

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

January 20, 2017

Senator John Murante  
District #49 State Capitol  
PO Box 94604  
Lincoln, NE 68509-4604

RE: LB 36

Dear Senator Murante and Members of the Government, Military and Veterans Affairs Committee:

I am writing to offer technical concerns on LB 36, which will provide for state agencies to review rules and regulations pertaining to occupational credentials and provide for a critical assessment document.

LB 36, as written, requires subjective information and is ambiguous in its terminology. Clarification of terms needs to occur in order to be able to administer this bill. The bill refers to "occupational credentialing," but does not define that term nor does it refer to an existing definition. Without a definition, it is unclear what is meant by an "occupation," "certain occupations," and "special state-issued licensure." The Uniform Credentialing Act (UCA), administered by the Department of Health and Human Services, Division of Public Health, Licensure Unit, includes numerous professions and occupations, and clarification in LB 36 is needed to determine whether all credentials issued under the UCA are subject to this proposed legislation. The Department also issues credentials that are not governed by the UCA, and clarification is needed to determine whether those credentials are subject to LB 36.

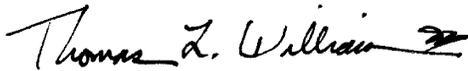
LB 36 would mandate that a critical assessment document on the review of rules and regulations pertaining to the issuance of occupational credentials be completed by state agencies every five years. In the Division of Public Health alone, this would account for the review of approximately 5,000 pages of occupation-related rules. The critical assessment document is required to include the "review and determination that the rule or regulation has achieved the purpose in a cost-effective manner without unduly inhibiting entrepreneurship and commerce." It is challenging to determine how such a measurement would be established and whether the cost-effective savings must be for the State, for the licensees, or for the public. Similarly, the requirement that the critical assessment document include "an estimated quantification of the fiscal impact on state agencies, political subdivisions, and regulated persons of the rule or regulation" is equally challenging. More than likely, analysis related to establishing the effect of rules and regulations on entrepreneurship and commerce would be subject to a competitively bid contract, which would be in addition to the estimated three additional full time employee positions required by the Division of Public Health to implement this bill.

LB 36 would require that a public hearing be held on the critical assessment document. This is duplicative of the current regulation review process and required hearings for public commentary. This additional process would add another layer to the regulation promulgation process which would incur added costs and resources.

LB 36 states that “a critical assessment document is binding on an agency until amended by the agency,” but the language is not clear what is meant by “binding.”

Thank you for the opportunity to share these technical concerns.

Sincerely,

A handwritten signature in black ink that reads "Thomas L. Williams" with a stylized flourish at the end.

Thomas L. Williams, MD  
Chief Medical Officer  
Director, Division of Public Health  
Department of Health and Human Services

cc: Senator Burke Harr