

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 36

Introduced by Harr, 8.

Read first time January 05, 2017

Committee:

1 A BILL FOR AN ACT relating to state agencies; to amend section 84-920,
2 Revised Statutes Cumulative Supplement, 2016; to change provisions
3 of the Administrative Procedure Act; to provide for review by
4 agencies of occupational credentials as prescribed; to provide for a
5 critical assessment document; to harmonize provisions; and to repeal
6 the original section.

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

1 Section 1. Section 84-920, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 84-920 Sections 84-901 to 84-920 and sections 2 to 7 of this act
4 shall be known and may be cited as the Administrative Procedure Act.

5 Sec. 2. (1) The Legislature finds and declares that:

6 (a) Certain occupations require special state-issued licensure for
7 the health, well-being, and consumer protection of the residents of the
8 State of Nebraska;

9 (b) Occupational credentialing helps to protect the public from
10 incompetent and unscrupulous individuals by assuring the quality of a
11 profession is protected with a defined set of standards; and

12 (c) Some occupational credentialing requirements through existing
13 law or rules and regulations may be considered overly burdensome, costly,
14 or ineffective.

15 (2) It is the purpose of sections 2 to 7 of this act to require
16 state agencies to review rules and regulations pertaining to the issuance
17 of occupational credentials and complete and release a critical
18 assessment document as described in section 7 of this act. Agencies shall
19 review rules and regulations on a regular basis as prescribed by sections
20 3 to 5 of this act.

21 Sec. 3. Beginning January 1, 2018, the Department of Health and
22 Human Services shall review its rules and regulations pertaining to the
23 issuance of occupational credentials for occupational credentials in
24 existence on such date. Beginning January 1, 2023, and every five years
25 thereafter, the department shall review its rules and regulations
26 pertaining to the issuance of occupational credentials for all
27 occupational credentials regardless of when such credentials were
28 created.

29 Sec. 4. Beginning January 1, 2019, the Department of Labor shall
30 review its rules and regulations pertaining to the issuance of
31 occupational credentials for occupational credentials in existence on

1 such date. Beginning January 1, 2024, and every five years thereafter,
2 the department shall review its rules and regulations pertaining to the
3 issuance of occupational credentials for all occupational credentials
4 regardless of when such credentials were created.

5 Sec. 5. Beginning January 1, 2020, every other agency, except the
6 Department of Health and Human Services and the Department of Labor,
7 shall review its rules and regulations pertaining to the issuance of
8 occupational credentials for occupational credentials in existence on
9 such date, if applicable. Beginning January 1, 2025, and every five years
10 thereafter, such agency shall review its rules and regulations pertaining
11 to the issuance of occupational credentials for all occupational
12 credentials regardless of when such credentials were created.

13 Sec. 6. (1) Each agency shall complete an individual critical
14 assessment document on every rule and regulation pertaining to the
15 issuance of all occupational credentials. Each agency shall make the
16 critical assessment document available at one public location and on the
17 agency's web site.

18 (2) A critical assessment document shall state and explain, but not
19 be limited to:

20 (a) The health, well-being, or consumer protection purpose of the
21 rule or regulation with respect to the issuance of occupational
22 credentials;

23 (b) The protection provided by the rule or regulation with respect
24 to the issuance of occupational credentials;

25 (c) A review and determination that the rule or regulation has
26 achieved the purpose in a cost-effective manner without unduly inhibiting
27 entrepreneurship and commerce; and

28 (d) A description, including an estimated quantification, of the
29 fiscal impact on state agencies, political subdivisions, and regulated
30 persons of the rule or regulation.

31 (3) Each agency shall hold a public hearing on each critical

1 assessment document to allow for public comment prior to the final
2 submission as described in subsection (4) of this section. An agency
3 shall conduct such hearing during the same calendar year as applicable
4 and set forth in sections 3 to 5 of this act. Notice of such hearing
5 shall be given at least thirty days prior thereto to the Secretary of
6 State and by publication in a newspaper having general circulation in the
7 state. All such hearings shall be open to the public.

8 (4) Each agency shall provide the final critical assessment document
9 electronically to the Executive Board of the Legislative Council by
10 December 31 of the year after the review of its rules and regulations
11 pertaining to the issuance of all occupational credentials by the agency.

12 (5) A critical assessment document is binding on an agency until
13 amended by the agency.

14 (6) A critical assessment document shall not give rise to any legal
15 right or duty or be treated as authority for any standard, requirement,
16 or policy.

17 (7) Rules and regulations shall be adopted and promulgated, if
18 necessary, and as necessary, according to the critical assessment
19 document.

20 (8) If an agency fails to make a good-faith effort to comply with
21 this section, the rule or regulation shall be null and void six months
22 after the applicable date as stated in sections 3 to 5 of this act unless
23 a critical analysis is completed during such six-month period.

24 Sec. 7. For purposes of sections 2 to 6 of this act, critical
25 assessment document means a statement developed by an agency which lacks
26 the force of law but provides a critical analysis of the significance and
27 necessity of the agency's rules or regulations pertaining to the issuance
28 of all occupational credentials.

29 Sec. 8. Original section 84-920, Revised Statutes Cumulative
30 Supplement, 2016, is repealed.