

2009 Summary of Legislative Bills Impacting or of Interest to the Department of Health and Human Services (DHHS)

LB 16 (White) Adopt the Taxpayer Transparency Act.

The State Treasurer is required to develop and maintain a single, searchable web site with information on state tax receipts and expenditures which is accessible by the public at no cost. Other duties are provided for the State Treasurer. All agencies, boards, commissions and departments of the state are required to provide to the State Treasurer information necessary to accomplish the purposes of this Act. This bill becomes effective August 30, 2009.

LB 27 (Pahls) Change the Autism Treatment Program Act.

LB 27 limits the purpose of this act to the development and administration of a waiver.

The Autism Treatment Program shall be administered by the Department. References to the administration of this program through the Center for Autism Spectrum Disorders are deleted.

The Autism Treatment Program Cash Fund shall now include revenue received from other similar donation agreements. The department shall administer this fund. Also, this fund shall be used as the state's matching share for the waiver and expenses in the administration of this program.

The Autism Treatment Program shall use private funds deposited in the Autism Treatment Program Cash Fund and funds transferred by the Legislature from the Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund. Transfers from the Health Care Cash Fund in any fiscal year shall be contingent upon the receipt of private matching funds for such program, with no less than \$1 of private funds received for every \$2 transferred from the Health Care Cash Fund. No donations from a Medicaid provider of services shall be deposited into the Autism Treatment Program Cash Fund.

The date for the submission of the waiver is changed to September 1, 2009.

This bill changes provisions relating to transfers from the Health Care Cash Fund to the Autism Treatment Program Cash Fund. Specifically, the annual transfer of \$1,000,000 from the Health Care Cash Fund to the Autism Treatment Program Cash Fund will begin on a date determined by the Department, but no later than 90 days after the Medicaid waiver has been approved. This transfer shall be distributed with matching private funds from the Autism Treatment Program Cash Fund and matching funds from Medicaid. This transfer shall also fund costs related to the administration of the waiver.

LB 27 became effective since May 27, 2009.

LB 35 (Ashford) Change provisions relating to courts.

LB 35 changes provisions relating to adoption petitions. The hearing for an adoption petition shall be held, not less than four weeks and nor more than eight weeks after the filing unless any party for good cause shown requests a continuance of the hearing or all parties agree to a continuance.

LB 35 requires courts to provide directions on downloading caregiver forms from the Supreme Court Internet web site to the foster parent.

LB 35 permits juvenile court records in the possession of school personnel to be shared with individuals and agencies who have been identified in a court order.

LB 35 also changes provisions judgments, county attorneys, juror lists, service of process, civil legal services for low-income persons, estates, court automation and judicial review under the Administrative Procedure Act.

Portions of this bill relating to county court jurisdiction, judges and legal service fees become effective on May 30, 2009. All other provisions become effective August 30, 2009.

LB 63 (Friend) Change provisions and penalties relating to assaults, firearms and other weapons, graffiti, gang affiliation, juveniles, and other provisions involving crime and violence.

LB 63 changes provisions relating to gang violence. The Convention Center Support Fund may be used to reduce gang violence. Criminal assault offenses are created involving graffiti, handguns, knives, brass or iron knuckles, and gang recruitment. Definitions for criminal street gang and criminal street gang members are provided. Bail procedures for juveniles are changed.

This bill also changes provisions on jailhouse informers, appeals, prisoner employment and dating violence policies.

This bill became effective May 28, 2009.

LB 84 (McGill) Change provisions relating to the Women's Health Initiative Advisory Council.

LB 84 eliminates the termination date for the Women's Health Advisory Council. Also, this bill removes the executive director of the Nebraska Commission on the Status of Women as a member of this council. This bill becomes effective August 30, 2009.

LB 91 (Howard) Change provisions relating to the subsidized adoption of a child.

LB 91 allows DHHS to make payments, after the legal completion of an adoption, on behalf of a child who immediately preceding the adoption was a ward of the Department with special needs or the subject of a state-subsidized guardianship. This bill becomes effective August 30, 2009.

LB 97 (Lautenbaugh) Prohibit certain convicted or charged individuals from providing transportation services for the Department of Health and Human Services and change provisions relating to foreign corporations and sex offenders.

LB 97 prohibits an individual, who has been convicted of a felony or any crime involving moral turpitude, or who has been charged with or indicted for a felony or crime involving moral turpitude and there has been no final resolution of the prosecution of the crime, from providing transportation services under contract with the Department, whether as an employee or as a volunteer, for vulnerable adults or children.

All individuals employed to provide transportation services under contract with the Department to vulnerable adults or children shall submit to a national criminal history information check every 2 years during the period of employment.

These individuals shall submit two full sets of fingerprints to the Nebraska State Patrol (NSP) to be submitted to the F.B.I. for the national criminal history record information check. The individual shall pay the actual cost of fingerprinting and the national criminal history record information check. The individual shall authorize release of the results and contents of the national criminal history information check to the employer and the Department. The NSP shall not release the contents of these background checks to the employer or the individual, but shall only indicate in writing to the employer and the individual whether the individual has a criminal record. The NSP shall release the results and the contents of these background checks in writing to the Department in accordance with applicable federal law.

The Department may develop and implement policies that provide for administrative exceptions to this law. Any decision made by the Department regarding these exceptions is discretionary and is not appealable.

An individual who does not comply with this law is guilty of a Class V misdemeanor.

LB 97 changes provisions relating to certificates of authority of foreign corporations and sexual assault.

The provisions relating to the national background checks for transportation providers become effective August 30, 2009. The other provisions become operative on January 1, 2010 or May 21, 2009.

LB 122 (Coash) Change terminology for child protection cases.

LB 122 changes a term in the central register of child protection cases. The term, “inconclusive”, is changed to agency substantiated. Also, the Department is allowed to change records classified as inconclusive prior to the effective date of this act to agency substantiated. However, the department must give public notice of these changes in this section within 30 days after the effective date of this act. Such notice shall be published in a newspaper or newspapers of general circulation within the state.

This bill becomes effective August 30, 2009.

LB 123 (Karpisek) Change the Uniform Controlled Substances Act to include Salvia divinorum or Salvinorin A.

Salvia Divinorum is added to the Uniform Controlled Substances Act. This act will include all parts of this plant, any seed, derivative, mixture, extract or salt, whether it was growing or not. This plant is a Schedule I drug. This bill becomes effective August 30, 2009.

LB 135 (Heidemann) Change Stem Cell Research Fund appropriation.

Total expenditures for permanent and temporary salaries and per diems for DHHS employees from the Stem Cell Research Fund shall not exceed \$15,000 for FY2008-09 and \$15,000 for FY2009-10. This bill became effective March 6, 2009.

LB 151 (Stuthman) Change provisions relating to ephedrine under the Uniform Controlled Substances Act.

LB 151 changes the exception to the sale and access to ephedrine and its derivatives currently provided under the Uniform Controlled Substances Act. New restrictions are placed on the sale of products containing pseudoephedrine. Drug names within this act are harmonized with federal regulations. This bill became effective March 19, 2009.

LB 154 (Government, Military and Veterans Affairs Committee) Eliminate boards, commissions, committees, councils, task forces, working groups, and related statutory provisions.

LB 154 eliminates several boards and commissions relating to small business, transit, broadband services and tax policy. Specifically, in the area of health and human services, this bill eliminates the Behavioral Health Oversight Commission, Donor Registry of the Nebraska Advisory Board, Nebraska Veterans Cemetery Advisory Board, Public Health Clinic Formulary Advisory Committee, Special Education Services Task Force, Teen Tobacco Education and Prevention Project Committee and a working group studying sex offender treatment. This bill becomes effective August 30, 2009.

LB 159 (Gay) Provide an income tax credit for long-term care insurance policy premiums.

LB 159 provides for a nonrefundable income tax credit of 25% of the premiums paid during the taxable year for one or more long-term care insurance policies that provide coverage for the individual, spouse, parent, immediate family member or dependent. The credit can be claimed for a maximum of 3 years. No taxpayer shall be entitled to such credit with respect to the same expended amounts for long-term care insurance policy premiums which are claimed by another taxpayer. No taxpayer shall be entitled to the credit if he/she used the adjustment to federal adjusted gross income for contributions and earnings in a long-term care savings plan. The credit shall not exceed the lesser of the taxpayer's income tax liability and any unused tax credit

shall not be allowed to be carried forward to apply to the taxpayer's succeeding year's liability. This law terminates on July 1, 2015. This bill becomes operative January 1, 2010.

LB 189 (Pankonin) Change terminology relating to problem gambling services.

LB 189 clarifies language relating to problem gambling. The terms "addiction services" and "addiction" are struck. The term "problem" replaces "compulsive" as it pertains to gambling. This bill becomes effective August 30, 2009.

LB 195 (Gay) Change public health provisions relating to trauma, pharmacy, physician assistants, certificate of need, hearing instrument specialists, emergency medical services, tuberculosis prevention and barbers.

LB 195 changes provisions relating to trauma. The definitions of basic level trauma center, communications system, comprehensive level trauma center, general level trauma center, specialty level burn or pediatric trauma center, trauma team, and trauma system are changed. On-line medical controllers are renamed as on-line physician or qualified physician surrogate. This bill changes requirements of the State Trauma Advisory Board. DHHS shall, in consultation with the board, also maintain the statewide trauma system. DHHS shall also maintain the statewide trauma registry. Designated trauma centers and rehabilitation centers shall follow federal regulation guidelines and established referral patterns to facilitate a seamless patient-flow system. Changes are provided regarding the designation of trauma centers. Reports relating to these sections shall not be considered public records. All hospitals involved the care of a trauma patient shall have unrestricted access to all pre-hospital reports for the trauma registry for that specific trauma occurrence.

LB 195 provides technical changes to the pharmacy statutes. Specifically, provisions of the Uniform Controlled Substances Act regarding prescriptions are changed. In the Emergency Box Drug Act, changes are provided for certain definitions, inspection requirements, re-packaging requirements and oversight by the Board of Pharmacy. Long-term care facilities are permitted to use automated medication systems along with hospitals and pharmacies.

LB 195 changes provisions relating to physician assistants. Definitions are changed and eliminated. Physician assistant sections regarding scope of practice are updated. Physician assistants may pronounce death and may complete and sign death certificates if within their scope of practice or delegated by a supervising physician. Filing requirements for birth certificates and death certificates are provided. Physician assistants may render services in a setting geographically remote from the supervising physician under certain circumstances. Provisions relating to temporary permits are changed. This bill also provides requirements for supervising physicians as well as agreements between supervising physicians and physician assistants. A supervising physician may supervise no more than four physician assistants at any one time unless waiver requirements are met. All prescriptions and prescription container labels are required to bear the name of the physician assistant, and, if required for purposes of reimbursement, the name of the supervising physician.

LB 195 changes provisions relating to certificate of need (CON). CON applications shall not be approved if the current supply of licensed long-term care beds in the health planning region of the proposed site exceeds the long-term care bed need for that health planning region. The calculations for long-term care bed need, population and utilization rate are clarified. Health care facilities with long-term care beds are required to report on a quarterly basis to DHHS of the number of residents on the last day of the immediately preceding quarter on a form provided by DHHS. The report is required no later than 90 days after the last day of the immediately preceding quarter. DHHS shall then provide the occupancy data collected from such reports upon request. Restrictions are placed on those facilities that fail to report timely. The transfer or relocation of long-term care beds from one facility to another entity in the same health planning region or any other health planning region is exempt from CON requirements. The receiving entity shall obtain a license for the transferred or relocated beds within two years after the transfer or relocation. DHHS shall grant an extension of such time if the receiving entity is making progress toward the licensure of beds.

LB 195 renames the Hearing Aid Instrument Dispensers and Fitters Practice Act to the Hearing Instrument Specialists Practice Act. The term “hearing aid” is changed to the term “hearing instrument”. The Board of Hearing Aid Instrument Dispensers and Fitters is renamed to the Board of Hearing Instrument Specialists. Changes are provided for the membership of this board. A person holding a license under this act may continue to practice until their license expires under the terms of the license.

LB 195 changes provisions relating to emergency medical services. Changes are provided for the membership of the Board of Emergency Medical Services (board). On or after September 1, 2010, licensure classifications are created for emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics. A person holding a license issued before September 1, 2010, shall be authorized to practice in accordance with the license laws for the term of the license. Temporary licenses may be provided for out-of-hospital emergency care providers who have completed the educational requirements, but have not completed the testing licensure requirements. Temporary licenses are valid for one year or until a license is issued and shall not be subject to renewal. Requirements relating to application, renewal and reinstatement are provided for the rules and regulations in these sections. The Department of Transportation National Emergency Medical Services Education Standards and the National Emergency Medical Services Scope of Practice for out-of-hospital licensure classifications are adopted until modified by the board in rule or regulation. The board is permitted to approve curricula for licensure classifications.

LB 195 provides changes to the Tuberculosis Detection and Prevention Act. Directed health measure is defined as any measure, whether prophylactic or remedial, intended and directed to prevent, treat, or limit the spread of tuberculosis. The state health officer or local health officer may order a person to submit to a tuberculosis examination if there are reasonable grounds to believe that this person has communicable tuberculosis. Also, these officers may order such person to submit to directed health measures when a person with communicable tuberculosis conducts himself/herself in such a way to expose another person to infection. If this person refuses to comply with these orders, the state health officer or local health officer shall institute commitment proceedings. A court is permitted to order such person to submit to this

examination if there are reasonable grounds to believe that person has communicable tuberculosis and has refused to submit to this examination. If a court finds that this person has communicable tuberculosis and conducts himself/herself in such a way as to be a danger to the public health, the court shall direct the sheriff take such person into custody and deliver them to the facility or to submit to directed health measures. DHHS may pay the cost of drugs and medical care used to treat any person for or to prevent the spread of communicable tuberculosis and for evaluation and diagnosis of persons who have been identified as contacts of a person with communicable tuberculosis.

LB 195 provides changes relating to the Barber Act involving licensure, title restrictions and rental permits.

This bill becomes effective August 30, 2009.

LB 196 (Gay) Change loan agreement provisions under the Rural Health Systems and Professional Incentive Act.

LB 196 exempts all loan agreements under this act from state laws on state contractual services with independent contractors. Recipients of these loans will not be considered independent contractors for purpose of state contract laws. This bill becomes effective August 30, 2009.

LB 201 (McGill) Change the Uniform Child Custody Jurisdiction and Enforcement Act relating to international application.

LB 201 adds a provision to this act that a Nebraska court shall have initial and continuing jurisdiction to make any determinations and to grant any relief when the motion or complaint is filed by a parent or custodian of the child who is a habitual resident of Nebraska. The action or inaction on the part of a Nebraska court regarding such requests does not affect the Nebraska court's jurisdiction. This bill becomes effective August 30, 2009.

LB 231 (Avery) Change Rural Development Commission membership provisions.

LB 231 clarifies the membership for the Rural Development Commission by striking the term "representative" and replacing with the terms "director" or "chief executive officer" and "his/her designee". The Governor shall appoint the chief executive officer of the Department of Health and Human Services or his/her designee. The directors of the agencies, Agriculture and Economic Development, or his/her designee are appointed by the Governor. The Director of the Nebraska State Historical Society or his/her designee is added to this commission. This bill becomes effective August 30, 2009.

LB 237 (Lathrop) Adopt the Interstate Compact for Juveniles and Interstate Compact for the Placement of Children.

LB 237 repeals the current Interstate Compact on Juveniles and adopts the updated version; the Interstate Compact for Juveniles. The compact is an agreement between states that allows for tracking and supervision of juveniles under court supervision that move across state borders and

regulates the return of out-of-state runaways and absconders in a safe and timely manner. The articles of this new compact provide the purpose, definitions, Interstate Commission for Juveniles, and judicial enforcement.

LB 237 repeals the Interstate Compact on the Placement of Children and adopts the updated version, the Interstate Compact for the Placement of Children. The purpose of this compact is to ensure that children placed across state lines for foster care, relative placement, or adoption are placed with persons who are safe, suitable, and able to provide proper care. The articles of this new compact provide definitions, applicability, jurisdiction, placement evaluation, placement authority, the Interstate Commission for the Placement of Children, member states and withdrawal and dissolution.

LB 237 becomes effective August 30, 2009.

LB 285 (Pirsch) Change Sex Offender Registration Act provisions.

This bill amends the Sex Offender Registration Act to bring Nebraska law into compliance with federal guidelines; specifically the Adam Walsh Act. The Adam Walsh Act establishes the Sex Offender Registration and Notification Act (SORNA). SORNA outlines a comprehensive set of minimum registration and notification standards for sex offenders.

Under this bill, the length of registration is based solely on the convicted offense. A 15-year registration requirement will be used for sex offenders convicted of an offense not punishable by imprisonment for more than 1 year. A 25-year registration requirement will be used for sex offenders convicted of an offense punishable by imprisonment for more than 1 year. A life requirement will be used for sex offenders convicted of an offense punishable by imprisonment for more than 1 year and convicted of an aggravated offense/or prior sex offense conviction. A sex offender may apply for a reduction in this length under certain circumstances.

The list of registry offenses will be expanded to include: incest, unlawful intrusion, sexually related child abuse offenses, sexual assault of an inmate or adult and sexually motivated offenses.

Registration information collected is expanded to include: all residency employment and vehicle information; travel/immigration document; all professional license information; computer/Internet identifiers & addresses; cell phone numbers; digital fingerprints and palm prints; digital photograph; and DNA sample.

Registry information will have to be verified more frequently and in-person. The initial registration will have to occur within 3 working days after becoming subject to the act as opposed to the current 5-day requirement. Verifications and status changes must be reported to the County Sheriff within 3 working days before the change as opposed to the current requirement to report within 5 days after. There will be public notification on all registrants; not the current requirement for public notification based on risk assessment.

In order to address the retroactive application of the new registry and notification requirements to the expanded list of new offenses, the new offenses from the current list of registry offenses will be put into a new subsection.

This bill becomes effective January 1, 2010.

LB 286 (General Affairs Committee) Change distribution of lottery funds.

LB 286 defines the dollar amount of lottery tickets that is transferred from the State Lottery Operations Trust Fund to the Compulsive Gamblers Assistance Fund, State Fair Board, Scholarship Fund, Education Innovation Fund and Environmental Trust Fund. The dollar amount shall be equal to or greater than the dollar amount in FY02/03 or at least 22% to 25% of the tickets sold on an annualized basis. This bill becomes effective May 14, 2009.

LB 288 (Health and Human Services Committee) Change provisions relating to health and human services.

LB 288 changes provisions relating to children and family services, Medicaid, public health and developmental disabilities. The following paragraphs describe the impact of LB 288 has on DHHS by Divisions.

Children and Family Services

LB 288 provides changes in child support and food stamps.

CHILD SUPPORT

LB 288 changes provisions relating to assignment, medical support, the new hiring report, continuous submittal of state revenue, interest on spousal support and modification.

Pursuant to a federal mandate, sections relating to assignment of child, spousal or medical support payments are changed to provide that only the support which becomes due during the time period in which the individual receives public assistance is assignable to the State. Currently, an individual applying for and accepting public assistance assigns all court-ordered child, spousal, or other support arrears and any additional support that becomes due while receiving public assistance to the state.

Pursuant to a federal mandate, sections relating to medical support are changed. Cash medical support is defined by Federal regulation as an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or for other medical costs not covered by insurance. Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed 3% of his or her gross income. Cash medical support payments are limited to IV-D cases. The standard of accessibility for health care is 30 miles/30 minutes, but longer travel times may be determined by the court, administrative agency or tribunal if

necessary. Cash medical support is added to Section 42-364 to make sure the money is being used on behalf of the child.

Independent Contractor New Hire enforcement allows for the reporting of independent contractors under the New Hire Act. This reporting method will help identify individuals who have taken new employment and have child support obligations. Once these individuals are identified, an income withholding notice can be generated to their employer and child support can be collected from each paycheck.

Continuous Submittal of State Revenue information changes the method of reporting past due support amounts. This bill allows a continuous submittal process rather than a single annual submittal.

Interest on spousal support or medical support payments will accrue after a 30-day grace period rather than beginning the day after it is due. The 30-day grace period brings spousal and medical support interest accrual into conformity with how interest is accrued in child support cases.

If the obligor is incarcerated as a result of criminal victimization of the child, he/she cannot be eligible to modify the child support order.

FOOD STAMPS

LB 288 changes provisions of the current public assistance law to update the statutes to align the Nebraska Food Stamp Program name to the new federal program name - Supplemental Nutrition Assistance Program (SNAP). The 2008 Farm Bill (The Food, Conservation, and Energy Act of 2008, P.L. 110-246) was enacted on June 18, 2008.

Medicaid

LB 288 provides Medicaid changes relating to the adoption by reference, the pre-admission screening program, the Medicaid Reform Council and the False Medicaid Claims Act.

ADOPTION BY REFERENCE

Nebraska Revised Statute, Section 68-906 adopts by reference the Federal Social Security Act as it existed on January 1, 2008. Nebraska case law provides that a state statute may incorporate by reference a federal statute but only as to the date such state statute became effective and not all future changes in federal law. This provision allows any federal Medicaid changes that have been made to be incorporated by reference.

PREAMISSION SCREENING PROGRAM

This bill amends Medicaid language in Sections 81-2265 and 81-2270 and repeals 81-2267. Specifically, obsolete language relating to the preadmission screening program in Medicaid is removed.

MEDICAID REFORM COUNCIL

This bill changes provisions relating to the Medicaid Reform Council.

The chairperson of the Health and Human Services Committee of the Legislature or his/her designee shall serve as a non-voting member of the council. The council shall advise the Department regarding implementation of Medicaid reforms as opposed to supporting implementation. Meetings shall be conducted on a quarterly basis instead of an annual basis. Term limits are provided for the members of this council. The Department is required to provide the council reports, data, analyses, or other information which are a basis for proposed reforms before the quarterly meetings.

This bill requires the Department to submit an annual report as opposed to a biennial report. This report shall include a response to each written recommendation provided by the council. This report is due September 15 of each year.

FALSE MEDICAID CLAIMS ACT

This bill changes provisions in the False Medicaid Claims Act.

Under this act, amounts recovered for the state's costs and attorney's fees are required to be remitted to the State Treasurer for credit to the State Medicaid Fraud Control Unit Cash Fund. The State Medicaid Fraud Control Unit Cash Fund is created. This fund shall be maintained by the Department of Justice and by the Attorney General. This fund shall consist of any recovery for the state's costs and attorney's fees except for certain criminal penalties. Money in this fund shall be used to pay the salaries and related expenses of the Department of Justice. On July 9, 2009, \$250,000 shall be transferred from the Health and Human Services Cash Fund to the State Medicaid Fraud Control Unit Cash Fund.

Public Health

LB 288 changes provisions relating to water operators, pharmacy technicians, consent to human immunodeficiency virus infection (HIV) testing, itemized billing statements by health care facilities re-dispensing of prescription drugs.

WATER OPERATORS

This bill requires a process that includes reexamination for re-licensure of individuals as water operators whose license or certificate has been expired for more two or more years.

PHARMACY TECHNICIANS

This bill makes the pharmacy technician subject to the acts and offenses listed in Section 38-178 (i.e. abuse of alcohol, misrepresentation of material facts, immoral or dishonorable conduct) as grounds for disciplinary actions against registration as well as deny them a credential.

HIV TESTING

This bill changes informed consent provisions relating to HIV testing. The written informed consent shall provide an explanation of HIV infection and the meaning of both positive and negative test results. A separate consent for this testing is not required if a general consent form for the performance of medical tests or procedures has been signed. If a person is unable to provide consent, the person's legal representative may provide consent. If the person's legal representative cannot be located or is unavailable, a health care provider may authorize the test when the test results are necessary for diagnostic purpose to provide appropriate medical care.

ITEMIZED BILLING FOR HEALTH CARE FACILITIES

This bill requires a health care facility or a health practitioner facility, upon written request of a patient or patient's representative, to provide an itemized billing statement. Such itemized billing statement shall be provided within 14 days after the request.

RE-DISPENSING OF PRESCRIPTION DRUGS

This bill provides for re-labeling and re-dispensing of prescription drugs at certain correctional facilities.

Prescription drugs or devices which have been dispensed pursuant to a valid prescription and delivered to a Department of Corrections facility, a criminal detention facility, a juvenile detention facility, or a jail, but not administered to the prisoner or detainee, may be returned to the dispensing pharmacy under contract with the facility or jail for credit or for re-labeling and re-dispensing to another prisoner or detainee held at that jail or facility. Exceptions, immunity provisions, Jail Standards Board requirements and definitions are provided.

Developmental Disabilities

LB 288 provides technical changes to the Developmental Disabilities Services Act and changes reimbursement.

TECHNICAL CHANGES

The reference, in the statute on director duties, regarding the Objective Assessment Process is updated. The language, "used by specialized programs in the state" is removed. The reference, in the statute on responsibility of services, "persons receiving care at the Beatrice State Developmental Center" is changed to "persons receiving services". Language is changed in reference to Quality Review Teams. The requirement to provide a copy of fingerprint reports by the F.B.I. to the employee in addition to the employer is removed.

REIMBURSEMENT

The method for reimbursement for assisted services to persons with developmental disabilities is changed. Assisted services through community-based developmental disability programs shall be reimbursed on a daily rate basis. The Department shall apply to the federal Centers for Medicare and Medicaid Services for approval of any necessary waivers to permit such reimbursement no later than September 1, 2009, and shall begin reimbursing such services on a daily rate basis no later than 90 days after such approval.

The provisions relating to Medicaid fraud, HIV testing, and developmental disabilities reimbursement become effective May 30, 2009. The child support provisions relating to medical support become operative September 30, 2009. The child support provisions relating to assignment become operative October 1, 2009. The child support provisions relating to continuous submittal become operative October 1, 2010 and the child support provisions relating to the New Hiring Report become operative January 1, 2010. All other provisions become effective August 30, 2009.

LB 311 (Speaker Flood) Provide for deficit appropriations.

LB 311 appropriates funds from the Nebraska Health Care Cash Fund for a study to evaluate options to privatize the operation of the Beatrice State Developmental Center.

This bill became effective May 20, 2009.

LB 315 (Speaker) Appropriate funds for state government expenses.

LB 315 is the 2009 mainline budget bill for the Department of Health and Human Services as well as all of state government.

Funds appropriated include the following:

- Rate methodology study for developmental disability services;
- Reduced rate increase for providers of mental health and substance abuse services;
- Federal funds (stimulus money) relating to the state unemployment rate;
- Department of Justice Compliance Agreement and the Beatrice State Development Center Action in which reporting requirements are provided;
- Lost funds due to federal action to decertify the participation of the Beatrice State Developmental Center in the Medicaid program;
- Waiting list for persons with developmental disabilities in which reporting requirements are provided.

In addition, this bill provides FY2009-10 and FY2010-11 appropriations in the area of public health, veterans' homes, behavioral health, children and family services, and Medicaid.

LB 315 became effective May 20, 2009.

LB 316 (Speaker) Change provisions relating to certain funds and provide for transfer of funds.

LB 316 transfers funds from the Nebraska Health Care Cash Fund to the Joseph Soukup Trust Fund.

LB 316 strikes obsolete language relating to the Nebraska Tobacco Settlement Trust Fund. Also, funds are transferred from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund.

LB 316 requires the State Treasurer to transfer funds from the Nebraska Health Care Cash Fund to the Tobacco Prevention and Control Cash Fund.

LB 316 requires the State Treasurer to transfer funds from the Nebraska Health Care Cash Fund to the Stem Cell Research Cash Fund.

LB 316 became effective May 20, 2009.

LB 322 (Avery) Prohibit nepotism and supervision of family members by executive branch official and employees.

LB 322 prohibits an official or employee in the executive branch from engaging in nepotism and from acting as a supervisor to his/her family member. The head of an agency may grant an exception from the prohibition of nepotism or supervision of a family member upon showing of good cause. An executive branch employee or official who becomes a supervisor to his/her family member other than by nepotism, is required to notify the head of the agency within 7 days of becoming aware of the situation. In addition to the other penalties under the Nebraska Political Accountability and Disclosure Act, any person violating this law may be subject to disciplinary action.

Definitions are provided for family member, nepotism and supervisor.

It is the intent of the Legislature that the legislative branch and the judicial branch of state government develop and implement internal policies prohibiting nepotism and the supervision of a family member

This bill becomes effective August 30, 2009.

LB 342 (Gay) Provide duties for the Department of Health and Human Services relating to payment for pediatric feeding disorder treatment.

On or before July 1, 2010, DHHS is required to submit an application to the Centers for Medicare and Medicaid Services (CMS) amending the state Medicaid plan to provide for

Medicaid payments for the comprehensive treatment of pediatric feeding disorders through interdisciplinary treatment.

Interdisciplinary treatment is defined as the collaboration of medicine, psychology, nutrition science, speech therapy, occupational therapy, social work, and other appropriate medical and behavioral discipline in an integrated program.

This bill terminates on January 1, 2015, unless extended by action of the Legislature.

LB 342 becomes effective August 30, 2009.

LB 355 (Lautenbaugh) Authorize cigar bars under the Nebraska Liquor Control Act and provide duties for owners of cigar bars.

LB 355 exempts cigar bars from the Clean Indoor Act.

LB 355 provides the definition of cigar bar and licensing application procedures for cigar bar owners. No county resolution or city ordinance that prohibits smoking in indoor areas shall apply to cigar bars.

LB 355 became effective April 23, 2009.

LB 358 (Pahls) Change the Comprehensive Health Insurance Pool Act.

LB 358 changes provisions relating to comprehensive health insurance pools.

LB 358 provides that an individual shall not be eligible for initial or continued pool coverage if the premium is paid for by a person other than the individual, an individual related to the individual by blood, marriage or adoption or an entity operating under the federal Ryan White HIV/AIDS Treatment Modernization Act of 2006. This bill becomes effective August, 30, 2009.

LB 361 (Avery) Change roll call provisions under the Open Meetings Act.

LB 361 allows a county, learning community, joint entity created by an Interlocal Cooperation Act, joint public agency created by the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to use electronic voting devices during roll call votes. Agencies created pursuant to the Interlocal Cooperation Act and the Joint Public Agency Act may include state agencies.

LB 361 also changes open meeting laws relating to educational service units and risk management pools.

This bill becomes effective August 30, 2009.

LB 389 (Carlson) Change membership provisions of the Climate Assessment Response Committee.

LB 389 clarifies that the chief executive officer of DHHS or his/her designee is a member of this committee. Also, this bill requires the directors of Agriculture and Natural Resources as well as the chief executive officer of DHHS be ex officio members. The Governor may appoint a member of the Governor's Policy Research Office as he/she deems necessary. This bill became effective May 27, 2009.

LB 394 (Fulton) Define unprofessional conduct for physicians regarding anatomic pathology services.

LB 394 provides that it is unprofessional conduct for any physician to fail to disclose in any bill for anatomic pathology service the name/address of the physician or laboratory that provided this service or the actual amount paid or to be paid for each service.

Anatomic pathology service consists of blood-banking, cytopathology, hematology, histopathology and sub-cellular pathology and molecular pathology.

Anatomic pathology service does not include the initial collection of packaging of the specimen for transport.

LB 394 becomes operative January 1, 2010.

LB 396 (Gloor) Create the Medical Home Pilot Program Act.

LB 396 creates the Medical Home Pilot Program and defines terms.

This bill requires that no later than July 1, 2012, the Division of Medicaid and Long-Term Care shall implement a medical home pilot program. This program shall be implemented, in consultation with the Medical Home Advisory Council, in one or more geographic regions of the state to provide access to medical homes for patients. This division shall apply for any available federal or other funds for the program. This division shall establish necessary and appropriate reimbursement policies and incentives to accomplish the purposes of this act. Requirements for the reimbursement policies are provided.

This bill requires, no later than June 1, 2014, this division to evaluate the medical home pilot program and report the results to the Governor and the Health and Human Services Committee. Reporting requirements are provided.

Requirements for participation in the medical home pilot program are provided.

This bill creates the Medical Home Advisory Council. The council shall consist of seven voting members appointed by the Governor. These members include licensed primary care physicians practicing in general and family medicine, pediatrics and internal medicine, and a representative from a licensed hospital. The chairperson of the Health and Human Services Committee or another member of the committee as selected by the chairperson shall serve as a non-voting member. Removal of members by the Governor are provided as well as reimbursement for

actual and necessary expenses. The Governor shall make initial appointments no later than October 1, 2009, and the council shall conduct its first meeting no later than October 31, 2009. Requirements of the council are provided.

This bill becomes effective August 30, 2009.

LB 403 (Karpisek) Require verification of lawful presence in the United States to receive public benefits as prescribed.

LB 403 prohibits state agencies or political subdivisions to provide public benefits to a person not lawfully present in the United States. This bill requires state agencies and political subdivisions, if not exempted by federal law, to verify the lawful presence in the United States of any person who has applied for public benefits. State and local employees cannot participate in any retirement system unless they are a United States citizen or qualified alien as defined by federal law.

Public benefit is defined as any grant, contract, loan, professional license, commercial license, welfare benefit, health benefit or financial assistance benefit, disability benefit, public or assisted housing benefit or similar benefits. Definitions are also provided for public contractor, public employer and federal immigration verification system (E-verify program).

Verification of lawful presence in the United States is not required for any purpose for which lawful presence in the United States is not restricted by law, ordinance or regulation; assistance for health care services and products, not related to organ transplant procedure, necessary for the treatment of an emergency medical condition; short-term, non-cash, in-kind emergency disaster relief; public health assistance for immunizations; and programs, services or assistance necessary for the protection of life or safety.

Verification of lawful presence in the United States requires that the applicant for public benefits attest in a format prescribed by DAS that he/she is a United States citizen or qualified alien as defined by federal law. State agencies or political subdivisions may adopt and promulgate rules and regulations or procedures for electronic filings of this attestation if such attestation is similar to the DAS format.

Public benefits shall be verified through the Systematic Alien Verification for Entitlements Program (SAVE) operated by the U.S. Department of Homeland Security or equivalent program.

Reporting requirements are provided for state agencies that administer programs of public benefits.

Public employers and public contractors are required to register with and use the E-verify program to verify employment eligibility. This bill does not apply to contracts awarded by a public employer prior to the operative date of this act.

LB 403 also provides an electronic verification duty for employers that apply for tax incentives.

LB 403 becomes operative October 1, 2009.

LB 458 (Harms) Provide for vocational training for public assistance recipients.

For purposes of creating the self-sufficiency contract and meeting the applicant's work activity requirement, an applicant shall be allowed to engage in vocational training that leads to an associate degree, a diploma, or a certificate for a minimum of 20 hours per week up to 36 months. This law will terminate on September 30, 2012.

This bill becomes effective August 30, 2009.

LB 463 (Dierks) Change provisions relating to animal therapy.

Definitions are provided for health care therapy and licensed animal therapist. Definitions are changed for veterinary drug distributor and veterinary drug order.

LB 463 prohibits a person from performing delegated animal health care tasks in the state who is not a licensed veterinary technician or an unlicensed assistant performing such tasks. Also, no person may perform health care therapy on animals in the state who is not a licensed animal therapist.

This bill expands current law to allow licensed health care professionals to consult with any licensed veterinarian or to perform collaborative health care tasks on an animal under the veterinarian's care and if such tasks are performed under the veterinarian's immediate supervision.

In addition to remedies already authorized in current law, a person who engages in the practice of veterinary medicine and surgery without being licensed shall be subject to civil penalties. The civil penalties shall be assessed in a civil action brought by the Attorney General in the district court of the county in which the violation occurred. Under this bill, any civil penalty assessed and unpaid shall constitute a debt to the State of Nebraska. This debt may be collected in the manner of a lien foreclosure or a lawsuit. The Department may also collect attorney's fees and costs incurred in the collection of the civil penalty. The Department is required, within 30 days after receipt, to transmit any collected civil penalty to the State Treasurer to be disposed of in accordance to state constitutional law.

Each applicant for an animal therapist license shall present the following to the Department: proof that the applicant holds and maintains an undisciplined license, proof that the applicant has met training requirements and such information required by rule and regulation.

A licensed animal therapist may perform health care therapy on an animal only if the health care therapy is consistent with the licensed animal therapist's training, the owner of the animal presents a prior letter of referral for health care therapy, and the licensed animal therapist provides monthly health care therapy reports. A licensed veterinarian who prepares a letter of referral for health care therapy by a licensed animal therapist shall not be liable for damages caused to the animal as a result of this health care therapy.

Animal therapy licenses may be denied, refused renewal, limited, revoked or suspended or have other disciplinary measures taken against it.

This bill changes legend drug requirements as it relates to veterinary drug orders.

LB 463 becomes effective August 30, 2009.

LB 464 (Gay) Require certain booster immunizations for student entering the seventh grade.

Except as provided in current school immunization laws, on or after July 1, 2010, every student entering the seventh grade shall have a booster immunization. This immunization shall contain diphtheria and tetanus toxoids and an acellular pertussis vaccine which meets federal standards. This bill becomes effective August 30, 2009.

LB 488 (Gloor) Change provisions relating to veterans' homes.

LB 488 allows veterans who served on active duty in the armed forces of the United States, other than active duty for training, and meet current requirements are eligible for admission to a Nebraska veterans' home. This bill becomes effective August 30, 2009.

LB 511 (Wallman) Redefine health care facility for purposes of certificate of need.

An intermediate care facility will include an intermediate care facility for the mentally retarded that has *sixteen or more beds*. Intermediate care facility for the mentally retarded has the same meaning as the definition in the Health Care Facilities Act. This bill became effective April 23, 2009.

LB 517 (Hansen) Change provisions to family reunification and termination of parental rights.

LB 517 changes the criteria on reasonable efforts to preserve and reunify the family. Reasonable efforts to preserve and reunify the family are not required if a court determines that the parent has been convicted of felony sexual assault of the other parent of the juvenile or a comparable crime in another state.

Also, parental rights may be terminated if the one parent has been convicted of felony sexual assault of the other parent of the juvenile or a comparable crime in another state.

This bill becomes effective August 30, 2009.

LB 540 (Gay) Change membership of the Children's Behavioral Health Task Force.

LB 540 removes the two representatives from DHHS and the Administrator of the Office of Juvenile Services from the Children's Behavioral Health Task Force. The probation administrator is added to this task force. This bill became effective May 27, 2009.

LB 603 (Health and Human Services Committee) Adopt the Children and Family Behavioral Health Support Act, adopt the Behavioral Health Workforce Act, and change provisions relating to Medicaid and behavioral health services.

CHILDREN AND FAMILY BEHAVIORAL HEALTH SUPPORT ACT

The Children and Family Behavioral Health Support Act is created.

First, no later than January 1, 2010, this new act requires the Department to create a Children and Family Support Hotline. This hotline shall be a single point of access for children's behavioral health triage through the operation of a 24-hour, 7 day per week, telephone line. This hotline shall be administered by the Behavioral Health Division of DHHS and staffed by trained personnel under the direct supervision of a qualified mental health, behavioral health, or social work professional engaged in activities of mental health treatment. In addition, this hotline provides screening and assessment, provides referral to existing community-based resources and provides an evaluation process. This evaluation shall include, but not be limited to, the county of the caller, the reliability and consistency of the information given, an analysis of services needed or requested, and the degree to which the caller reports satisfaction with the referral service.

Second, this new act requires the department to establish, by January 1, 2010, a Family Navigator Program to respond to children's behavioral health needs. The program shall be administered by the division and consist of individuals trained and compensated by the department. These individuals, at a minimum, shall provide peer support and provide connection to existing services, including the identification of community-based services. This program shall be evaluated. The evaluation shall include, but not be limited to, an assessment of the quality of the interactions with the program and the effectiveness of the program as perceived by the family, whether the family following through with the referral recommendations, the availability and accessibility of services, the waiting time for services and cost and distance factors.

Third, this new act requires the department to provide, by January 1, 2010, post-adoption and post-guardianship care management services for adoptive and guardianship families of former state wards on a voluntary basis. The department shall notify adoptive parents and guardians of the availability of such services and the process to access such services and that such services are provided on a voluntary basis. Notification requirements are provided. These services shall be administered by the Division of Children and Family Services and shall be evaluated. The evaluation shall include, but not be limited to, the number and percentage of persons receiving such services and the degree of problem resolution reported by families receiving such services.

Fourth, this new act provides a reporting requirement for the Department regarding the sections relating to the hotline, Family Navigator Program and voluntary post-adoption and post-guardianship case management services.

BEHAVIORAL HEALTH WORKFORCE ACT

LB 603 creates the Behavioral Health Workforce Act.

LB 603 provides findings regarding the shortage of behavioral health professionals and that this shortage leads to inadequate accessibility and response to behavioral health needs of all Nebraskans. The purpose of this act is improve community-based behavioral health services and focus on addressing behavioral health issues before they become a crisis through increasing the number of behavioral health professionals and their training.

LB 603 creates the Behavioral Health Education Center. This center will be created on July 1, 2009 and shall be administered by the University of Nebraska Medical Center. This center is required to provide funds for additional medical residents in a Nebraska-based psychiatry program, provide psychiatric residency training experiences that serve underserved areas, focus on training of behavioral health professionals in telehealth techniques, analyze the geographic and demographic availability of behavioral health professionals, prioritize the need for additional professionals, establish learning collaborative partnerships and develop interdisciplinary behavioral health training sites.

Reporting requirements are provided for this center.

MEDICAID

LB 603 changes Medicaid eligibility provisions. Under the State Children Health Insurance Program, children, under 19, become eligibility for Medicaid if their family income is equal to or less than 200% of the federal poverty guideline. Pregnant women with a family income equal to or less than 185% of the federal poverty guideline also become eligible for Medicaid.

BEHAVIORAL HEALTH SERVICES

LB 603 provides intent language regarding appropriations for behavioral health services. It is the intent of the Legislature to appropriate from the General Fund \$500,000 for FY2009-10 and \$1 million for FY2010-11 to the Department for children (under 19) behavioral health services. These services include, but are not limited to, the expansion of the Professional Partner Program and services provided using a sliding-fee schedule. These general funds shall be excluded from the calculation of county matching funds. Also, these general funds shall be allocated to the regional behavioral health authorities and shall be distributed based on 2008 allocation formula.

LB 603 creates the Children's Behavioral Health Oversight Committee as a special legislative committee. This committee shall consist of senators from the Appropriations Committee, Health and Human Services Committee, Judiciary Committee and others. The Executive Board shall appoint these senators and this committee shall terminate on December 31, 2012. This

committee shall monitor the effect of the implementation of the Children and Family Behavioral Health Support Act and other Department initiatives relating to children behavioral health services and shall meet with representatives from the Department on a quarterly basis. Staff support is provided by the Legislature and possibly, consultants. A reporting requirement is provided.

LB 603 requires, no later than July 1, 2009, the Department to submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services (CMS) to provide coverage under the Medicaid program for community-based secure residential and sub-acute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services.

The section regarding Medicaid eligibility becomes effective August 30, 2009. All other provisions of this bill became operative May 27, 2009.

LB 604 (Howard) Change the Pharmacy Practice Act to change provisions relating to medical gas distribution.

New definitions are provided for accrediting body, medical gas, and medical gas device. The definition of labeling is changed.

A pharmacy or person accredited by an accrediting body who, pursuant to a medical order, uses medical gas or medical gas devices or purchases this gas or device, for patients, are exempted from the practice of pharmacy.

Pharmacists are not required to provide patient counseling when a medical gas or a medical gas device is administered, dispensed or distributed to patients.

Medical gas distributors are exempt from the laws on delegated dispensing permits.

This bill became effective on May 27, 2009.

LB 626 (Karpisek) Change prohibited activities for public officials and public employees use of public resources.

LB 626 provides that any use of public resources by a public official, or public employee which is incidental, de minimus, or unintentional does not violate laws relating to personal financial gain or use of public resources. A resource of government is not considered a public resource if the use of the resource for public resources is part of compensation in an employment contract and is reported in accordance with the Internal Revenue Code. Requirements for the use of a government vehicle and public facilities being used as a bargaining unit are provided.

LB 626 allows a state official or employee to use a telephone, electronic handheld devices or computer, under the control of a governmental body, for e-mails and certain calls (i.e. calling

teacher, doctor or family member). The communication shall be kept to a minimum and not interfere with public business. A state official or employee is responsible for reimbursement of these charges.

LB 626 becomes effective August 30, 2009.

LB 628 (Business and Labor Committee) Provide for payment of claims against the state.

LB 628 provides payment of certain claims against the State as well as authorizes agency write-offs of certain claims. Payment of claims is authorized for the tort claim relating to the Beatrice State Developmental Center. This bill became effective May 20, 2009.

LB 629 (Business and Labor Committee) Disapprove claims against the state.

LB 629 disapproves the claim against DAS and the Norfolk Veterans' Home of DHHS made by Bomgaars Supply in Sioux City, Iowa. This bill became effective May 20, 2009.

LB 675 (Fulton) Provide for additional voluntary and informed consents from a woman prior to abortion.

LB 675 provides definitions for woman and ultrasound.

LB 675 requires nurses to be licensed under the Uniform Credentialing Act relating to voluntary and informed abortions.

LB 675 adds perforated uterus as a particle medical risk associated with an abortion.

LB 675 provides that consent to an abortion is voluntary and informed if the woman cannot be forced or required by anyone to have an abortion and is free to withhold or withdraw her consent for an abortion. Also, consent to an abortion is voluntary and informed if the woman has the right to request a comprehensive list, compiled by DHHS, of health care providers, facilities and clinics that offer to have ultrasounds performed by a person at least as qualified as a registered nurse.

If an ultrasound is to be performed, the physician, physician assistant, referring physician or registered nurse are subject to the following requirements. An ultrasound of the woman's unborn child of a quality consistent with standard medical practice in the community must be performed at least one hour before the abortion. The ultrasound images must be displayed so that the woman may choose to view or not view, the ultrasound images. The woman shall be informed that the ultrasound images be displayed so that she can view them. If the woman requests information about the displayed ultrasound image, her questions must be answered. Detailed, simultaneous, medical descriptions of the ultrasound image shall be provided if requested by the woman. These requirements are fulfilled if an ultrasound is performed prior to the performance of the abortion.

The physician or his/her agent shall retain a copy of the signed certification form in the woman's medical record.

DHHS is required to publish a comprehensive list of health care providers, facilities and clinics that offer to have ultrasounds performed by a person at least as qualified as a registered nurse. Those who perform such ultrasounds free of charge shall be specified in this list. The list shall be arranged geographically and shall include the name, address, hours of operation and telephone number of each entity.

This bill becomes effective August 30, 2009.

LB 679 (Legislative Performance Audit Committee) Require certain disclosures from potential members of the State Foster Care Review Board.

Prior to appointment, each potential member of this board is required to disclose any and all funding he/she or his/her employer receives from the Department of Health and Human Services.

Obsolete language is deleted regarding this board.

This bill becomes effective August 30, 2009.