

(b) The provisions of subdivision (a) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium except that the

percentage shall not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) If an applicant is denied or refused a certificate for license or a license is canceled, such applicant or licensee shall have the right to an immediate appeal to the director from the decision. It shall be the duty of the director to review the appeal and issue a final order, to be made not later than ten days after the receipt of the appeal by the director. The director, except that if the director requests the advice of the Health Advisory Board on the matter, the director shall have up to forty-five days after the day a medical or vision problem is referred to him or her to consult with members of the board to obtain the medical opinion necessary to make a decision and shall issue a final order not later than ten days following receipt of the medical opinion if the applicant or licensee submits reports from a physician of his or

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

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

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

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

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

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

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

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

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

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

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

director who shall cancel the person's operator's license.

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

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

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

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

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

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

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

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

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

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

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

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

- (i) lost voluntary control or consciousness ... yes ... no
- (ii) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no
- (iii) experienced disorientation ... yes ... no
- (iv) experienced seizures ... yes ... no
- (v) experienced impairment of memory, memory loss ... yes ... no

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

Please explain: .....  
(c) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no  
Please explain, including how the above affects your ability to drive: .....

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

68-909 (1) All contracts, agreements, rules, and regulations relating to

the medical assistance program as entered into or adopted and promulgated by the department prior to July 1, 2006, and all provisions of the medicaid state plan and waivers adopted by the department prior to July 1, 2006, shall remain in effect until revised, amended, repealed, or nullified pursuant to law.

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

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

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

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

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

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

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

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

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

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

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

~~(2) The task force shall develop a state plan as provided in section~~



~~68-1110 and electronically deliver the state plan to the Governor and the Legislature on or before December 15, 2016. The task force shall make a presentation of the state plan to the Health and Human Services Committee of the Legislature on or before December 15, 2016.~~

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

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

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

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

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