

2010 Summary of Legislative Bills Impacting or of Interest to the Department of Health and Human Services (DHHS)

LB 226 (Rogert) Change age of majority provisions.

This bill allows a parent or guardian of a minor who is 18 years old and not a ward of the state to delegate, for a period not exceeding one year, the power to consent to such minor's own health care and medical treatment. Also, an 18-year old who is not a ward of the state may enter into a binding contract or lease and shall be legally responsible. LB 226 became effective March 4, 2010.

LB 373 (Lautenbaugh) Change death and disability-related provisions pertaining to emergency response personnel.

This bill establishes, for police officers and firefighters or firefighter-paramedics, the rebuttable presumption that death or disability resulting from heart or respiratory disease after separation of employment is in the line of duty. Also, this bill establishes, for firefighters or firefighters-paramedics, death or disability as a result of a blood-borne infectious disease as prima facie evidence. Blood borne infectious disease means human immunodeficiency virus, acquired immunodeficiency syndrome and all strains of hepatitis. This bill becomes effective July 15, 2010.

LB 411 (Giese) Update provisions in the State Electrical Act.

LB 411 updates the National Electrical Code in the State Electrical Act. This bill becomes effective July 15, 2010.

LB 507 (Pirsch) Provide for payment for prenatal services in certain situations and change provisions relating to domestic assault.

This bill allows a pregnant U.S. citizen and Nebraska resident with an income at or below 185% of the federal poverty level who is subject to a child support enforcement sanction to ask to have their case reviewed by the Chief Executive Officer (CEO) of DHHS to obtain prenatal services from state-only funds. If the CEO, upon review to the circumstances of the case, determines, in his or her discretion, that circumstances relating to domestic violence warrant an exception to the existing Medicaid rules and regulations, he or she may authorize prenatal services to be paid from state general funds. Prenatal services provided under this law shall not include abortion counseling, referral for abortion or funding for abortion. This section of law terminates on June 30, 2011.

LB 507 also changes domestic assault provisions and child abuse provisions.

This bill became effective April 15, 2010.

LB 594 (Dierks) Adopt the Women’s Health Protection Act governing abortions and provide a civil penalty for failure to comply with the act.

LB 594 provides definitions for complications associated with abortion, conception, emergency situation, negligible risk, probable gestational age of unborn child, risk factor, self-induced abortion and ultrasound.

Consent to an abortion is voluntary and informed if, at least one hour before an abortion, a physician, psychiatrist, psychologist, mental health practitioner, physician assistant, registered nurse or social worker has evaluated the pregnant woman for a perception of coercion, evaluated any risk factors, informed the pregnant woman and physician in writing and retained a written evaluation. Consent to an abortion is voluntary and informed if any risk factors were identified and the pregnant woman was informed of each complication and quantifiable risk rates. Also, consent to an abortion is voluntary and informed if the physician has formed a reasonable medical judgment.

This bill provides additional legal remedies for intentional, knowing, or negligent failure to comply with this law. These remedies include damages of the award of reasonable costs and attorney’s fees and recovery for the wrongful death of the unborn child. The physician shall bear the burden of proof in situations involving not providing information or not waiting 24 hours. This bill provides further changes in civil actions under this law relating to statute of limitations, rebuttable presumptions, cause of actions, and affirmative defenses.

DHHS is required to make available on its Internet website a printable publication of geographically-indexed materials woman of public and private agencies that have services available to assist a woman with mental health concerns, following a risk factor evaluation. These services shall include, but not be limited to, outpatient and crisis intervention services and crisis hotlines. The materials shall include a comprehensive list of the agencies available, a description of the services offered and a description of the manner in which such agencies may be contacted. The description of the manner in which such agencies may be contacted must include addresses and telephone numbers of such agencies as well as a toll-free, 24-hours-a-day telephone number to be provided by DHHS. This toll free phone number may be called to obtain the names of the agencies and the services they provide in the locality of the woman. DHHS shall update the publication as necessary.

This bill becomes effective July 15, 2010.

LB 698 (Louden) Eliminate certain insurance premium tax provisions.

Past Nebraska law provided for a Managed Care Program Premium Tax to be administered by the Department of Insurance on premiums paid by vendors under the Medicaid Managed Care Program. This bill repealed a portion of this law which was dependent upon approval of the federal Center for Medicare and Medicaid (CMS) in order to implement a premium tax on capitation payments made in accordance with Medicaid. This bill became effective March 4, 2010.

LB 701 (Hadley) Change distribution of Intermediate Care Facilities for Mentally Retarded (ICF/MRs) Reimbursement Protection Fund.

This bill changes provisions relating to the allocation of funds from the ICF/MR provider tax. Past state law allocated the remaining proceeds of this fund to the General Fund. LB 701, for Fiscal Year 2011-2012 and each fiscal year thereafter, now allocates these remaining proceeds in the following priority:

- 1) \$55,000 for administration of fund;
- 2) the amount needed to ICF/MRs for the cost of the tax;
- 3) \$312,000 for community-based services for persons with developmental disabilities;
- 4) \$600,000 or such lesser amount as may be available in the fund for non-state operated ICF/MRs, in addition to any continuation appropriations percentage increase provided by the Legislature; and
- 5) the remainder of the proceeds to the General Fund.

This bill became effective April 14, 2010.

LB 712 (Rogert) Change provisions relating to legal process.

LB 712 changes provisions relating to child support enforcement. First, this bill changes provisions for the collection of other monetary judgments (i.e. genetic testing), that a child support obligor owes to a federal or state governmental unit, when services are being provided under Title IV-D of the federal Social Security Act and the judgments are related to the support of a child. Secondly, this bill changes provisions relating to mandatory reporting of account balances. Specifically, LB 712 adds the requirement that financial institutions also remit the delinquent obligor's account balance to the DHHS. Lastly, this bill changes provisions relating to reviews of child support orders when there is a substantial change of circumstances. Specifically, this bill changes current state law to comply with federal requirements which mandate the program be able to review court orders within the three year period outlined in statute when there is a substantial change of circumstances which have lasted three months and are expected to last at least six months.

LB 712 changes amounts of homestead allowance, exempt property and family allowance for decedent's estates. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate for costs and expenses of administration, except for claims filed by DHHS notwithstanding the order of payment established in current state law and except that the right to any assets to make up a deficiency of exempt property shall abate as necessary to permit prior payment of homestead allowance and family allowance.

LB 712 provides for non-probate transfer on death motor vehicle certificates of title. This bill allows a motor vehicle governed by a certificate of title to be titled in transfer-on-death. A person who owns a motor vehicle may provide for the transfer of such vehicle upon his/her death, or the death of the last survivor of a joint-tenancy-with-right-of-survivorship by including

the certificate of title a designation of beneficiary/beneficiaries to who the vehicle will be transferred on death.

LB 712 also changes provisions relating to civil court actions, juries, Small Claims Courts, speedy trials, fines and costs, penalties involving criminal attempt and arson, seizure of pet animals and equines, jail sentences and disposition of tenant personal property by landlords.

The provision relating to non-probate transfer on death motor vehicle certificates of title becomes effective January 1, 2011. Changes in the homestead allowance, exempt property and family allowance; child support enforcement involving account balances and monetary judgments and all other provisions of the bill become effective July 15, 2010. The child support enforcement provision relating to review and modifications became effective April 14, 2010.

LB 713 (Gloor) Change provisions relating to school health inspections.

School districts shall conduct health inspections for children on a schedule prescribed by DHHS and based on current medical and public health practice. A child shall not be required to submit to an inspection if parents/guardians provide a written statement signed by a physician or advanced practice registered nurse stating such child has undergone an inspection in the past six months. DHHS may make available to schools methods for the gathering, analysis and sharing of school health data that do not violate any privacy laws. School districts shall provide for these inspections during the school year as opposed to the current law of only the first quarter. As children enter school during the year, such inspections shall be confirmed upon their entrance rather than make such inspections immediately upon their entrance. This bill becomes effective July 15, 2010.

LB 728 (Lautenbaugh) Adopt the Exploited Children's Civil Remedy Act and redefine a term with respect to pleas.

Any participant or portrayed observer in a visual depiction of sexually-explicit conduct or his/her parent or legal guardian who suffered or continues to suffer personal or psychological injury as a result of this participation may bring a civil action against any person who knowingly and willfully created, distributed, or actively acquired this depiction or aided or assisted with this depiction. A plaintiff who prevails in this action may recover damages. This law shall not apply to law enforcement or if the participant was 16 years or older and voluntarily participated in this conduct. The process in filing for damages is provided. A plaintiff may request to use a pseudonym instead of his/her legal name. The defendant cannot use as a defense that he/she did not know the participant, did not appear in the depiction or did not assist, commit or observe this conduct. The Attorney General may pursue these cases. Definitions are also provided. This bill becomes effective July 15, 2010.

LB 742 (McCoy) Provide requirements for settlement agreements involving public entities and provide that such agreements are public records.

A public entity or private insurance company or public agency providing coverage to a public entity, public official or public employee shall maintain a public record of all settled claims. The record for claims settled in the amount of \$50,000 or more, or 1% of the total annual budget of the public entity, whichever is less, shall include a written settlement agreement. The settlement agreement shall contain a brief description of the claim, the amount of financial compensation, and the party/parties released. Any claim or settlement agreement involving a public entity will not be a public record to the extent permitted by other state laws. A private insurance company or public agency providing coverage to a public entity shall provide a copy of the claim or settlement agreement to the public entity to be maintained as a public record. Except for settlement claims involving the state government, any settlement agreement of \$50,000 or more, or 1% of the total annual budget of the public entity, shall be included as an agenda item at the next public agency meeting. Confidentiality or nondisclosure clauses in a settlement agreement shall neither cause nor permit a settlement agreement or the claim of any other public record to be withheld from the public. Nothing in this law shall require a public official or public employee or any party to the settlement agreement to comment on the settlement agreement. This law does not apply to claims made in connection with insured or self-insured health insurance contracts. Definitions are also provided. This bill becomes effective July 15, 2010.

LB 758 (Wightman) Change provisions relating to the doctrines of cy pres and deviation and powers of personal representatives.

The doctrine of cy pres is used by courts to carry out the intention of a testator as near as possible. This bill allows this doctrine to be applied to a will or trust if the document creating a charitable trust does not otherwise provide for an alternate disposition of the property in the event the will's charitable interest becomes unlawful, impracticable, impossible to achieve or wasteful.

Also, the personal representative, except as restricted or otherwise provided by the will or order in a formal proceeding, may properly form a business entity that has limited liability, including a limited partnership, limited liability partnership, limited liability company or corporation, for any business or venture in which the decedent was engaged at the time of death.

This bill becomes effective July 15, 2010.

LB 771 (Flood) Change certain provisions relating to assault, criminal attempt, weapons, arrests, bail, custody and discovery.

LB 771 changes assault and assault on officer provisions to include persons who assault DHHS employees while committed as a dangerous sex offender under the Sex Offender Commitment Act. Any person who is committed as a dangerous sex offender under the Sex Offender Commitment Act and intentionally, knowingly or recklessly causes bodily injury to another person shall be guilty of a felony. Any person who is committed as a dangerous sex offender under the Sex Offender Commitment Act and who commits assault, terrorist threats, kidnapping, false imprisonment shall be guilty of a felony.

LB 771 clarifies that when a juvenile is taken into custody pursuant to a legal warrant of arrest that the juvenile be delivered to a probation officer who shall determine the need for detention. If detention is not needed, the juvenile may be released, but the court issuing the warrant must be notified that the juvenile had been taken into custody and was released.

LB 771 also provides changes relating to criminal offenses to a pregnant woman, criminal attempt, the discharge of a firearm, bail, evidence, and jail sentencing.

LB 771 becomes effective July 15, 2010.

LB 792 (Coash) Change controlled substances schedules.

LB 792 amends the Uniform Controlled Substances Act. A spelling error involving the drug, dimethyltryptamine is corrected. Benzylpiperazine, 1-benzylpiperazine is added as a Schedule I Drug. In the Schedule II drug list, the name, dextropropoxyphene is corrected to propoxyphene. Tapentadol is added as a Schedule II drug. Desoxymethyltestosterone and androstakienedione are added as Schedule III drugs under the steroid classification. In the Schedule IV drug list, the name, dextropropoxyphene is corrected to propoxyphene. This bill becomes effective July 15, 2010.

LB 799 (Krist) Change state and local building code provisions.

LB 799 strikes the Uniform Code for Building Conservation from current law and adds the International Existing Building Code, 2009 Edition. Also, this bill establishes that the state building code shall be applicable to all buildings owned by the state or a state agency and each political subdivision that elects to adopt the state building code or any component or combination of components of the state building code. LB 799 becomes effective July 15, 2010.

LB 800 (Ashford) Provide methods of early intervention for children at risk.

LB 800 changes juvenile justice provisions relating to appeals, probation, civil citation, peace officers, evaluations, videoconferencing, truancy, the County Juvenile Service Aid Program, sealing of juvenile records and drug-related offenses.

APPEALS:

Provisions relating to juvenile appeals are changed. Juvenile review panels are eliminated. The use of a three-judge panel appeals of juvenile cases in which the court orders the implementation of a plan that differs from the plan recommended by DHHS is eliminated. The Court of Appeals shall conduct its review of final orders or judgments from a juvenile court in an expedited manner.

PROBATION:

Probation officers are authorized to exercise power of temporary custody if there is reasonable cause to believe that a juvenile has or is about to violate his/her probation and that the juvenile will attempt to leave the jurisdiction or place lives or property in danger.

Whenever a probation officer has reasonable cause to believe that a juvenile subject to probation is about to commit a substance abuse violation, but will not leave the jurisdiction and not place lives or property in danger, the probation officer shall impose one or more administrative sanctions (i.e. counseling, increased supervision, travel restrictions or evaluation) or submit a written report to the adjudicating court.

Whenever a probation officer has cause to believe that a juvenile has violated a condition of probation other than a substance abuse violation and will not leave the jurisdiction and not place lives or property in danger, the probation officer shall submit a written report to the adjudicating court.

Whenever a probation officer has cause to believe that the juvenile has violated his/her probation and will attempt to leave the jurisdiction and place lives or property in danger, the probation officer shall take the juvenile in temporary custody and may call on a peace officer for assistance.

Immediately after detention, the probation officer shall notify the county attorney and submit a written report. The county attorney shall release the juvenile from the supervision of the probation officer or file a motion to revoke probation.

The probation administrator shall adopt and promulgate rules and regulations for this section of law. Also, \$350,000 shall be transferred from the Probation Cash Fund to the Violence Prevention Cash Fund and the Office of Violence Prevention shall distribute such funds to organizations that have submitted violence prevention plans.

CIVIL CITATION:

A juvenile offender civil citation pilot program is created. A civil citation is a non-criminal notice which cannot result in a criminal record.

A peace officer who has reasonable grounds to believe the juvenile has committed a misdemeanor offense, other than sexual assault, domestic assault or firearm offense, may issue the juvenile a civil citation. Components of the civil citation as well as a right of refusal by the juvenile are provided. Upon issuing this citation, the peace officer shall send the copy of this citation to the county attorney, juvenile assessment center and parents or guardian. The juvenile shall then report to the juvenile assessment center and may be required to participate in community service or other services (i.e. family counseling, substance abuse services). If the juvenile fails to comply with this citation or if he/she is issued a third or subsequent citation, a peace officer shall take the juvenile into temporary custody. The Supreme Court shall prescribe the form for this citation.

PEACE OFFICERS:

Language is added that a peace officer may take a juvenile into temporary custody without a warrant if the juvenile has violated a state law or municipal ordinance and the officer has reasonable grounds to believe such juvenile committed such violation. Language is phased out involving status offenders in secure detention violating a court order. Language related to temporary placement is added to emphasize the need to place juveniles in the least restrictive environment possible. Also, the officer may take the juvenile into temporary custody if he/she has reasonable grounds to believe the juvenile is truant from school and deliver the juvenile back to the school.

EVALUATIONS:

Timeframes for hearings on evaluation results are established. The juvenile is required to appear before the court for a hearing on the report of the evaluation within 10 days after the court receives the evaluation. Also, the court is required to hold a hearing within 10 days after the post-adjudication evaluation is completed and returned to the court by the Office of Juvenile Services (OJS).

VIDEOCONFERENCING:

All non-evidentiary hearings and any evidentiary approved by the court and by stipulation of all parties may be heard by the court telephonically or videoconferencing in a manner that ensures the preservation of an accurate record.

TRUANCY:

Provisions are changed relating to truancy. The juvenile court is authorized to suspend driving privileges of the juveniles and issue fines not exceeding \$500 or order community services for parents of truant juveniles. Language allowing the school to end efforts to meet with parents after the parent refuses to participate in a meeting to address the student's truancy if the request and refusal are documented is removed. All school districts shall have a written policy on excessive absenteeism developed in collaboration with the county attorney. If the child is absent for more than 20 days per year or the hourly equivalent, the attendance officer shall file a report with the county attorney. School districts are required to report data to the Department of Education.

The Truancy Intervention Task Force is created. This task force shall consist of the Probation Administrator, Commissioner of Education, Chief Executive Officer of DHHS; or their designees. This task force shall study and evaluate the data from the school districts' reports and develop recommendations to reduce incidents of excessive absenteeism. This task force may contact a school district or county attorney for additional information. This task force shall report to the Legislature on or before July 1, 2011, and each July 1 thereafter.

COUNTY JUVENILE SERVICES AID PROGRAM:

Changes are provided relating to the County Juvenile Services Aid Program. In distributing funds provided under the County Juvenile Services Aid Program, counties shall prioritize programs and services that will reduce juvenile detention population.

SEALING OF JUVENILE RECORDS:

This bill changes provisions relating to the sealing of juvenile criminal justice records. Sealing a record means that a record shall not be available to the public except upon an order of a court upon good cause shown. County courts may seal records.

Juveniles may use the sealing process if they are offered pretrial diversion or mediation by the county attorney, are the subject of a juvenile court petition and are the subject of a criminal complaint. The county attorney must provide the juvenile written notice that the juvenile may petition the court to seal the record when the juvenile has completed the diversion, mediation, probation, supervision or other treatment and what sealing the record means. The county attorney must also notify the appropriate public office/agency if no juvenile petition or criminal complaint has been filed or if the juvenile has agreed to pretrial diversion or mediation. If a juvenile has completed probation, supervision, or other treatment or completed diversion or sentence, the court may initiate proceedings to seal the juvenile's records. The county attorney or city attorney shall be promptly notified of these proceedings, and DHHS shall also be notified if the juvenile is a ward of the state or was a party in this case. Notice requirements are provided for the parties. After conducting a hearing, the court may order the juvenile's records to be sealed if it finds the juvenile has been rehabilitated.

If the court does not order these records to be sealed, the juvenile cannot move the court to seal the record for one year unless waived by the court. The court shall provide verbal or written notice to the juvenile that his/her records are sealed. If the court orders the records be sealed, the juvenile may reply that no record exists. Subsequently, the court must order that the information or data be deemed never to have occurred and send notice of this order to the relevant agencies, persons and institutions.

An order to seal applies to all public offices except for law enforcement officers in the investigation of crimes and inspections by the court, Probation System, DHHS (for intake, case plans, evaluations, supervision or licensing), juvenile subject to the sealed record, party in a civil action that is based on this record or persons engaged in research with permission by the courts and confidentiality protected.

No person shall knowingly release, disseminate or make available the sealed records, or they may be held in contempt of court. DHHS may release, disseminate or make available information from a sealed record in performance of its duties in supervising and protecting persons placed in the department.

In applications for employment, license or other privilege, a person cannot be questioned about the sealed records. Applications for employment shall state that the applicant is not obligated to

disclose sealed juvenile records and employers cannot ask if applicant has juvenile record sealed. The Department of Labor must provide this information on its website.

DRUG-RELATED OFFENSES:

LB 800 provides penalties for minors in possession of drugs.

LB 800 becomes effective July 15, 2010.

LB 809 (Rogert) Change statute of limitations for fraud involving public assistance programs.

LB 809 changes the statute of limitations for prosecuting fraud involving medical assistance programs in felony cases. No person shall be prosecuted for this violation of law if the value of all benefits and funds is \$500 or more unless the indictment for such offense is found by a grand jury within five years after offense has been committed or such offense is filed before the magistrate within five years after offense has been committed and a warrant for the defendant has been issued. These changes shall apply to offenses committed prior to the effective date of this act, for which the statute of limitations has not expired as of such date and to offenses committed on or after this date. This bill becomes effective July 15, 2010.

LB 842 (Lautenbaugh) Change procedures in cases of death during apprehension by law enforcement officers or while in custody.

This bill eliminates the requirements for a special prosecutor where a juvenile or adult has died while in the custody of a law enforcement officer or detention personnel. This bill becomes effective July 15, 2010.

LB 849 (Gay) Change provisions relating to health and human services.

LB 849 is the DHHS "Clean-up" bill. This bill provides technical changes in the areas of Medicaid, children and family services, public health, and developmental disabilities. This bill also changes provisions to the Public Service Commission.

MEDICAID:

This bill changes the law regarding references in the Federal Social Security Act in state Medicaid statutes. Nebraska law adopts by reference the Federal Social Security Act as it existed in January 1, 2009. 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 statute is updated to January 1, 2010, so federal changes that have been made are incorporated by reference.

CHILDREN AND FAMILY SERVICES:

LB 849 deletes obsolete language related to the Supplemental Nutrition Assistance Program (SNAP). Specifically, this bill deletes references to food stamp coupons relating to trafficking and legal penalties. In addition, federal citations are updated.

LB 849 deletes obsolete language relating to past due child support. The obsolete date of December 1 in current law is removed to harmonize it with the new provisions which established a continuous process of reporting past due support for the State Tax Refund offset process.

PUBLIC HEALTH:

LB 849 changes provisions in the Medical Radiography Practice Act. The definition of medical radiography is changed to the application of radiation to humans for diagnostic purposes, including, but not limited to, utilizing proper radiation protection, radiation generating equipment and quality control, image production and evaluation, radiographic procedures, processing of films, positioning of patients, performance methods and patient care and management. Patient care management includes, but is not limited to infection control, patient transfer and movement, assisting patients with medical equipment, routine monitoring, medical emergencies, proper use of contrast media and patient safety and protection. The educational program is changed to include the same criteria found in the new definition of medical radiography.

LB 849 changes provisions in the area of optometry. Specifically, the practice of optometry includes the dispensing and sale of a contact lens, including a cosmetic or plano contact lens or a contact lens containing an ocular pharmaceutical agent which an optometrist is authorized by law to prescribe and which is classified by the federal Food and Drug Administration as a drug. An optometrist who dispenses these contact lens shall comply with the rules and regulations of the Board of Optometry relating to packaging, labeling, storage, drug utilization review and record keeping. The Board shall adopt and promulgate rules and regulations.

LB 849 changes provisions of the Pharmacy Practice Act. A prescription drug or device or legend drug or device does not include a type of device, including supplies and device components, which carries the federal Food and Drug Administration legend: "Caution: federal law restricts this device to sale by or on the order of a licensed health care practitioner" or an alternative legend approved by the federal Food and Drug Administration which it recognizes, in published guidance, as conveying the same message. Also, the practice of pharmacy does not include a business or a person accredited by an accrediting body which or who sells, delivers or distributes these devices or purchases or receives these devices with intent to sell, deliver or distribute. Further, this bill brings the Wholesale Drug Distributor Licensing Act into conformity with current state law by recognizing the exemption enacted into the Pharmacy Practice Act for persons or businesses with proper accreditation who provide medical oxygen to home health patients.

LB 849 removes the requirement that a municipal utility owned and operated by a village or a public or private utility company give notice of service termination to welfare recipients by

certified mail. Written notice by first class mail seven days prior to service termination is still required.

LB 849 defines children's day health services as a person or any legal entity which provides specialized care and treatment. These services include an array of social, medical, rehabilitation, or other support services for a period of less than 24 consecutive hours in a community-based group program to 20 or more persons under 21 years of age who require such services due to medical dependence, birth trauma, congenital anomalies, developmental disorders or functional impairment. Children's day health services do not include services provided under the Developmental Disabilities Act.

LB 849 requires staff training and continuing education practices in Alzheimer's special care units to include, but not be limited to, four hours annually for direct staff. This training shall include topics pertaining to the form of care or treatment set forth in the disclosure described in this law. This requirement shall not be construed to increase the aggregate hourly training requirements of the Alzheimer's special care unit.

LB 849 changes provisions relating to medical records. If an authorization for medical records does not contain an expiration date or specify an event the occurrence of which causes the authorization to expire, the authorization shall expire 12 months after the date the authorization was executed by the patient.

LB 849 eliminates the termination date for the Nebraska Center for the Nursing.

DEVELOPMENTALLY DISABILITIES:

The deadline for DHHS to reimburse at a daily rate basis specialized services through community-based developmental disability programs is changed to March 1, 2011.

The membership of a local governing board or advisory committee for community-based developmentally disability programs is changed to persons with developmental disabilities, family members or legal guardians of persons with developmental disabilities and persons who are interested community members.

The decision-making authority for appeal hearings is changed to the Director of Developmental Disabilities Division instead of the hearing officer.

Provisions in this bill relating to the Medical Radiography Practice Act, utility companies, Center for Nursing Act and medical records became effective April 14, 2010. The rest of the bill becomes effective July 15, 2010.

LB 861 (General Affairs Committee) Change provisions in the Nebraska Liquor Control Act.

LB 861 transfers and reorganizes provisions and definitions related to the cigar bar exemption of the Nebraska Clean Indoor Act. Also, this bill changes provisions of the Liquor Control Act and the State Racing Commission. LB 861 becomes effective July 15, 2010.

LB 901 (Wightman) Change child custody determination provisions.

LB 901 changes the requirements under the Parenting Act. This bill allows the waiver of the mediation or specialized alternative dispute resolution requirement, for good cause, if the parents agree or when these requirements are not possible without undue delay or hardship to either parent. This bill becomes operative on July 1, 2010.

LB 935 (Flood) Provide for deficit appropriations and change certain appropriations.

This bill changes certain base appropriations in DHHS. Specifically, program appropriations are changed in Administration, Rural Health Provider Incentive Program, Public Health, Public Assistance, Medicaid, and Nebraska Veterans' Homes. LB 935 became effective April 2, 2010.

LB 986 (Conrad) Authorize grants for electronic scanners and point-of-sale devices at farmers markets.

LB 986 allows grants under the Agricultural Opportunities and Value-Added Partnerships Act to be used to support projects for the purchase of electronic scanners or point-of-sale devices to expand the ability of Nebraskans to utilize federally-subsidized food and nutrition program benefits at farmers markets, and for the marketing, promotion, and outreach related to such federal program. This language is also provided in the findings section and purpose section of this act. This bill becomes effective July 15, 2010.

LB 987 (Krist) Create the Lead-Based Paint Hazard Control Program.

This bill creates the Lead-Based Paint Hazard Control Program. The Nebraska Department of Economic Development shall award a grant of \$200,000 to a city of metropolitan class to carry out the federal Residential Lead-Based Paint Hazard Reduction Act. It is the intent of the Legislature to provide a one-time appropriation for this program with lapsed funding from the Legislative Council from the Nebraska Health Care Cash Fund. This law terminates June 30, 2011.

LB 987 becomes effective July 15, 2010.

LB 999 (Campbell) Provide for a moratorium on new hospital licenses.

Legislative findings are provided. Specifically, the Legislature finds that Nebraska's general acute and critical access hospitals provide a foundation of health care throughout the state. This long-established means of health care is changing. Since health care delivery care is evolving, it

is important to assess needs and determine whether licensure and regulation should be changed to reflect current and future practices.

The Department shall not accept an application for or issue a license for a new hospital beginning on April 15, 2010, and continuing through September 15, 2011. The prohibition shall not apply to an application for or issuance of a license as a critical access hospital or an application for or issuance of a license for any hospital which has begun construction before May 1, 2010.

The Health and Human Services Committee of the Legislature shall study health care in Nebraska. This study shall include, but not be limited to, roles and impacts of hospitals, centers and facilities; compliance with the federal Emergency Medical Treatment and Active Labor Act; referral practices; ownership practices; uncompensated and under-compensated patient care; joint ventures; reinvestment in facilities; examination and definition of community benefits; clarification and definition of limited services facilities and the impact of federal health care reform. The committee shall seek information from resources including, but not limited to, hospitals, public health agencies, allied professions, DHHS, businesses, insurers, consumers and the Legislature. The committee shall report its findings to the Legislature by December 31, 2010.

This bill became effective April 15, 2010.

LB 1002 (Louden) Provide applications to the Commission on Indian Affairs for state assistance.

Any political subdivision may annually apply to the Commission on Indian Affairs for state assistance. The state assistance shall be used for economic development, health care and law enforcement needs. Application procedures are provided as well as a hearing requirement for the application. The Designated Collection Fund is created and funded with \$25,000. This bill provides a sunset clause of June 30, 2018. This bill becomes effective July 15, 2010.

LB 1090 (Business and Labor Committee) Approve claims against the state and authorize write-offs.

Payment of claims is authorized for the DHSS tort claim relating to foster care. This bill also authorizes two DHHS claims to be written off. This bill became effective April 2, 2010.

LB 1103 (Flood) Adopt the Pain-Capable Unborn Child Protection Act.

LB 1103 provides new definitions and findings.

LB 1103, except in cases of a medical emergency, prohibits abortions unless the physician has made a determination of the age of the unborn child. Failure by any physician to comply with this law constitutes unprofessional conduct. Abortions are prohibited if the physician has determined that the unborn child age is 20 weeks or more unless the abortion is needed to avert

the woman's death or serious risk of physical impairment or it is necessary to prevent the life an unborn child.

Any physician who performs, induces or attempts to perform or induce an abortion shall report to DHHS the probable post-fertilization age of the unborn child and its method and basis of determination, basis of the determination that a medical emergency existed, basis of the determination that the abortion was needed to save the life of the mother or unborn child if the unborn child was 20 weeks or older and the method of the abortion. By June 30 of each year, DHHS shall issue a public report providing statistics for the previous calendar year of these reporting requirements for physicians. Each such report shall also provide the statistics for all previous calendar years during which this law was in effect, adjusted to reflect any additional information from late or corrected reports. DHHS shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any pregnant women upon which an abortion was performed. Penalties are proved for physicians who do not submit their reports in a timely manner. Within 90 days after the operative date of this act, DHHS shall adopt and promulgate rules and regulations.

Criminal penalties and civil actions are provided for those persons violating this act. Performance of an abortion in violation of this act is unprofessional conduct.

LB 1103 becomes operative October 15, 2010.

LB 1106 (Nordquist) Provide for school-based health centers under Medicaid.

This bill provides definitions for school-based health center, school-based health services and sponsoring facility. A school-based health center is a health center that is located in or is adjacent to a school facility; is organized through school, school district, learning community, community, and provider relationships; is administered by a sponsoring facility; provides school-based health services; does not perform abortion services; and does not serve as child's/adolescent's medical or dental home. School-based health services may include any combination of medical health; behavioral and mental health; preventive health, or oral health. Sponsoring facility means a hospital, public health department, federally-qualified health center (FQHC), nonprofit health care entity, school/school district or program administered by the Indian Health Services, federal bureau of Indian Affairs or Indian tribe.

A covered item or Medicaid service that is furnished through a school-based health center, provider and managed care plan pursuant to a waiver does not require prior consultation or referral by a patient's primary care physician to be covered. Any FQHC providing services as a sponsoring facility of a school-based health center shall be reimbursed at the federally-qualified health center reimbursement rate.

Each school district shall establish a School Health Center Advisory Council for each school hosting a school-based health center. Membership shall include representatives from a school, representatives from a sponsoring facility, a parent and students.

On or before July 1, 2010, DHHS shall submit an application to CMS, amending the Medicaid state plan or seeking a waiver, to allow for payments for treatment for children and pregnant women, who are lawfully residing in the U.S. and who are otherwise eligible for Medicaid and Children's Health Insurance Program (CHIP).

LB 1106 became effective April 2, 2010.