

## **2011 Summary of Legislative Bills Impacting or of Interest to the Department of Health and Human Services (DHHS)**

### **LB 19 (McCoy) Prohibit the use of certain drug substances as prescribed.**

LB 19 changes provisions in the Uniform Controlled Substances Act. The class of synthetic cannabinoids used to make the drug commonly known as K2 or Spice is included as a controlled substance in this act. The penalties for possessing, manufacturing or distributing K2 are the same as the current penalties for possession, manufacture, or distribution of marijuana. This bill became effective February 23, 2011.

### **LB 20 (McCoy) Regulate the sale of methamphetamine precursors.**

LB 20 requires each seller, beginning January 1, 2012, before completing a sale of a methamphetamine precursor, to electronically submit required information to the National Precursor Log Exchange (exchange) administered by the National Association of Drug Diversion. If the seller experiences mechanical or electronic failure of the electronic logging equipment or a failure by the exchange, the seller is required to maintain a written log or an alternative electronic recordkeeping mechanism or may refrain from selling these precursors. The Attorney General may grant a waiver exempting the seller from compliance if the seller shows good cause of why he/she was unable to submit these electronic transactions. Requirements are provided for situations involving a stop-sale alert (notification of a violation). This bill does not apply if a lawful prescription for this precursor is presented to a pharmacist licensed under the Uniform Credentialing Act.

This bill provides immunity for sellers utilizing in good faith. Criminal penalties for sellers who knowingly fail to submit this information are provided. The exchange is required to provide access through its online portal to law enforcement, at no cost.

Sellers may scan machine-readable information encoded on an operator's license or a state identification card presented for a sale. The seller may store only identification information obtained from the license or card. The seller must post a sign at the point of sale stating that the licenses or card will be scanned and stating what information will be stored. This information can only be used by law enforcement agencies, regulatory agencies and the exchange for enforcement of this law.

This bill becomes operative January 1, 2012.

**LB 22 (McCoy) Adopt the Mandate Opt-Out and Insurance Coverage Clarification Act.**

LB 22 provides the following findings:

- In the federal Patient Protection and Affordable Care Act, federal tax dollars are routed via affordability credits to qualified health insurance plans offered through a health insurance exchange;
- Federal funding for health insurance plans that cover abortions is prohibited by the federal statute known as the Hyde Amendment and the Federal Employees Health Benefits Program;
- The federal Patient Protection and Affordable Care Act permits each state to pass laws prohibiting health insurance plans offered through a health insurance exchange in such states offering abortion coverage;
- The laws of the State of Nebraska provide that group health insurance or health maintenance agreements paid for with public funds shall not cover abortion unless necessary to prevent the death of the woman;
- *Rust vs. Sullivan* states that it is permissible for a state to engage in unequal subsidization of abortion and other medical services to encourage alternative activity deemed in the public interest; and
- A majority of the citizens of the State of Nebraska, like other Americans, oppose the use of public funds to pay for abortions.

No abortion coverage shall be provided by a qualified health insurance plan offered through a health insurance exchange. This prohibition does not apply to coverage for an abortion which is verified in writing by the attending physician as necessary to prevent the death of the woman or to coverage for medical complications from an abortion.

No health insurance plan, contract, or policy delivered or issued for delivery in this state shall provide coverage for an elective abortion except through an optional rider to the policy for which an additional premium is paid solely by the insured.

This bill becomes operative January 1, 2012.

**LB 27 (Langemeier) Change appropriations for water power and water well registration fees.**

LB 27 requires that an application for appropriation of water for water power meet current requirements for water applications. This bill also clarifies water well fee statutes. LB 27 becomes effective August 27, 2011.

**LB 34 (Louden) Exempt religious residential facilities from the Health Care Facility Licensure Act.**

Any facility which is used as a residence by members of an organization, association, order, or society organized and operated for religious is exempt from the provisions of the Health Care Facility Licensure Act relating to licensure or regulation of assisted-living facilities, intermediate care facilities, and nursing facilities. In order to be exempt, these types of facilities must not be operated for financial gain or profit and must serve as a residence only for such members who in the exercise of their duties are required to participate in congregant living within such a facility. This bill becomes effective August 27, 2011.

**LB 36 (Harms) Provide for a vote on adding fluoride to the public water supply in certain cities and villages.**

LB 36 provides a process to vote on the fluoridation of the drinking water supply for a city or village that reaches the population of one thousand or more inhabitants after June 1, 2010. If any city or village reaches this population after June 1, 2010, and is required to add fluoride to its water supply, the city or village may adopt an ordinance to prohibit the addition of fluoride to such water supply. The ordinance may be placed on the ballot by a majority vote of the governing body of the city or village or by initiative. Such proposed ordinance shall be voted upon at the next statewide general election after the population of the city or village reaches one thousand or more inhabitants. This bill becomes effective August 27, 2011.

**LB 67 (Fischer) Clarify required use and enforcement provisions regarding seat belts and other occupant protection systems.**

Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system shall ensure that all children six years of age and less than eighteen years of age being transported by such vehicle use an occupant protection system. This bill becomes effective August 27, 2011.

**LB 68 (Fulton) Permit certified nurse midwives to have clinical privileges.**

LB 68 adds "certified nurse midwives" to the list of professions with clinical privileges under the Health Care Facility Licensure Act. Also, any hospital shall not deny clinical privileges to these professions solely by reason of the credential held by the practitioner. This bill becomes effective August 27, 2011.

**LB 94 (Howard) Allow petitioners for adoption of a state ward to read the child's case file.**

This bill requires the person or persons petitioning to adopt the child to be given the opportunity to read the case file on the child maintained by DHHS, after the filing of a petition for adoption and before the entry of a decree of adoption for a child who is committed to DHHS. DHHS shall not include in these case files any information or documents that DHHS

determines cannot be released based upon state and federal law. DHHS shall provide a document for such person's/persons' signature(s) verifying that he/she or they had an opportunity to read the case file and are aware that he, she or they can review the child's file at any time following finalization of the adoption upon making a written request to DHHS. DHHS shall file such document with the court prior to the entry of a decree of adoption in the case. This section of law shall only apply to adoptions when the petition for adoption is filed on or after the effective date of this act. This bill becomes effective August 27, 2011.

**LB 111 (Gloor) Change membership on mental health boards.**

Under current law, each mental health board shall consist of an attorney and any two of the following, but not more than one from each category: physician, psychologist, psychiatric social worker, clinical social worker, psychiatric nurse or layperson. Within this category, LB 111 eliminates the position of psychiatric social worker from this category and adds the positions of licensed independent clinical social worker and licensed independent mental health practitioner who is not a social worker. Also, this bill adds "licensed" to the position of clinical social worker. This bill becomes effective August 27, 2011.

**LB 112 (Coash) Provide exemptions from motor carrier regulations for certain transportation service providers.**

LB 112 defines terms relating to motor carriers.

Attended services are defined as an attendant or caregiver accompanying a minor or persons who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision.

The term, escort services, is eliminated and replaced by the term, attended services.

Licensed care transportation services are defined as transportation provided by an entity licensed by DHHS as a child-caring agency, child-placing agency or child care facility to a client of the entity or facility when person providing transportation services also assists and supervises the passenger or, if the client is a minor, to a family member of a minor when it is necessary for the agency or facility staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. Licensed transportation services must be incidental to and in furtherance of the social services provided by the entity or facility to the transported client.

Residential care is defined as care for a minor or a person who is physically, mentally or developmentally disabled who resides in a residential home or facility regulated by DHHS (i.e. foster home, group home).

Residential care transportation services are defined as transportation services to persons in residential care when such services and care are provided as part of a services contract with DHHS or pursuant to a sub-contract entered into incident to a services contract with DHHS.

Supported transportation services are defined as transportation services to a minor or for a person who is physically, mentally, or developmentally disabled when the person providing these services also assists and supervises the passenger or transportation services to a family member of a minor when it is necessary for provider staff to accompany or facilitate the transportation in order to provide necessary services and support to the minor. These services must be provided as part of a services contract with DHHS or pursuant to a sub-contract entered into incident to a services contract with DHHS. The driver must meet DHHS requirements relating to age and reporting to DHHS and for training relating to working with persons who are physically, mentally, or developmentally disabled; and training regarding specific needs of the client served. Assisting and supervising the passenger shall not necessarily require this person to stay with the passenger after these services have been provided.

LB 112 exempts the following from Public Service Commission (PSC) regulation:

- A motor carrier engaged in residential care transportation services if the motor carrier complies with DHHS safety requirements (i.e. insurance, training, age);
- A motor carrier engaged in supported transportation services if the motor carrier complies with DHHS safety requirements (i.e. insurance, training, age);
- A motor carrier engaged in licensed care transportation services if the motor carrier files a certificate with the PSC that such provider meets the minimum driver standards, insurance requirements, and equipment standards prescribed by the PSC. Insurance requirements established by the PSC shall be consistent with DHHS insurance requirements for attended services, residential care transportation services and supported transportation services; and
- A motor carrier engaged in attended services under contract or sub-contract with DHHS or with any agency organized under the Nebraska Community Aging Services Act.

This bill became effective April 27, 2011.

**LB 124 (Avery) Provide for cultural history information in adoption records.**

This bill requires additional information to be provided to the court with a petition for adoption. On and after the effective date of this act, the complete medical history or histories shall include the race, ethnicity, nationality, Indian tribe when applicable and in compliance with the Nebraska Indian Child Welfare Act, or other cultural history of both biological parents, if available. Medical history, in this section, is redefined to include this newly-added information. LB 124 becomes effective August 27, 2011.

**LB 157 (Coash) Change guardianship and conservatorship provisions and adopt the Nebraska Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.**

LB 157 changes the probate code as it relates to guardianships and conservatorships. The definition of interested parties is changed. During proceedings under the probate code, if the court receives an affidavit indicating that the ward's or the protected person's safety, health, or financial welfare is at issue, the court may issue ex parte orders to address the situation. Criminal penalties are provided for violations of these orders. Criminal background checks are required for persons nominated for appointment as a guardian or conservator, but not temporary guardians or conservators. A guardian or conservator shall not change a ward's place abode to a location outside of the state without court permission. Inventory and bonding requirements are provided in these situations.

LB 157 adopts the Nebraska Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Definitions are provided. Under this act, a court of this state may communicate with a court in another state concerning a proceeding under this act. The court may allow parties to participate in this communication. Courts may communicate concerning schedules, calendars, court matters and other administrative matters without making a record. Courts may make requests to another state regarding evidence, hearings, transcripts, investigations, appearances or witnesses. The court shall make considerations on whether the respondent has a significant connection with a particular state. Jurisdiction and special jurisdiction requirements are provided. Court procedures are provided in cases when a guardian or conservator appointed in this state petitions the court to transfer the guardianship or conservatorship to another state. Registration and filing requirements are also provided.

This bill becomes operative January 1, 2012.

**LB 170 (Fischer) Change motorcycle safety education provisions.**

LB 170 eliminates state subsidies provided through the Motorcycle Safety Education Fund. Also, this bill updates requirements for motorcycle safety classes and certification of training instructors. This bill becomes operative January 1, 2012.

**LB 177 (Campbell) Change foster care provisions.**

LB 177 places requirements of the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008" into state law. These requirements involve notification to adult relatives, placing siblings together, and transition plans for children aging out of foster care.

### NOTIFICATION TO ADULT RELATIVES:

Immediately following the removal of a child from his/her home, the person or court in charge of the child shall notify the Department to identify, locate, and provide written notification to adult relatives of the child.

When a child is removed or upon voluntary placement of a child, the Department is required to identify, locate and provide written notification of this removal, within thirty days after removal, to any noncustodial parent and to all grandparents and adult extended family members unless that relative's history of family or domestic violence makes notification inappropriate. If the child is an Indian child, the child's extended family members shall be notified.

The notification shall include the following:

- The child has been or is being removed from the custody of the parent/parents of the child;
- An explanation of the options the relative has under the law to participate in the care and placement of the child;
- A description of the requirements for the relative to serve as a foster care provider or other type of care provider for the child and the additional services, training and other support available for children receiving such; and
- Information concerning the option to apply for guardianship assistance payments.

The Department shall investigate the names and locations of the relatives. This includes, but not limited to, asking the child in an age-appropriate manner about relatives important to the child and obtaining information regarding the location of the relatives.

The Department shall provide to the court, within thirty calendar days after removing the child, the names and relationship to the child of all relatives contacted, the method of contact and the responses received from the relatives.

### PLACING OF SIBLINGS TOGETHER:

Reasonable efforts must be made to place a child and child's siblings in the same foster care placement or adoptive placement, unless such placement is contrary to the safety or well-being of any of the siblings. This requirement applies even if the custody orders of the siblings are made at separate times. If the siblings are not placed together in a joint-sibling placement, the Department shall provide the siblings and court with the reasons why a joint-sibling placement would be contrary to the safety or well-being of any of the siblings.

When siblings are not placed together in a joint-sibling placement, the Department shall make a reasonable effort to provide for frequent sibling visitation or ongoing interaction between the child and the child's siblings unless the Department provides the siblings and the court with

reasons why this visitation or interaction would be contrary to the safety or well-being of any of the siblings. The court shall determine the type and frequency of the visitation or interaction to be implemented by the Department.

Parties to the case may file a motion for joint-sibling placement, sibling visitation, or ongoing interaction between siblings.

The court shall periodically review and evaluate the effectiveness and appropriateness of the joint-sibling placement, sibling visitation or ongoing interaction between siblings.

If parental termination occurs, unless the court has suspended or terminated joint-sibling placement, visitation or interaction, the Department shall make reasonable efforts to make joint-sibling placement, visitation or interaction occur after the child is adopted or enters permanent placement. This includes the following:

- Training of prospective adoptive parents regarding the importance of sibling relationships to an adopted child and counseling methods for maintaining sibling relationships;
- Information regarding the child's siblings; and
- Encouraging adoptive parents to plan for facilitating post-adoption contact between the child and the child's siblings.

Any information regarding joint-sibling placement, sibling visitation or ongoing interaction shall be provided by the Department to the parent/parents if parental rights have been terminated unless the court determines that doing so would be contrary to the safety or well-being of the child, foster parent, relative caretaker, guardian, adoptive parent.

The definition of family unit is changed to add an exception that for purposes of potential sibling placement, the child's family unit shall also include the child's siblings even if the child has not resided with such siblings prior to placement in foster care. Also, siblings is defined as biological siblings and legal siblings, including, but not limited to, half-siblings and step-siblings.

In addition, this new language is added into the current guardianship statutes.

#### TRANSITION PLANS FOR CHILDREN AGING OUT OF FOSTER CARE:

When a child placed in foster care turns sixteen years old or enters foster care and is at least sixteen years old, a written independent living transition proposal shall be developed by the Department at the direction and involvement of the child to prepare for the transition from foster care to adulthood. The transition plan shall be personalized based on the child's needs.



The transition proposal shall include, but not be limited, to the following:

- Education;
- Employment services and other workforce support;
- Health and health care coverage;
- Financial assistance;
- Housing;
- Relationship development; and
- Adult services, if the needs assessment indicates that the child is reasonably likely to need or be eligible for services or other support from the adult services system.

The transition proposal shall be developed and frequently reviewed by the Department in collaboration with the child's transition team. The transition team shall be comprised of the child, child's caseworker, child's guardian ad litem, individuals selected by the child and individuals who have knowledge or services available to the child.

The transition proposal shall be considered a working document and shall be, at the least, updated for and reviewed at every permanency or review hearing by the court.

The final transition proposal prior to the child's leaving foster care shall specifically identify how the need for housing will be addressed.

If the child is interested in pursuing higher education, the transition proposal shall provide for the process in applying for any applicable state, federal or private aid.

On or before the date the child reaches nineteen years old, the Department shall provide the child a certified copy of the child's birth certificate and facilitate securing a federal social security card when the child is eligible for such card. All fees associated with securing the certified copy shall be waived by the state.

Technical changes are provided to current social service statutes involving references to federal law.

This bill becomes effective August 27, 2011.

**LB 179 (Krist) Change pharmacy provisions.**

LB 179 removes the requirement that all prescriptions for Schedule II controlled substances have the practitioner filling the prescription, writing the date of filling, and adding his/her own signature on the face of the prescription.

Drug sample or sample medication is defined as a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug. Each sample unit shall bear a label that clearly denotes its status as a drug sample.

This bill changes requirements for the pharmacist licensure examination. Specifically, every applicant must present proof of graduation from an accredited pharmacy program in order to be eligible to take the examination. A graduate of a pharmacy program outside the United States and which is not accredited shall be deemed to have satisfied the requirement of being a graduate of an accredited pharmacy program upon providing evidence satisfactory to the Department, with the recommendation of the Board of Pharmacy (board), of graduation from such foreign pharmacy program and upon successfully passing an equivalency examination approved by the board.

Every applicant for a pharmacist license shall pass a pharmacist licensure examination approved by the board, have graduated from a pharmacy program and present proof satisfactory to the Department, with the recommendation of the board that he/she has met one of the following requirements:

- within the last three years, has passed a pharmacist licensure examination approved by the board;
- has been in the active practice of pharmacy in another state, territory or the District of Columbia for at least one year within the three years preceding the application;
- has become certified in a specialty recognized by the Board of Pharmacy Specialties or its successor within the seven years preceding the application;
- is duly licensed as a pharmacist in some other state, territory or District of Columbia in which, under like circumstances, licensure as a pharmacist is granted in the state; or
- has completed continuing competency in pharmacy that is approved by the board.

This bill further clarifies how a pharmacist becomes licensed in Nebraska as well as language involving reciprocity.

Performance as a pharmacist intern under the supervision of a licensed pharmacist shall be predominately related to the practice of pharmacy and shall include the keeping of records and the making of reports required under federal and state law. The Department, with the recommendation of the board, shall adopt and promulgate rules and regulations as may be required to establish standards for internships.

This bill becomes effective August 27, 2011.

**LB 197 (Dubas) Allow breast-feeding as prescribed.**

LB 197 allows a mother to breast-feed her child in any public or private location where the mother is otherwise authorized to be. This bill becomes effective August 27, 2011.

**LB 211 (Cornett) Change sales and use tax provisions.**

LB 211 changes sales tax provisions relating to the Supplemental Nutrition Assistance Program (food stamps). Specifically, this bill replaces the language “meals and food products, including soft drinks and candy, for human consumption” to “prepared food and food and ingredients”. Also, the obsolete terms of “food coupons” are stricken. Other sales and use tax provisions are also changed. This bill becomes operative October 1, 2011.

**LB 218 (Karpisek) Change provisions relating to personnel exempt from the State Personnel System.**

This bill allows an agency with over five thousand employees (DHHS) to exempt 50 positions, at the agency head’s discretion, from the State Personnel System. An agency with over five thousand employees must provide notice in writing to the Health and Human Services Committee when forty non-covered positions have been filled by the agency head. This bill becomes effective August 27, 2011.

**LB 225 (Campbell) Change provisions relating to issuance of credentials under the Uniform Credentialing Act.**

LB 225 removes the restriction that credentials for non-immigrants are issued only to non-immigrants whose visa for entry, or application for visa for entry, is related to employment in the United States. This bill allows a credential to be issued to a United States citizen, an alien lawfully admitted for permanent residence, or a non-immigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act. This bill became effective March 11, 2011.

**LB 226 (Gloor) Create the offense of assault with a bodily fluid against a public safety officer.**

LB 226 provides definitions for bodily fluid and public safety officer. Bodily fluid means any naturally produced secretion or waste product generated by the human body (i.e. blood, urine, saliva). Public safety officer includes employees of the Youth Rehabilitation and Treatment Centers in Kearney and Geneva and the Department if the person committing the offense is committed as a dangerous sex offender. Public safety officer also includes peace officers, employees of counties, cities and village jails, employees of the Department of Corrections and employees of secure youth confinement facilities.

Any person who knowingly and intentionally strikes any public safety officer with any bodily fluid is guilty of assault with a bodily fluid against a public safety officer. This offense is a Class I misdemeanor.

Assault with a bodily fluid against a public safety officer is a Class IIIA felony if the person committing the offense strikes with a bodily fluid the eyes, mouth, or skin of a public safety

officer and knew the source of the bodily fluid was infected with human immunodeficiency virus, hepatitis B or hepatitis C at the time the offense was committed.

The judge shall grant an order or issue a search warrant authorizing the collection of evidence upon a showing of probable cause by affidavit that the offense was committed and probable source of the bodily fluid(s) was identified.

This bill becomes effective August 27, 2011.

**LB 234 (Fischer) Change provisions relating to county office and service facilities of the Department of Health and Human Services.**

The county board of any county may request in writing that the Department review office and service facilities to determine if the Department is able to reduce or eliminate office and service facilities within the county. The Department shall respond in writing to such request within thirty days after receiving the request. The final decision with respect to maintaining, reducing, or eliminating office and service facilities in such county shall be made by the Department. The county may reduce or eliminate office and service facilities if authorized by such final decision.

This bill becomes effective August 27, 2011.

**LB 237 (Howard) Provide for a creation of a prescription drug monitoring program.**

LB 237 provides intent language. Specifically, this intent language allows an entity to establish a prescription drug monitoring system for the purposes of preventing the misuse of prescription drugs in an efficient and cost-effective manner and allowing doctors and pharmacists to monitor the care and treatment of patients for whom a prescription drug is prescribed. DHHS, in collaboration with the Nebraska Health Information Initiative or any successor public-private statewide health information exchange, shall enhance or establish technology for prescription drug monitoring to carry out the purposes of the intent language. No state funding shall be used to implement this system. DHHS may adopt and promulgate rules and regulations to carry out the purposes of this act. This bill becomes effective August 27, 2011.

**LB 260 (Lathrop) Adopt the Concussion Awareness Act.**

LB 260 requires schools to make available training approved by the Chief Medical Officer of the Department on how to recognize the symptoms of a concussion or brain injury and how to seek proper medical treatment for a concussion or brain injury to all coaches of school athletic teams. Also, schools must require concussion and brain injury information be provided annually to students and students' parents before initiating practice or competition. LB 260 requires a student participating on a school athletic team to be removed from a practice or game if there is a reasonable suspicion that he/she has sustained a concussion after observation by a coach or a licensed health professional. The school is required to report these concussions to the parent or guardian of the time of the injury, signs and symptoms of the

injury and actions taken to treat the student. The requirements of this bill also apply to any city, village, business, or nonprofit organization that organizes an athletic activity in which the athletes are nineteen year old or younger and fees are required to be paid.

LB 260 provides definitions, findings relating concussions and an immunity section.

This bill becomes operative July 1, 2012.

**LB 265 (Coash) Change child support provisions relating to the petty cash fund.**

LB 265 increases the maximum amount in the petty cash fund from one thousand dollars to two thousand dollars. This bill becomes effective August 27, 2011.

**LB 274 (Gloor) Change provisions relating to return of dispensed drugs and devices.**

LB 274 provides that dispensed drugs:

- May be collected in a pharmacy for disposal;
- May be returned to a pharmacy in response to a recall by the manufacturer, packager or distributor or if a device is defective or malfunctioning;
- Shall not be returned to saleable inventory nor made available for subsequent relabeling and re-dispensing, except for returns to long-term care facilities; or
- May be returned from a long-term care facility to the pharmacy from they were dispensed for credit for or for relabeling and re-dispensing.

Pharmacies may charge a fee for collecting dispensed drugs or devices for disposal or from a long-term care facility for credit or for relabeling and re-dispensing.

Any person or entity which exercises reasonable care in collecting dispensed drugs or devices for disposal or from a long-term care facility for credit or for relabeling and re-dispensing shall be immune from civil or criminal liability or professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities.

A drug manufacturer which exercises reasonable care shall be immune from civil or criminal liability for any injury, death, or loss to persons or property relating to the relabeling or re-dispensing of drugs returned from a long-term facility.

The definition of calculated expiration date is changed to the expiration date on the manufacturer's, packager's, or distributor's container or one year from the date the drug or device is repackaged, whichever is earlier.

This bill becomes effective August 27, 2011.

**LB 373 (Speaker, at Request of the Governor) Provide for deficit appropriations.**

LB 373 makes adjustments to deficit appropriations for DHHS programs in the current fiscal year, ending June 30, 2011. These deficit appropriations will be used in programs where the forecasted cost has decreased due to circumstances that were unforeseen when the budget bills were passed two years ago and subsequently amended by the Legislature in 2010.

LB 373 re-appropriates the unexpended General fund appropriation balance existing June 30, 2011. Specifically, this bill re-appropriates this balance minus funds spent in the Department's programs involving behavioral health aid, Children's Health Insurance, developmental disability aid, and health aid. In addition, General Funds to be used solely to supplant federal funds lost due to federal action to de-certify the participation of the Beatrice State Developmental Center in the Medicaid program are reduced as well as funds relating to children's behavioral health.

This bill became effective May 18, 2011.

**LB 374 (Speaker, at Request of the Governor) Appropriate funds for deficit appropriations.**

LB 374 is the 2011 mainline budget bill for the Department of Health and Human Services as well as all of state government.

This bill provides FY2011-12 and FY2012-2013 appropriations in the area of Public Health, Veterans' Homes, Behavioral Health, Children and Family Services, Developmental Disabilities and Medicaid.

This bill also provides a reporting requirement to monitor the implementation of ACCESSNebraska. The Department shall develop a quarterly report which shall include, but not be limited to the following information:

- Number of days in increments that it takes to process applications for Aid to Dependent Children (ADC), Supplemental Nutrition Program (SNAP) and Aid to the Aged, Blind, and Disabled (AABD);
- Number of days in increments that it takes to process applications for Medicaid and Children's Health Insurance Program (CHIP);
- Reason for benefit application processing delays involving ADC, SNAP, AABD, Medicaid and CHIP;
- Number of case closures in Medicaid, CHIP, ADC, SNAP, AABD and Title XX and reason for closure statewide;
- Proportion of persons who file applications online who are enrolled in one of the public benefit programs that use ACCESSNebraska for enrollment;
- Average wait time for call center response; and
- Number of client call terminations.

This bill became effective May 18, 2011.

**LB 377 (Speaker, at Request of the Governor) Appropriate funds for capital construction.**

LB 377 authorizes the Department to design and construct secure housing for persons with developmental disabilities. The housing authorized in this bill shall be used to relocate the Bridges program operated at the Hastings Regional Center.

This bill became effective May 18, 2011.

**LB 378 (Speaker, at Request of the Governor) Provide for fund transfers and change provisions relating to various funds.**

On or before June 30, 2012, the State Treasurer shall transfer \$50,000 from the Stem Cell Research Cash Fund to the Department. The State Treasurer shall also make this transfer on or before June 30, 2013.

On or before June 30, 2012, the State Treasurer shall transfer \$485,700 from the Tobacco Prevention and Control Cash Fund to the Department. The State Treasurer shall also make this transfer on or before June 30, 2013.

This bill became effective May 18, 2011.

**LB 401 (Howard) Require assisted-living facilities to provide written information to applicants for admission.**

Each assisted-living facility shall provide written information about the practices of the assisted-living facility to each applicant for admission to the facility or his/her authorized representative. This information shall include:

- Description of the services provided by the facility and staff available to provide the services;
- Charges for services provided by the facility;
- Whether or not the facility accepts residents who are Medicaid eligible, and if so, the policies or limitations on access to services of the facility;
- Circumstances under which a resident would be required to leave a facility;
- Process for developing and updating the resident services agreement; and
- For facilities that have special care units for dementia, the additional services provided to meet the special needs of these persons.

This bill becomes effective August 27, 2011.

**LB 406 (Cook) Provide for reentry licenses under the Medicine and Surgery Practice Act.**

LB 406 allows the Department, with the recommendation of the Board of Medicine and Surgery, to issue a reentry license to a physician. The physician cannot have actively practiced medicine for the two-year period immediately preceding the application filing for a reentry license or has not otherwise maintained continued competency during such period as determined by this board.

In order to qualify for this license, the physician must meet the same licensure requirements as a regular license and submit to evaluations, assessments, and an educational program as required by this board. If this board conducts an assessment and determines that the applicant requires supervised practice, the Department, with the recommendation of the board, may issue a reentry license allowing the applicant to practice medicine under supervision. This reentry license may be converted to a license if satisfactory completion of supervised practice is determined by the board. This reentry license may also be converted to a license if the board determines that the applicant is competent and qualified to practice medicine. A reentry license is valid for one year and may be renewed for up to two additional years if approved by the Department, with the recommendation of the board. The issuance of a reentry license shall not constitute a disciplinary action.

This bill becomes effective August 27, 2011.

**LB 431 (Hadley) Adopt the Health Care Quality Improvement Act.**

The purposes of the Health Care Quality Improvement Act are to provide protection for those individuals who participate in peer review activities. Peer review committees evaluate the quality and efficiency of health care providers and to protect the confidentiality of peer review records.

Definitions are provided for health care provider, incident report or risk management report, peer review, and peer review committee.

Health care providers or individuals serving, working, furnishing counsel or services or participating in a peer review committee and acting without malice shall not be liable in damages for any acts, omissions, decisions, or other conduct within the scope of this committee. A person who makes a report or provides information to this committee shall not be subject to suit for providing this information if acting without malice.

The proceedings, records, minutes and reports of a peer review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action. No person who attends, works for or participates in a peer review committee shall testify in any such civil action as to any evidence involving these records, minutes and reports.



Nothing in this bill shall be construed to prevent discovery or use in any civil action of medical records, documents or information otherwise available from original sources and kept with respect to a patient in the ordinary course of business. However, these records, documents and information shall be available only from the original sources and cannot be obtained from the peer review committee's proceedings or records.

An incident report or risk management report and the contents of an incident report are not subject to discovery in, and are not admissible in evidence in a civil action for damages for injury, death, or loss to a patient. A person who prepares or has knowledge of the contents of a incident report or risk management report shall not testify and shall not be required to testify in any civil action as the contents of the report.

This bill became effective April 27, 2011.

**LB 463 (Ashford) Change juvenile-related provisions regarding a penalty, truancy, probation, sealing of records, duties of the Office of Juvenile Services and Court Appointed Special Advocates.**

PENALTY:

LB 463 limits the sending of abstracts of the conviction or adjudication to the Department of Motor Vehicles to cases in which the conviction or adjudication resulted in a license or permit being impounded or in the prohibition on obtaining a license or permit.

TRUANCY:

On July 1, 2011, or as soon thereafter as administratively possible, the State Treasurer shall transfer one hundred thousand dollars from the Commission on Public Advocacy Operations Cash Fund to the Supreme Court Education Fund. The State Court Administrator shall use these funds to assist the juvenile justice system in providing pre-filing and diversion programming designed to reduce excessive absenteeism and unnecessary involvement with the juvenile justice system.

The written policy between school districts and the county attorney shall also include a provision indicating how the school district and the county attorney will handle cases in which excessive absences are due to documented illnesses that makes attendance impossible or impracticable.

A learning community coordinating council shall also have the authority to provide funding to public or private entities engaged in the juvenile justice system providing pre-filing and diversion programming designed to reduce excessive absenteeism and unnecessary involvement with the juvenile justice system.

The superintendents of school districts are required to develop and participate in a plan to reduce excessive absenteeism including a process to share information regarding at-risk youth. At-risk youth are children who are under the supervision of the Office of Probation Administration, are committed to the care, custody, or supervision of the Department, are otherwise involved in the juvenile justice system or have been absent from school for more than five days per quarter or the hourly equivalent except when excused for a documented illness.

#### PROBATION:

When a juvenile is placed on probation and a probation officer has reasonable cause to believe that such juvenile has committed or is about to commit a substance abuse violation, a non-criminal violation or a violation of a condition of his/her probation, the probation officer shall take appropriate measures.

#### SEALING OF JUVENILE RECORDS:

This bill changes provisions of the sealing of juvenile records regarding eligibility, notice, duties of the county attorneys, duties and inspection. Courts shall send notice of the order to seal the record to the Department if the juvenile whose record has been ordered sealed was a ward of the state at the time of the proceeding was initiated or if the Department was a party. Inspection of these sealed records may be made by the Department of Correctional Services, the Office of Juvenile Services, a juvenile assessment center, a criminal detention facility or a juvenile detention facility, for an individual committed to it, placed with it, or under its care. Law enforcement agencies may have access to sealed juvenile records for purposes of considering applicants for employment.

#### OFFICE OF JUVENILE SERVICES:

The Office of Juvenile Services shall provide the committing court with written notification of the juvenile's discharge within thirty days of a juvenile being discharged from the care and custody of the office. This office shall provide the committing court with written notification of the juvenile's discharge from parole within thirty days of a juvenile being discharged from the supervision of the office.

#### COURT APPOINTED SPECIAL ADVOCATES (CASAs):

This bill provides legislative findings indicating the importance of CASAs.

The CASA Fund is created. This fund shall be under the control of the Supreme Court and administered by the State Court Administrator. The Supreme Court shall award grants from this fund to CASAs that apply and meet the qualifications of being a nonprofit organization, has the ability to operate statewide and has an affiliation agreement with local programs. The

funding process is provided. Also, each applicant shall provide a report of the grant to the Supreme Court, Clerk of the Legislature and the Governor.

Portions of this bill relating to sealing of juvenile records and the duties of the Office of Juvenile Services become effective August 27, 2011. The portions relating to the penalty, truancy, probation and CASAs became effective May 12, 2011.

**LB 464 (Campbell, at the request of the Governor) Change provisions relating to child care reimbursement.**

LB 464 lowers the minimum percentile that child care providers are required to be paid to the fiftieth percentile, for the two fiscal years, beginning July 1, 2011. This rate paid to child care providers cannot be lower than the rate paid in the immediately preceding fiscal year. This bill became operative July 1, 2011.

**LB 465 (Campbell, at the request of the Governor) Eliminate provisions relating to eligibility of non-United States citizens for public assistance.**

LB 465 eliminates the state-only coverage for legal permanent residents in the programs of Medicaid, Aid to Dependent Children (ADC), Assistance to the Aged, Blind and Disabled (AABD) and State Nutrition Assistance Program (SNAP). This bill became operative July 1, 2011.

**LB 468 (Campbell, at the request of the Governor) Change provisions relating to Medicaid co-payments.**

LB 468 exempts changes in Medicaid co-payments in fiscal year 2011-2012 from the reporting requirement involving rules and regulations, state plan amendments and waivers. Also, these changes are exempt from legislative consideration of Medicaid co-payments. This bill becomes effective August 27, 2011.

**LB 479 (Lathrop) Authorize a minor to give consent to evidence collection and examination and treatment in cases of sexual assault and domestic violence.**

LB 479 requires health professionals or any person in charge of any emergency room in this state to collect forensic evidence with the consent of the domestic victim as well as a sexual assault victim. If the sexual assault or domestic violence victim is eighteen years old, the consent of or notification of the parent(s), guardian or any other person having custody of these victims is not required. A physician, his or her agent, or a mental health professional, upon consultation with a patient who is eighteen years old, shall, with their consent, conduct a diagnostic examination for physical or mental injuries associated with sexual assault or domestic violence and to provide or prescribe treatment for those injuries. All such examinations and treatment may be performed without the consent of the parent(s), guardian or any other person having custody of the patient. This bill becomes effective August 27, 2011.

**LB 494 (Nordquist) Require timely review of Medicaid eligibility.**

LB 494 requires the Department to process each application to determine whether the applicant is eligible for Medicaid. The Department shall provide a determination of eligibility for Medicaid in a timely manner in compliance with federal law. This should include, but not be limited to a timely determination of eligibility for coverage of an emergency medical condition, such as labor and delivery. This bill became effective May 19, 2011.

**LB 512 (Christensen) Change provisions relating to unlawful possession of a firearm at a school and mental health determinations and residency requirements regarding handgun purchase and possession.**

LB 512 changes the information provided to the Nebraska State Patrol (NSP) involving persons qualified or disqualified to purchase or possess a handgun. Clerks of the various courts are required to furnish DHHS and NSP this information, as soon as practicable but within thirty days after an order of commitment or discharge is issued or after removal of firearm-related disabilities. The mental health board shall notify DHHS and NSP when such disabilities have been removed.

Firearm-related disability means a person is not permitted to:

- Purchase, possess, ship, transport, or receive a firearm under either state or federal law;
- Obtain a certificate to purchase, lease, rent, or receive transfer of a handgun; or
- Obtain a permit to carry a concealed handgun under the Concealed Handgun Permit Act.

This bill also provides changes to the DHHS database of persons committed for mental health treatment. The five-year limit in storing these records is removed as well the privileged and confidentiality protection of these records. Any information in this database shall be updated, corrected, modified, or removed, as appropriate, and as soon as practicable, from any database that the state or federal government maintains and makes available to the National Instant Criminal Background Check System.

This bill provides a process for persons previously disqualified to purchase or possess a handgun for mental health reasons. These persons may petition the mental health board to remove such disabilities.

Upon filing of the petition, the subject may request a review hearing by the mental health board. The mental health board shall grant this petition if it determines the subject will not be likely to act in a manner dangerous to public safety and the granting of the relief would not be contrary to the public interest. In determining whether to remove the subject's firearm-related disabilities, the mental health board shall receive and consider evidence involving the

circumstances surrounding the mental health commitment, mental health and criminal records, reputation and changes in condition and treatment.

If a decision is made by the mental health board to remove the subject's firearm-related disabilities, the clerks of the various courts shall immediately send as soon as practicable, but within thirty days, an order to NSP and DHHS. The order shall be in a form and in a manner prescribed by DHHS and NSP. The order shall state its findings in which a statement is included, that in the opinion of the mental health board, the subject is not likely to act in a manner that is dangerous to public safety and removing the subject's firearm-related disabilities will not be contrary to the public interest. The subject may appeal a denial of the requested relief to the district court and review on appeal shall de novo. If a petition is granted, the commitment or adjudication shall be deemed not to have occurred.

This bill also changes firearm provisions involving schools.

This bill becomes operative January 1, 2012.

**LB 525 (Lathrop) Provide for a Medicaid state plan amendment or waiver and transfer of funds to the Nebraska Regional Poison Center.**

LB 525 provides findings related to the Nebraska Regional Poison Center.

LB 525 requires the Department, on or before January 1, 2012, to submit an application to the federal Centers for Medicare and Medicaid Services (CMS) to amend the Medicaid state plan or seek a waiver. This state plan amendment or waiver must provide for utilization of the unused administrative cap to allow for payments to the Nebraska Regional Poison Center funded through the Nebraska Medical Center Cash Fund to help offset the cost for children eligible for Medicaid and the Children's Health Insurance Program.

Upon approval of this amendment or waiver, the University of Nebraska Medical Center shall transfer an amount, not to exceed two hundred fifty thousand dollars, to the Health and Human Services Cash Fund for the Department to meet the state match. The state match will be used to maximize the use of the unused administrative cap money. At the time the Department receives the transferred amount or any portion thereof and the corollary federal funds, the Department shall transfer the combined funds to the University of Nebraska Medical Center Cash Fund for operation of the Nebraska Regional Poison Center. The University of Nebraska Medical Center may use the remaining state appropriations for the operation of the Nebraska Regional Poison Center if no amendment is approved nor waiver granted or if less than two hundred fifty thousand dollars is needed for the match.

This bill also provides a reporting requirement for the Nebraska Medical Center.

This bill becomes effective August 27, 2011.

**LB 542 (Howard) Require hospitals to offer and require employee influenza vaccinations as prescribed.**

LB 542 requires each general acute hospital to take all of the following actions in accordance with the guidelines of the Centers for Disease Control of the U.S. Department of Health and Human Services:

- Annually offer onsite influenza vaccinations to all hospital employees when no national vaccine shortage exists; and
- Require all hospital employees to be vaccinated against influenza, except that an employee may elect not to be vaccinated.

The hospital shall keep a record of which employees receive the annual vaccination against influenza and which employees do not receive such vaccination.

This bill becomes effective August 27, 2011.

**LB 543 (Cook) Provide for a state outreach plan and eliminate asset testing.**

STATE OUTREACH PLAN:

DHHS is required to develop a state outreach plan to promote access by eligible persons to benefits of the Supplemental Nutrition Assistance Program (SNAP). The plan shall meet the criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture. DHHS may apply for and accept gifts, grants, and donations to develop and implement this plan.

DHHS may partner with one or more counties or nonprofit organizations for purposes of implementing and developing this plan. Specifications are provided for contracts entered into by DHHS and nonprofit organizations.

DHHS shall submit this plan to the Food and Nutrition Service of the U.S. Department of Agriculture for approval before August 1, 2011. DHHS shall request any federal matching funds that may be available upon the approval of this plan. It is the intent of the Legislature the State of Nebraska and DHHS use any additional public or private funds to offset costs associated with increased caseload resulting from the implementation of this plan.

DHHS shall be exempt from implementing or administering the plan, but not from developing the plan, if it does not receive private or federal funds sufficient to cover DHHS's costs associated with the implementation and administration of the plan (i.e. increased caseloads).

#### ASSET TESTING:

On or before October 1, 2011, DHHS is required to create a Temporary Assistance for Needy Families (TANF)-funded program or policy that, in compliance with federal law, establishes categorical eligibility for federal food assistance benefits pursuant to SNAP. This program or policy must maximize the number of Nebraska residents being served in a manner that does not increase the current gross income eligibility limit.

This program or policy must eliminate all asset limits for eligibility for federal food assistance benefits except that the total of liquid assets shall not exceed twenty-five thousand dollars pursuant to SNAP. These liquid assets include cash on hand and funds in personal checking and savings accounts, money market accounts and share accounts.

This portion of LB 543 becomes effective only if DHHS receives funds pursuant to the SNAP as allowed under federal law.

This bill became effective April 15, 2011.

#### **LB 585 (Business and Labor Committee) Provide for payment of claims against the state.**

LB 585 provides payment of certain claims against the State as well as authorizes agency write-offs of certain claims. Payment of claims is authorized for tort claims relating to the Department. The Department is also authorized to write off a claim. This bill became effective May 18, 2011.

#### **LB 591 (Gloor) Provide for a syndromic surveillance program and change immunization information exchange provisions.**

#### SYNDROMIC SURVEILLANCE:

LB 591 requires the Department to develop a syndromic surveillance program for the purposes of protecting the public's health and tracking the impact of disease prevention strategies intended to lower the cost of health care. This program will respect patient privacy and benefit from advances in both electronic health records and electronic health information exchange. This program shall include the monitoring, detection and investigation of public health threats from the following:

- Intentional or accidental use or misuses of chemical, biological, radiological, or nuclear agents;
- Clusters or outbreaks of infectious or communicable diseases; and
- Noninfectious causes of illness.

The Department shall adopt and promulgate rules and regulations setting standards for syndromic surveillance reporting by hospitals. These standards shall specify the data elements

required to be reported for all encounters and the manner of reporting. The Department may also require, by rule or regulation, syndromic surveillance reporting by other health care facilities or any person issued a credential.

The Department shall establish, by rule or regulation, a schedule for the implementation of full electronic reporting of all syndromic surveillance data elements. The schedule shall take into consideration the number of data elements already reported by the facility or person, the capacity of the facility or person to electronically report the remaining elements, the funding available and other relevant factors.

Use, confidentiality and immunity provisions shall apply to syndromic surveillance data reports. Failure to provide a report under this law is grounds for discipline of a credential.

#### IMMUNIZATION INFORMATION:

LB 591 provides intent language which provides for the exchange of immunization information between health care professionals, health care facilities, health care services, schools, postsecondary educational institutions, licensed child care facilities, electronic health-record systems, public health departments, health departments of other states, Indian health services and tribes.

The Department is required to establish an immunization information system for the purpose of providing a central data base of immunization information. This information can be accessed pursuant to rules and regulations by any parties included in this bill's intent language on this information (see above), by a patient or by a patient's parent or legal guardian if the patient is a minor or under guardianship. In order to facilitate operation of the immunization information system, the Department shall provide the system with access to all records of the Department, including, but not limited to, vital records.

All immunization information may be shared with the Department and entered into the central data base. Any person or entity authorized under this act may access this information for purposes of direct patient care, public health activities or enrollment in school or child care services. A person or entity listed in this bill's intent language relating to this information (see above) which provides immunization information to a licensed child care program, school or postsecondary educational institution may charge a reasonable fee to recover the cost of providing such information. Also, unrestricted immunization information may only be accessed pursuant to the rules and regulations of the Department.

This bill becomes effective August 27, 2011.



## **LB 600 (Campbell) Adopt the Nursing Facility Quality Assurance Assessment Act.**

LB 600 provides definitions on bed-hold day, continuing care retirement community, gross inpatient revenue, life care contract, Medicare day, Medicare upper payment limit, quality assurance assessment, and resident day.

### QUALITY ASSURANCE ASSESSMENT:

Except for facilities exempt under this act, each nursing facility or skilled nursing facility shall pay a quality assurance assessment for the purpose of improving the quality of nursing facility or skilled nursing facility care in this state. This assessment is based on total resident days, including bed-hold days, less Medicare days. The assessment shall be three dollars and fifty cents for each resident day for the preceding calendar quarter. The assessment shall not exceed the amount of the aggregate quality assurance assessment.

The Department shall exempt state-operated veterans homes, nursing facilities and skilled nursing facilities with twenty-six or fewer licensed beds and continuing care retirement communities from the quality assurance assessment.

The Department shall reduce the quality assurance assessment for certain high-volume Medicaid nursing facilities or skilled nursing facilities with high patient volumes to meet the redistribution tests under federal law. Under this part of the act, the assessment shall be based on total resident days, including bed-hold days, less Medicare days, for the purpose of improving the quality of nursing facility or skilled nursing facility care in this state.

The aggregate quality assurance assessment shall not exceed the lower of the amount necessary to accomplish the uses of the Nursing Facility Quality Assurance Fund or the maximum amount of gross inpatient revenue. The aggregate quality assurance shall be imposed on a per-non-Medicare-day basis.

Each nursing facility or skilled nursing facility shall pay this assessment to the Department on a quarterly basis after the Medicaid payment rates of the facility are adjusted. The Department shall prepare and distribute a form on which a nursing facility or skilled nursing facility shall calculate and report the assessment. A nursing facility or skilled nursing facility shall submit the completed form with this assessment no later than thirty days following the end of each calendar quarter.

The Department shall collect the assessment and remit the assessment to the State Treasurer for credit to the Nursing Facility Quality Assurance Fund. No proceeds from the assessment shall be placed in the General Fund unless otherwise provided in this act.

A nursing facility or skilled nursing facility shall report the assessment on a separate line of the Medicaid cost report of the nursing facility or skilled nursing facility. The assessment shall be treated as a separate component in developing rates paid to nursing facilities or skilled nursing

facilities and shall not be included with existing rate components. In developing a rate component for the assessment, the assessment shall be treated as a direct pass-through to each nursing facility and skilled nursing facility, retroactive to the operative date of this act. This assessment shall not be subject to any cost limitation or revenue offset.

If the Department determines that a nursing facility or skilled nursing facility has underpaid or overpaid this assessment, the Department shall notify the nursing facility or skilled nursing facility of the unpaid assessment or refund due. Such payment or refund shall be due or refunded within thirty days after issuance of the notice.

A nursing facility or skilled nursing facility that fails to pay the assessment within thirty days shall pay, in addition to the outstanding assessment, a penalty. The penalty will be one and one-half percent of the assessment amount owed for each month or portion of a month that the assessment is overdue. If the Department determines that good cause is shown for failure to pay this assessment, the Department shall waive the penalty or portion of the penalty. If an assessment has not been received by the Department within thirty days following the quarter, the Department shall withhold an amount equal to the assessment and penalty owed from a payment due such nursing facility or skilled nursing facility under the Medicaid program. This assessment shall constitute a debt due the state and may be collected by civil action. The Department shall remit any penalty collected under this act to the State Treasurer for distribution to the counties.

#### NURSING FACILITY QUALITY ASSURANCE FUND:

The Nursing Facility Quality Assurance Fund is created. Interest and income earned by the fund shall be credited to the fund. Any money in the fund available for investment shall be invested by the state investment officer.

The Department shall use this fund, including federal financial participation, for the purpose of enhancing rates paid under the Medicaid program to nursing facilities and skilled nursing facilities, exclusive of Medicaid reimbursement. The fund shall not be used to fund or replace or offset existing state funds paid to nursing facilities.

This fund shall also be used for the following:

- Pay the Department a reasonable administrative fee for enforcing and collecting this assessment;
- Pay the share under the Medicaid program of an assessment as an add-on to the rate under the Medicaid program for costs incurred by a nursing facility or skilled nursing facility;
- To rebase rates under the Medicaid program in accordance with the Medicaid state plan; and
- To increase assurance payments to fund covered services to recipients of benefits from the Medicaid program within Medicare upper payment limits.

#### STATE PLAN AMENDMENT:

On or before September 30, 2011, or after the date if allowed by the Centers for Medicare and Medicaid Services (CMS), the Department shall submit an application to CMS amending the Medicaid state plan by requesting a waiver of the federal uniformity requirement to exempt certain facilities from the assessment and to permit other facilities to pay the assessment at lower rates.

This assessment is not due and payable the state plan amendment is approved by CMS and the nursing facilities and skilled nursing facilities have been compensated retroactively for the increased rate for services.

If the waiver is not approved by CMS, the Department may resubmit the waiver application to address any changes required by CMS in rejection of such application.

The Department shall discontinue collection of these assessments for the following reasons:

- If the waiver or Medicaid state plan is given final disapproval by CMS;
- If, in any fiscal year, the state appropriates funds for rates at an amount that reimburses facilities at a lesser percentage than the median percentage appropriated to other classes of providers of covered services under the Medicaid program;
- If money in the fund is appropriated, transferred, or otherwise expended for any use other than uses permitted; or
- If federal financial participation to match the assessments becomes unavailable under federal law.

If collection of the assessment is discontinued, the money in the fund shall be returned to the nursing facilities or skilled nursing facilities from which the assessments were collected on the same basis as the assessments were assessed.

#### GRIEVANCES:

A nursing facility or skilled nursing facility aggrieved by an action by the Department may file a petition for hearing with the Director of the Division of Medicaid and Long-Term Care of the Department. The hearing shall be conducted pursuant to the Administrative Procedure Act and rules and regulations of the Department. The Department may adopt and promulgate rules and regulations to carry out this act.

This act becomes operative July 1, 2011.

**LB 617 (Mello) Provide requirements and duties relating to adoption of rules and regulations.**

LB 617 requires agencies, on or after the effective date of this act, when legislation is enacted requiring the adoption and promulgation of rules and regulations, to adopt and promulgate such rules and regulations within one year after the public hearing. Such time shall not include the time necessary for submission of the rules and regulations to the Attorney General or Governor. Any agency which does not adopt and promulgate these rules and regulations shall submit a written explanation to the Executive Board of the Legislature and the standing committee of the Legislature which has subject matter jurisdiction. This written explanation shall state the reasons why it has not adopted these rules and regulations, the date by which the agency expects to adopt these rules and regulations and any suggested statutory changes that may enable the agency to adopt these rules and regulations. The changes made to the Administrative Procedure Act by this bill shall not affect the validity or effectiveness of a rule or regulation adopted prior to the effective date of this act.

The public hearing on a rule or regulation shall be held within twelve months after the effective or operative date of this bill. If there is more than one applicable effective or operative date, the twelve month period shall be calculated using the latest date.

On or after July 1 of each year, each agency shall provide to the Legislative Performance Audit Committee, a status report on all rules and regulations pending before the agency. If an additional appropriation was made with respect to legislation enacted to provide funding for additional staff to implement a program relating to these rules and regulations, the status report shall include what the funding was used for and what functions performed by the staff. The format of the report shall be established by this committee no later than June 1, 2011 and shall be updated thereafter.

This bill became effective May 25, 2011.

**LB 648 (Christensen) Change provisions relating to foster care and juvenile placement.**

LB 648 changes provisions relating to juvenile case plans. Specifically, this bill strikes the requirement that the courts shall disapprove the Department's plan if any party, including, but not limited to, the guardian ad litem, parents, county attorney, or custodian proves by a preponderance of the evidence that the Department's plan is not in the juvenile's best interests. As a result, this bill will now place the burden of proof on the State to show that the case plan is in the best interest of the child rather than on the parties to rebut the presumption. Also, the court may approve this plan as well as modifying, ordering an alternative plan or implementing another plan.

LB 648 changes provisions of the Foster Care Review Act related to review and hearing notice and participation. Notice of the hearings pertaining to foster care placement shall be provided. The Department or contract agency shall have the contact information for all child placements

available for all courts to comply with the notification requirements. The Department or contract agency shall each have one telephone number by which any court seeking to provide notice may obtain updated contact information for all of these persons. All contact information shall be updated within seventy-two hours of any placement change. Notice of all court reviews and hearings shall be mailed or personally delivered to the counsel or party. If the party is not represented by counsel, it shall be delivered five full days prior to review or hearing. The use of ordinary mail shall constitute sufficient compliance. The court is required to inquire into the well-being of the foster care child by asking questions, if present at the hearing, of any willing foster parent, pre-adoptive parent or relative providing care for the child.

The definition of a child caring agency is changed to an organization which is organized as a corporation or a limited liability company.

This bill becomes effective August 27, 2011.

**LB 669 (Flood) Change Small Claims Court, county court, district court, and juvenile court provisions.**

LB 669 changes the Juvenile Code relating to pre-adjudication evaluations. Current language that authorizes the court to order a juvenile to be placed in one of the facilities or institutions of the State for the completion of a pre-adjudication evaluation is repealed. Instead the court may order such juvenile to be placed with the Department. The department shall make arrangements for an appropriate evaluation. The department shall determine whether the evaluation will be made on a residential or non-residential basis. Placement with the Department for purposes of this bill shall be for a period not to exceed thirty days. If necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. Also, this bill clarifies the responsibilities of the county and the State for covering costs incurred during the period of detention or evaluation of the juvenile prior to adjudication. This part of LB 669 becomes effective August 27, 2011.

This bill changes provisions relating to court-appointed interpreters, county clerks, court offices, court staff, judicial hearing officers, Small Claims Court proceedings, and dissolution of marriage proceedings. These provisions become effective August 27, 2011.

This bill also changes provisions relating to service of process. These provisions became effective May 27, 2011.

**LB 673 (Flood) Change support liens and provide for military parents and children in cases of divorce.**

LB 673 authorizes the court to order a judgment creditor to pay a judgment debtor's court costs and attorney's fees when the judgment creditor has refused, without a good faith reason, to execute a release of the judgment for child support or spousal support or subordination of the lien. A showing that all support is current shall be evidence that the judgment creditor did not

have a good faith reason to refuse to execute such release or subordination. The definition of military parent is changed. This bill also provides findings relating to the importance of maintaining the bond between the child and military parent. This bill becomes effective August 27, 2011.

**LB 687 (Schilz) Provide for issuance of a veterinarian locum tenens.**

Locum tenens is a person who temporarily fulfills the duties. This bill allows the Department to issue a veterinarian locum tenens to an individual who holds an active license to practice veterinary medicine and surgery in another state if that state's requirements regarding education and licensure examination are equal to or exceed the Nebraska requirements. A veterinarian locum tenens may be issued for a period not exceed ninety days in an twelve month period. A veterinarian who is an applicant for a veterinarian locum tenens is not subject to a criminal background check. This bill became effective May 19, 2011.

**LB 690 (Brasch) Change consent and parental notification provisions regarding abortion.**

LB 690 provides new definitions which include abortion, consent, emancipated, physician and pregnant woman.

Except in the case of a medical emergency, no person shall perform an abortion upon a pregnant woman unless, in the case of a woman who is less than eighteen years old, he/she obtains the notarized written consent of both the pregnant woman and one of her parents or legal guardian. In deciding whether to grant such consent, a pregnant woman's parent or guardian shall consider only his/her child's or ward's best interest.

If the pregnant woman declares in a signed written statement that she is a victim of abuse, sexual abuse or child abuse or neglect by either of her parents or legal guardian, then the attending physician shall obtain the notarized written consent from a grandparent specified by the pregnant woman. The physician shall certify in the pregnant woman's medical record that he/she has received this declaration. Any physician relying in good faith on this written statement shall not be civilly or criminally liable. If such a declaration is made, the attending physician or his/her agent shall inform the pregnant woman of his/her duty to notify the proper authorities.

No parent, guardian, or any other person shall coerce a pregnant woman to obtain an abortion. If a pregnant woman is denied financial support by her parents, guardians, or custodians due to her refusal to obtain an abortion, the pregnant woman shall be deemed emancipated for purposes of eligibility for public assistance benefits, except that such benefits may not be used to obtain an abortion.

If a pregnant woman elects not to obtain the consent of her parents or guardians, a judge of a court shall authorize a physician to perform the abortion if the court determines by clear and convincing evidence that the pregnant woman is both sufficiently mature and well-informed to

decide whether to have an abortion. If the court does not make this finding, it shall dismiss the petition. The requirements and procedures under this part of the bill are available to pregnant women whether or not they are residents of the state.

If the court finds, by clear and convincing evidence, that there is evidence of abuse, sexual abuse or child abuse or neglect of the pregnant woman by the parent or guardian or an abortion without consent is in the best interest of the pregnant woman, the court shall issue an order authorizing the pregnant woman to consent to the abortion. If the court does not make this finding, it shall dismiss the petition.

This bill provides protections for the pregnant woman's confidentiality and anonymity. Also, notification language is replaced with consent language. Further, criminal penalties are provided for persons not authorized to provide consent or persons who coerce a pregnant woman to have an abortion.

A monthly report indicating only the number of consents, number of exceptions to these consents, type of exceptions, pregnant woman's age and number of prior pregnancies and prior abortions of the pregnant woman shall be filed by the physician with the Department on forms prescribed by the Department. The name of the pregnant woman shall not be used on the form. A compilation of the data reported shall be made by the Department on an annual basis and shall be available to the public.

This bill becomes effective August 27, 2011.