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## 2012 Summary of Legislative Bills Passed into Law Impacting DHHS (cont.)

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## **LB 40 (Hadley) Change a sales tax exemption for health clinics.**

This bill changes the language relating to the sales tax exemption for health clinics from *two to one*. As a result, a sales tax exemption is created for any nonprofit health clinic with *one* or more hospitals or the parent corporations of the hospitals own or control the health clinic for the purpose of reducing the cost of health services or when the health clinic receives federal funds through the U.S. Public Health Services for the purpose of serving populations that are medically underserved.

This bill becomes operative July 1, 2012.

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## **LB 507 (Harms) Change Welfare Reform Act requirements relating to education for recipients of assistance.**

For purposes of creating the self-sufficiency contract and meeting the applicant's work activity requirement, an applicant who is 21 years of age and is married or a single head of a household is deemed to have met the work activity requirement in a month if he/she:

- Maintains satisfactory attendance during such month at secondary school, a general education development program or the equivalent; or
- Participates in education directly related to employment for an average of at least 20 hours per week during such month:
  - Education directly related to employment includes, but is not limited to, Adult Basic Education, English as a Second Language, and a general education development program.

For purposes of creating the self-sufficiency contract and meeting the applicant's work activity requirement, an applicant under 24 years of age shall be deemed to have met the work activity requirement in a month if he/she is engaged in education directly related to employment for an average of at least 20 hours per week during such month. Education directly related to employment includes, but is not limited to, Adult Basic Education, English as a Second Language, and a general education development program.

For purposes of this bill, target work rate means 50% less the caseload reduction credit submitted by DHHS to the U.S. Department of Health and Human Services for the fiscal year.

No state funds shall be used to carry out this law unless such state funds meet the definition of qualified state expenditures under the federal Temporary Assistance for Needy Families program (TANF).

If Nebraska's work participation rate under TANF does not exceed the target work rate by 10 percentage points in any month, DHHS may suspend the requirements for 24 year-olds until the

work participation rate exceeds the target work rate by 10 percentage points for 3 consecutive months.

DHHS shall report annually to the Legislature on October 1 on the following:

- The number of persons on a quarterly basis participating in a self-sufficiency contract who are engaged in one of the following activities:
  - an associate degree program;
  - a vocational education program not leading to an associate degree;
  - postsecondary education other than programs described in this bill;
  - Adult Basic Education;
  - English as a Second Language; or
  - a general education development program; and
- The number of persons participating in a self-sufficiency contract who obtain or maintain employment for 6 months, 12 months, 18 months, and 24 months after such persons are no longer eligible for cash assistance due to obtaining employment.

It is the intent of the Legislature that DHHS carry out these requirements within the limits of its annual appropriation.

This bill terminates on December 31, 2016.

This bill becomes effective July 19, 2012.

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**LB 536 (Wightman) Adopt the Nebraska Uniform Property Transfer on Death (TOD) Act and provide exemptions from the documentary stamp tax.**

This bill allows DHHS to require revocation of the TOD deed by a transferor, a transferor's spouse, or both, in order for the transferor to qualify or remain qualified for Medicaid.

This bill provides that a beneficiary to whom an interest is transferred on a death deed shall be personally liable to account for Medicaid reimbursement to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the transferor's estate. Such liability shall be limited to the value of the interest transferred to the beneficiary. The right to recover applies to Medicaid provided before, at the same time as, or after the signing of and the recording of the TOD deed.

This bill requires the form for the TOD deed to have a warning that DHHS may require revocation of this deed by a transferor, a transferor's spouse, or both, in order to qualify or remain qualified for Medicaid. Also, this form is required to have a warning that the designated beneficiary is personally liable to the account for Medicaid reimbursement to the extent

necessary to discharge any such claim remaining after application of the assets of the transferor's estate.

This bill provides other requirements of the TOD Act.

This bill becomes operative January 1, 2013.

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**LB 541 (Health and Human Services Committee) Provide for third-party contracts to promote Medicaid integrity and cost containment.**

The Legislature finds that the Medicaid program would benefit from increased efforts to:

- Prevent improper payments to service providers;
- Identify and recoup improper payments; and
- Collect post-payment reimbursement.

DHHS shall contract with one or more recovery audit contractors to promote the integrity of the Medicaid program and to assist with cost-containment efforts and recovery audits. The contract or contracts shall include services for:

- Cost-avoidance through identification of third-party liability;
- Cost recovery of third-party liability through post-payment reimbursement;
- Casualty recovery of payments by identifying and recovering costs for claims that were the result of an accident or neglect and payable by a casualty insurer; and
- Reviews of claims submitted by providers of services or other individuals furnishing items and services.

DHHS shall contract with one or more persons to support a health insurance premium assistance payment program.

DHHS may enter into any other contracts deemed to increase the efforts to promote the integrity of the Medicaid program.

Contracts entered into under this law may be on a contingent fee basis. Contracts entered into on a contingent fee basis shall provide that contingent fee payments are based upon amounts recovered, not amounts identified, and that contingent fee payments are not to be paid on amounts subsequently repaid due to determinations made in appeal proceedings. Contracts shall be in compliance with federal law and regulations, when pertinent. These contracts shall include a limit on contingent fees of no more than 12 ½% of amounts recovered, and initial contracts shall be entered into as soon as practicable under these federal laws and regulations.

All amounts recovered and savings generated as a result of this law shall be returned to the Medicaid program.

DHHS shall by December 1, 2012, report to the Legislature the status of the contracts, including the parties, the programs and issues addressed, the estimated cost recovery, and the savings accrued as a result of the contracts.

This bill became effective April 12, 2012.

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**LB 599 (Campbell) Provide coverage for certain children pursuant to the Medicaid program and change provisions relating to verification of lawful presence.**

FINDINGS:

The Legislature finds that unborn children do not have immigration status and are not within the scope of unlawful presence. Prenatal care services to unborn children, whose eligibility is independent of the mother's eligibility status, shall not be deemed to be tied to the immigration status of the mother and therefore are not included in the restrictions imposed by state law regarding unlawful presence.

Also, the Legislature finds that:

- Federal law authorizes the State Children's Health Insurance Program to assist state efforts to initiate and expand provisions of child health assistance to uninsured, low-income children;
- As defined in federal law, child means an individual under the age of 19 years, including any period of time from conception to birth, up to age 19 years;
- Pursuant to federal law, eligibility can only be conferred to a targeted low-income child, including an unborn child, under a separate child health program;
- Under federal law, child health assistance is available to benefit unborn children independent of the mother's eligibility and immigration status;
- Under federal law, child health assistance expressly includes prenatal care that connects to the health of the unborn child;
- Prenatal care has been clearly shown to reduce the likelihood of premature delivery or low birth weight, both of which are associated with a wide range of congenital disabilities as well as infant mortality, and such care can detect a great number of serious and even life-threatening disabilities, many of which can now be successfully treated in utero;
- Ensuring prenatal care for more children will significantly help reduce infant mortality and morbidity rates and will spare many infants from the burden of congenital disabilities and reduce the cost of treating those congenital disabilities after birth;
- It is well established that access to prenatal care can improve health outcomes during infancy as well as over a child's life. Since healthy babies and children require less

medical care than babies and children with health problems, provision of prenatal care will result in lower medical expenditures for the affected children in the long run; and

- Adopting federal law to provide for medical services related to unborn children before birth will result in healthier infants, better long-term child growth and development, and ultimate cost savings to the state through reduced expenditures for high cost neonatal and potential long-term medical rehabilitation.

#### COVERAGE:

Such coverage shall be implemented through the creation of a separate program as allowed under federal law, only for the unborn children of mothers who are ineligible for coverage under this federal law. All other aspects of the Medicaid program relating to the State's Children's Health Insurance Program (CHIP) remain a Medicaid expansion program as defined under federal regulations.

#### BENEFITS:

The benefits provided, unless the recipient qualifies for coverage under the federal law, shall be prenatal care and pregnancy-related services connected to the health of the unborn child, including:

- Professional fees for labor and delivery;
- Pharmaceuticals and prescription vitamins;
- Outpatient hospital care;
- Radiology, ultrasound and other necessary imaging;
- Necessary laboratory testing;
- Hospital costs related to labor and delivery;
- Services related to conditions that could complicate the pregnancy; and
- Other pregnancy-related services approved by DHHS.

Services not covered under this law include medical issues separate to the mother and unrelated to pregnancy.

#### DHHS'S DUTIES:

DHHS shall receive the state and federal funds appropriated or provided for benefits. Within 30 days after the effective date of this bill, DHHS shall submit a state plan amendment or waiver to provide coverage under the Medicaid program to persons eligible under this law.

#### ELIGIBILITY:

Eligibility shall be determined under this law using an income budgetary methodology that determines children's eligibility at no greater than 185% of the federal income poverty guidelines.

This bill becomes effective July 19, 2012.

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**LB 646 (Christensen) Redefine emergency medical service and prohibit expansion of a scope of practice.**

This bill changes the definition of emergency medical services from “immediate medical care” to “medical care.”

This change under this bill shall not be construed to modify or expand or authorize the modification or expansion of the scope of practice of any licensure classifications.

This bill became effective March 8, 2012.

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**LB 670 (Flood) Change the schedule of controlled substances under the Uniform Controlled Substances Act.**

This bill changes the Uniform Controlled Substances Act to include the drug commonly known as bath salts.

Specifically, this bill classifies any quantity of compounds, mixtures or structures involving methylone, MDPV, mephedrone, FMC, and naphyrone as a Schedule I drug. Carisoprodol is added as a Schedule IV drug and Pazo Hemorrhoidal Ointment is removed as a Schedule IV drug. Ezogabine, lacosamide and Pregablin are added as Schedule V drugs.

Under this bill, the penalty for possessing bath salts is a Class IV felony and the penalty for manufacturing bath salts is a Class III felony.

This bill became effective April 11, 2012.

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**LB 677 (Lathrop) Provide criminal penalties for assault on a health care professional in the first, second, and third degrees.**

This bill adds the offense of “assault of a healthcare worker” to the assault statutes. Criminal penalties are provided. Definitions are provided by health care professional and health clinic.



Also, every hospital and health clinic shall display at all times in a prominent place a printed sign with a minimum height of 20 inches and a minimum width of 14 inches, with each letter to be a minimum of ¼ inch in height.

This sign shall read as follows:

WARNING: ASSAULTING A HEALTH CARE PROFESSIONAL WHO IS ENGAGED IN THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES IS A FELONY.

This bill becomes effective July 19, 2012.

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**LB 686 (Schilz) Provide exceptions from the Veterinary Medicine and Surgery Practice Act for transplantation of bovine embryos.**

This bill allows an owner of livestock or a farm or ranch employee to perform retrievable transplantation of embryos on bovine (i.e. cattle), including recovering, freezing, and transferring embryos on bovine.

Also, this bill allows a person to perform a retrievable transplantation of embryos on bovine if the procedure is being performed by a person who:

- Holds a doctorate degree in animal science with an emphasis in reproductive physiology from an accredited college or university and
- Has an can show proof of valid professional liability insurance.

This bill becomes effective July 19, 2012.

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**LB 719 (Price) Change records management provisions.**

This bill requires any state agency desiring to enter into an agreement with a private vendor or the network manager to provide electronic access to public records or electronic information and services for a fee shall make a written request for approval of such fee to the State Records Board.

This bill replaces the term, “gateway,” with, “portal.” Portal is defined as the state’s centralized electronic information system by which public records or electronic information and services are provided using electronic access.

This bill outright repeals outdated laws relating to public bidding, public records and micrographic production.

Also, this bill changes provisions relating to the State Records Board and the Records Management Act.

This bill becomes effective July 19, 2012.

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**LB 723 (Bloomfield) Change provisions relating to small systems under the Nebraska Safe Drinking Water Act.**

This bill removes the definition for a small system under the Nebraska Safe Drinking Water Act and replaces with “a public water system serving fewer than 10,000 persons.”

This bill becomes effective July 19, 2012.

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**LB 737 (Gloor) Provide procedures for submitting national criminal history record information checks with respect to home studies for adoptions.**

This bill clarifies the requirements for requesting the Nebraska State Patrol to conduct and file a national criminal history record information check for adoptive home studies and prospective adoptive parents. The request must be submitted to the Nebraska State Patrol for a Federal Bureau of Investigation background check and accompanied by two sets of fingerprint cards or an equivalent electronic submission and the appropriate fee.

This bill becomes effective July 19, 2012.

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**LB 768 (Howard) Change provisions relating to access to adoption case files.**

This bill removes the August 27, 2011 date that limits the applications of provisions allowing petitioners for adoption of a state ward to read the child’s case file.

This bill becomes effective July 19, 2012.

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**LB 773 (Smith) Change Uniform Credentialing Act provisions.**

This bill provides technical changes for when a credential expires.

When a credential will expire 180 days after its initial issuance date or its reinstatement date and the initial credentialing or renewal fee is \$25 or more, DHHS shall collect \$25 or ¼ of the initial credentialing or renewal fee, whichever is greater, for the initial or reinstated credential. The initial or reinstated credential shall be valid until the next subsequent renewal date.

This bill becomes effective July 19, 2012.

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**LB 782 (McCoy) Require that reports submitted to the Legislature be submitted electronically.**

This bill requires all reports submitted to the Legislature, Clerk of the Legislature, Executive Board of the Legislative Council, Legislative Fiscal Analyst, members of the Legislature, and committees of the Legislatures be submitted electronically. Provisions relating to obsolete reports are eliminated. The Clerk may establish requirements for the electronic submission, distribution, and format of reports required to be provided to the Legislature. The clerk may accept a report in written form only upon a showing of good cause.

Provisions relating to provisions filed by lobbyists and principals become operative January 1, 2015. The rest of the provisions become effective July 19, 2012.

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**LB 788 (Campbell) Change respiratory care practice requirements.**

This bill authorizes a licensed physician assistant, a nurse practitioner, or a certified nurse anesthetist to order respiratory care.

This bill becomes effective July 19, 2012.

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**LB 794 (Lambert) Redefine “byproduct material” under the Radiation Control Act.**

This bill modifies the definition of “byproduct material” to conform with the Nuclear Regulatory Commission.

This bill adds the following to the definition of “byproduct material:”

- Any discrete source of radium-226 that is produced, extracted, or converted after extraction, or converted after extraction for use for a commercial, medical, or research activity, or
- Any material that:
  - has been made radioactive by use of a particle accelerator; or

-is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity;

AND

- Any discrete source of naturally occurring radioactive material, other than source material, that:
  - the U.S. Nuclear Regulatory Commission, in consultation with other federal agencies, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security and
  - is extracted or converted after the extraction for use in a commercial, medical, or research activity.

This bill becomes effective July 19, 2012.

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### **LB 795 (Avery) Change provisions relating to applying for membership in veterans homes.**

This bill requires that an application for membership in a Nebraska veterans home be also made to a recognized veterans organization or to a Nebraska veterans home as well as to a county veterans officer. The recognized veterans organization or Nebraska veterans home shall coordinate the required financial and medical information and, if necessary, provide an opinion regarding its validity. This organization or veterans home will then forward the application to the Veterans' Home Board. Currently, only county veteran service officers are allowed to perform this function.

This bill becomes effective July 19, 2012.

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### **LB 799 (Cornett) Change penalties for child abuse.**

Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury.

Child abuse is a Class IIIA felony only if the offense is committed negligently and results in serious bodily injury

Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child.

For the purposes of this law, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly with respect to the safety or health of the minor child.

This bill becomes effective July 19, 2012.

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**LB 820 (Health and Human Services Committee) Create the Title IV-E Demonstration Project Committee and the Foster Care Reimbursement Rate Committee, provide a temporary foster care stipend, and change foster care licensure requirements.**

TITLE IV-E DEMONSTRATION PROJECT COMMITTEE:

LB 820 creates the Title IV-E Demonstration Project Committee.

**Membership:**

The members shall be appointed by the Director of Children and Family Services or designee. Membership shall include representatives of DHHS and representatives of child welfare stakeholder entities. The representatives of child welfare stakeholder entities shall include:

- One advocacy which deals with legal and policy issues that include child welfare;
- One advocacy organization with the single focus on issues impacting children;
- Two child welfare service agencies that provide a wide range of child welfare services; and
- One entity which is a lead agency as of March 1, 2012.

Members shall have experience or knowledge in the child welfare area that involves Title IV-E eligibility criteria and activities. In addition, this bill requires at least one ex officio member of the committee, appointed by the State Court Administrator. The ex officio member or members shall not be involved in decision-making, implementation plans or reporting, but may attend committee meetings, provide information regarding the court system involving children and juveniles and inform the State Court Administrator of the committee's activities. The director shall convene this committee within 30 days after the operative date of this act.

**Powers/Duties:**

The committee shall review, report and provide recommendations regarding the DHHS application for a demonstration project to obtain a waiver. The committee may engage a consultant with expertise in these types of applications.

The committee shall:

- Review Nebraska's current status of Title IV-E participation and penetration rates,
- Review strategies and solutions for raising Nebraska's participation rate and reimbursement for Title IV-E in child placement, case management, replacement, training, adoption, court findings and proceedings, and
- Recommend specific actions for addressing barriers to participation and reimbursement.

The committee shall provide an implementation plan and a timeline for making application for a Title IV-E waiver. The implementation plan shall support and align with the goals of the statewide strategic plan (see LB 821). This plan shall include, but not limited to, maximizing federal funds for children's services in order to attain positive outcomes for the safety and well-being of and to expedite permanency for children. The committee shall report on its activities to the Health and Human Services Committee on or before July 1, 2012, September 1, 2012, and November 1, 2012, and shall provide a written report to DHHS, the Health and Human Services Committee and Governor by December 15, 2012.

The committee shall come under the Nebraska Children's Commission jurisdiction. The commission may make changes it deems necessary to comply with this act.

#### **Requirements of Implementation Plan:**

The committee's implementation shall address the demonstration project designed to meet the requirements of federal law, including, but not limited to:

- Increasing permanency for children;
- Increasing positive outcomes for children and families in their homes and communities;
- Preventing child abuse and neglect and the reentry of children into foster care; and
- Considering the options of developing a program to permit foster care maintenance payments to be made under the Title IV-E Act and address domestic violence issues.

The implementation plan shall include information showing:

- The ability and capacity of DHHS to conduct a demonstration project to achieve state goals; and
- DHHS has implemented or plans to implement at least two of the child welfare program improvement policies described in federal law within 2 to 3 years.

At least one of the child welfare program improvement policies implemented by DHHS shall be a policy not previously implemented.

For purposes of this act, long-term therapeutic family treatment center has the definition as in federal law.

#### **Reporting Requirements:**

DHHS shall report to the Health and Human Services Committee by September 15, 2012, on the status of the application for this demonstration project.

## **Application Requirements:**

On or before September 30, 2013, DHHS shall apply to the U.S. Secretary of Health and Human Services for approval of a demonstration project to obtain a waiver.

## FOSTER CARE:

### **Findings:**

The Legislature provides the following findings:

- Surveys of foster parents demonstrate that the safety net provided by foster families is fragile and damaged;
- Increased focus on recruiting and retaining high quality, trained, and experienced foster parents should be a priority;
- 2007 Foster Care Minimum Adequate Rates of Children analyzed foster care maintenance payments;
- This study set a basic foster care payment rate with calculations involving consumer expenditure data, additional children's costs and a geographic cost of living adjustment;
- This study found that Nebraska's foster care payment rates were the lowest in the country; and
- Foster care placements with relatives are more stable and more likely to result in legal guardianship with a relative of the child.

### **Foster Care Reimbursement Rate Committee:**

DHHS shall convene a Foster Care Reimbursement Rate Committee to develop a standard foster care reimbursement rate structure for children in foster care. Such structure shall include a statewide standardized level of care assessment and shall tie performance with payments to achieve permanency outcomes for children and families.

The CEO of DHHS shall appoint the members. This committee shall meet and organize as soon as possible after the operative of this bill. This committee shall include:

- CEO of DHHS or designee;
- Representatives of the Division of Children and Family Services from each service area:
  - at least one employee with understanding of foster care payment system and
  - at least one employee with understanding of NFOCUS;
- Representatives from a child welfare agency that contracts directly with foster parents, from each of the service areas;
- Representative from an advocacy organization which deals with legal and policy issues that include welfare;
- Representative from an advocacy organization with the single focus of issues impacting children;
- Representative from a foster and adoptive parent association;

- Representative from a lead agency;
- Representative from a child advocacy organization that supports young adults who were in foster care as children;
- Foster care parent who contracts directly with DHHS; and
- Foster care parent who contracts with a child welfare agency.

This committee shall use the Foster Care Minimum Adequate Rates for Children study as a beginning standard for setting reimbursement rates. This committee shall adjust the standard to reflect the reasonable cost of achieving measurable outcomes for all children in foster care in Nebraska. This committee shall use consumer expenditure data, additional costs of children in foster care and a geographic cost of living adjustment. The reimbursement rate structure shall comply with funding requirements related to Title IV-E and federal programs.

This committee shall develop a statewide standardized level of care assessment containing standardized criteria to determine a foster child's placement needs and to identify the foster care reimbursement rate. This committee shall review other states' assessment models and foster care rate structures in completing this assessment and rate structure. This assessment shall be research-based, supported by evidence-based practices and reflect the commitment to a coordinated process. This committee shall develop this assessment and rate structure in a manner that provides incentives to tie performance in achieving the goals of safety, family connection, permanency, stability and well-being to reimbursements received.

This committee shall provide written reports to the Health and Human Services Committee by July 1, 2012, and September 15, 2012. This committee shall provide a final report to the Health and Human Services Committee and the Governor, with recommendations on assessment and rate structure, on December 15, 2012.

This committee shall come under the Nebraska Children's Commission. The commission may make any changes necessary to comply with this act.

**Stipend Increase:**

Beginning July 1, 2012, through June 30, 2012, all foster parents providing foster care in Nebraska shall receive an additional stipend of \$3.10 per day per child. These foster parents include traditional, agency-based, licensed, approved, relative placement and child specific foster care. The stipend shall be in addition to the current foster care reimbursement rates for relatives and foster parents contracting with DHHS and in addition to the relative and tiered rate paid to a contractor for agency-based foster parents. This additional stipend shall be paid monthly through the agency that is contracting with the foster parent. In the case of a foster parent contracting with DHHS, it will be paid directly from DHHS. The contracting agency shall receive an administrative fee of \$.25 cents per child per day for processing the payments for the benefit of the foster parents and the state, which administrative fee shall be paid monthly by the state. The administrative fee shall not reduce the stipend of \$3.10 provided by this bill.



**Licensure:**

This bill requires that a person furnishing foster care for one or more children not related to such person by blood, marriage, or adoption must have a written license issued by DHHS. This portion of the bill becomes operative July 1, 2012.

The other portions of this bill became effective April 12, 2012.

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**LB 821 (Health and Human Services Committee) Create the Nebraska Children’s Commission and adopt the Office of Inspector General of Nebraska Child Welfare Act.****Intent/Findings:**

LB 821 provides a section on findings and declarations involving improving the safety and well-being of Nebraska children, the LR 37 study and the Department’s role in viewing children and family needs. Also, this bill provides intent language to provide for the needs of these children and families, broad restructuring of goals of the child welfare system and a structure to the commission that maintains the framework of the three branches of government and their respective powers and duties.

**NEBRASKA CHILDREN’S COMMISSION:**

LB 821 creates the Nebraska Children’s Commission. First, this commission must create a statewide strategic plan for reform of the child welfare system programs and services. Second, this commission must review the operations of DHHS regarding child welfare programs and services. Also, this commission must recommend, either by the establishment of a new division within DHHS or establishment of a new state agency, options for attaining the intent of this act. This commission shall provide a permanent forum for collaboration among state, local, community, public and private stakeholders in child welfare programs and services.

**Membership:**

This commission shall include the Chief Executive Officer of DHHS or designee, the Director of Children and Family Services or designee and 16 members appointed by the Governor within 30 days after the effective date of this act. These 16 members shall represent stakeholders in the child welfare system and shall include:

- Director of a child advocacy center,
- Administrator of a behavioral health region,
- Community representative from each of the service areas (representative from ESA may be from lead agency or pilot project),
- Prosecuting attorney who practices in juvenile court,

- Guardian ad item
- Biological parent currently or previously involved in the child welfare system
- Foster parent,
- Court-appointed special advocate volunteer,
- Member of the Foster Care Review Board or any entity that succeeds to the powers and duties of the board or local foster care review board,
- Child welfare service agency that directly provides a wide range of child welfare services and is not a member of a lead agency collaborative,
- Young adult previously in foster care, and
- Representative of a child advocacy organization that deals with legal and policy issues that include child welfare.

This commission shall have the following non-voting, ex officio members:

- Chairperson of the Health and Human Services Committee or a committee member designated by the chairperson,
- Chairperson of the Judiciary Committee or a committee member designated by the chairperson,
- Chairperson of the Appropriations Committee or a committee member designated by the chairperson, and
- Three persons appointed by the State Court Administrator.

The non-voting, ex officio members may attend commission meetings, provide information, gather information and provide information back to their respective bodies. These members shall not vote on decisions by the commission or on the direction or development of the statewide strategic plan.

### **Meetings/Organization:**

The commission shall meet within 60 days after the effective date of this act and shall select from among its members a chairperson and vice-chairperson and conduct any business necessary to the organization of the commission. The commission shall meet not less often than once every 3 months, and meetings of the commission may be held at any time on the call of the chairperson. The commission shall be within the office of the chief executive officer of DHHS. The commission may hire staff to carry out the responsibilities of the commission. The commission shall hire a consultant with experience in strategic planning. The commission shall terminate on June 30, 2014, unless continued by the Legislature. Members of the commission shall be reimbursed for their actual and necessary expenses.

### **Networks:**

The commission shall work with service area administrators, child abuse and neglect investigation teams, local foster care review boards, child advocacy centers, Through the Eyes of the Child Initiative, community stakeholders and advocates for child welfare programs to

establish networks in each of the service areas. These networks shall permit collaboration to strengthen the continuum of services available to child welfare agencies and to provide resources for children and juveniles outside the child protection system. Each service area shall develop its own unique strategies to be included in the statewide strategic plan. DHHS shall assist in identifying the needs of each service area.

**Committees:**

The commission shall create a committee to examine state policy regarding the prescription of psychotropic drugs for state wards and the administration of these drugs to state wards. This committee shall review the policy and procedures for prescribing and administering these drugs and make recommendations to the commission.

The commission shall create a committee to examine the structure and responsibilities of the Office of Juvenile Services (OJS). The committee shall review the role and effectiveness of the Youth Rehabilitation and Treatment Centers (YRTC) and make recommendations to the commission on the future role of YRTC. This committee shall also review the responsibilities of the Administrator of OJS and make recommendations to the commission relating to the future responsibilities of the administrator.

The commission may organize committees as it deems necessary. Members of the committees may be members of the commission or may be appointed, with the approval of the majority of the commission.

The Foster Care Reimbursement Rate Committee (see LB 820) shall be under the jurisdiction of the commission.

**State Court Administrator:**

The commission shall work with the State Court Administrator and entities which coordinate facilitated conferencing. Facilitated conferencing shall be included in statewide strategic plan discussions by the commission. Funding and contracting of facilitated conferencing entities shall continue to be provided by DHHS to at least the same extent as such funding and contracting are being provided.

The commission shall gather information and communicate with juvenile justice specialists of the Office of Probation Administration and county officials regarding any county-operated practice model participating in the Crossover Youth Program of the Center for Juvenile Justice Reform at Georgetown University.

The Commission shall coordinate and gather information about the progress and outcomes of the Nebraska Juvenile Service Delivery Project.

## **Strategic Plan:**

The commission shall create a statewide strategic plan to carry out the legislative intent of this act. In developing the statewide strategic plan, the commission shall consider, but not be limited to:

- The potential of contracting with private nonprofit entities as a lead agency:
  - Lead agency utilization shall maximize the strengths, experience, skills and continuum of care of the lead agencies,
  - Lead agency contracts shall detail how qualified licensed agencies will implement community-based care through components of foster care or comprehensive services for eligible children and families;
- Provision of leadership for strategies to support high-quality evidence-based prevention and early intervention services that reduce risk and enhance protection for children;
- Realignment of service areas to be coterminous with the judicial districts;
- Identification of the type of information needed for a clear and thorough analysis of progress on child welfare indicators; and
- Such other elements as the commission deems necessary and appropriate.

A lead agency used after the effective date of this act shall:

- Have a board of directors of which at least 51% of the membership is made up of Nebraska residents who are not employed by the lead agency or by a subcontractor of the lead agency;
- Complete a readiness assessment developed by DHHS to determine the lead contractor's viability;
- Have the ability to provide directly or by contract through a local network of providers the services required of a lead agency; but not more than 35% of direct services under the contract;
- Provide accountability for meeting the outcomes and performance standards related to child welfare services established by Nebraska policy and the federal government.

The commission shall review the DHHS's child welfare programs and services and recommend, as part of the strategic plan, options for attaining the legislative intent of this act. These options shall consist of either the establishment of a new division within DHHS or by the establishment of a new state agency to provide all child welfare programs and services.

## **Medicaid Analysis:**

Within 3 months of the effective date of this act, DHHS, with direction from the commission, shall contract with an independent entity specializing in Medicaid analysis. This entity shall conduct a cross-system analysis of current prevention and intervention programs and services for the safety, health and well-being of children. Also, this entity shall conduct an analysis of funding sources:

- To identify state General Funds being used in order to better utilized federal funds,
- Identify resources that could be better allocated to more effective services to at-risk children and juveniles transitioning to home-based and school-based interventions, and
- Provide information which will allow the replacement of state General Funds for services to at-risk children and juveniles with federal funds, with the goal of expanding the funding base for such services while reducing overall state General Fund expenditures on these services.

**Role of DHHS:**

DHHS shall fully cooperate with the activities of the commission. DHHS shall provide to the commission all requested information on children and juveniles in Nebraska. Also, DHHS shall collaborate with the commission regarding the plan for a statewide automated child welfare information system and the evaluator for this system (LB 1160).

**Reporting:**

The commission shall provide a written report to the Health and Human Services Committee on the status of its activities on or before August 1, 2012, September 15, 2012, and November 1, 2012. The commission shall complete the strategic plan and provide a written report to the Health and Human Services Committee and the Governor on or before December 15, 2012.

**OFFICE OF INSPECTOR GENERAL:****Intent:**

This bill provides intent language relating to establishing a program of investigation, improving operations of DHHS, providing an independent form of inquiry and providing a process of complaints that reveals a need for legislative action. The intent is not to interfere with the duties of the Legislative Performance Audit Committee, Legislative Fiscal Analyst or statutorily defined investigative responsibilities of executive branch employees. Also, the intent is not to interfere with the Governor's investigative responsibilities.

**Organization:**

The office of Inspector General is created within the office of Public Counsel for the purpose of conducting investigations, audits, inspections and other reviews of the child welfare system. The Inspector General shall be appointed by the Public Counsel with approval from the chairperson of the Executive Board and the chairperson of the Health and Human Services Committee.

The Inspector General shall be appointed for a term of 5 years and may be reappointed. The Inspector General shall be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership and demonstrated ability in areas including

management analysis, law and auditing. No former or current executive or manager of DHHS may be appointed to this position within 5 years after being with DHHS. Not later than 2 years after date of the appointment, the Inspector General shall obtain certification. Further, the Inspector General shall not be actively involved in partisan affairs.

The Inspector General shall employ such investigators and support staff as deemed necessary, but with available appropriations. While the Inspector General is under control and supervision of the Public Counsel, the removal of this person must be approved by the chairperson of the Executive Board and chairperson of the Health and Human Services Committee.

### **Duties/Powers:**

This office shall investigate:

- Allegations or incidents of possible misconduct, misfeasance, or violations of law involving DHHS, person under contract with DHHS, private agency, licensed child care facility, foster parent or child welfare provider or UCA disciplinary action;
- Death or serious injury involving DHHS, foster homes, private agencies, child care facilities, facilities licensed by DHHS, or cases that are open one year or less under the Child Protection Act.
  - DHHS must report all of these cases to this office as soon as reasonably possible,
  - serious injury is defined as injury or illness caused by suspected abuse, neglect, or maltreatment which leaves a child in critical or serious condition.

Any investigation conducted by this office shall be independent of and separate from an investigation pursuant to the Child Protection Act. This office and staff are subject to reporting requirements of the Child Protection Act.

Even though a criminal investigation, criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys shall cooperate with any Inspector General investigation. All law enforcement agencies and prosecuting attorneys shall, upon request of the Inspector General, provide the copies of all law enforcement reports relevant to the investigation. Notwithstanding current law, the Inspector General shall maintain the confidentiality of these reports. Also, law enforcement agencies and prosecuting attorneys shall, upon request of the Inspector General, collaborate with this office regarding all relevant information. This office may suspend their investigation until a criminal investigation is completed. This office shall not interview a minor who has already been interviewed by a law enforcement agency, CFS employee or child advocacy center in connection with a relevant ongoing investigation.

This office shall have access to all information and personnel necessary to perform their duties. A full investigation shall consist of retrieval of relevant records through subpoena, request or voluntary production, review of all relevant records and interviews of all relevant persons.

This bill provides a process for this office in responding to complaints. Complaints will be evaluated. A toll-free telephone line will be available. Full investigations are not needed for all complaints. This office shall make this determination within 14 days. Complaints that violate the UCA will be referred to the appropriate credentialing board.

Cooperation from DHHS, foster parents, private agencies, licensed child care facilities and child welfare service providers with this office is required. Cooperation includes providing full access and production of records, fair and honest disclosure of these records, encouraging employees to comply, providing truthful answers during investigation, not requiring supervisory approval, not willfully interfering with investigation and prohibiting retaliation by employers against employees for making complaints. Failure to cooperate with an investigation by this office may result in discipline or other sanctions.

This bill provides subpoena powers for this office. Subpoenas can be used to access to all relevant records from DHHS, foster parents, licensed child care facilities or private agencies. Compliance with this request includes production of the requested records, diligent search for the appropriate records and continuing obligation to forward future relevant records to the office. The office shall seek access in a manner that respects the dignity and human rights of all persons involved, maintains the integrity of the investigation and does not create disruptions. This office may make unannounced visits to these entities under certain circumstances. A responsible individual or an administrator may be asked to sign a statement of record integrity and security when a record is secured from a visit from this office. Photocopies of the original records may be allowed, but the office may request the original records.

Reports of this office's investigations shall not be distributed to other entities unless they are provided to a guardian ad litem or attorneys in juvenile court. Confidential information, in the judgment of the Public Counsel, may also be disclosed to the chairperson of the Health and Human Services Committee. These investigative reports are not public records. Identities can be withheld to protect persons who filed a complaint from retaliation.

DHHS shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports and documents relating to the child welfare system.

The Inspector General's report of an investigation shall be in writing to the Public Counsel and shall contain recommendations. All recommendations to pursue discipline shall be in writing and signed by the Inspector General. A report of investigation shall be presented to the CEO of DHHS within 15 days after it is presented to the Public Counsel. To the extent it is relevant to the child's welfare, this report may be distributed to the guardian ad litem or attorneys in juvenile court. If misconduct, misfeasance, malfeasance or law violations are identified in the report, it may be shared with the employer.

Within 15 days after the report is presented to the CEO, the report shall be presented to the foster parent, private agency, licensed child care facility or other child welfare services provider that is subject of the report and the persons involved with the recommendations. Within 45

days after receipt of the report, these parties may submit a written response to this office to correct any factual errors in the report. The Inspector General and Public Counsel shall consider these corrections and may issue a corrected report within 15 days after receipt of their written response. If a corrected report is not issued, these parties may request that their written response be appended to the report. A report which raises UCA related issues shall be submitted to the appropriate credentialing board.

No report or other work product of an Inspector General investigation shall be reviewable in any court. The Inspector General or the staff may not be required to testify or produce evidence in any judicial or administrative proceeding except if it is a proceeding to enforce this act.

The Inspector General is not required to investigate all complaints. The Inspector General, with input from the Public Counsel, shall prioritize and select investigations and inquiries. Alternative means of resolution of a complaint may be recommended by this office.

On or before September 15 of each year, the Inspector General shall provide to the Health and Human Services Committee and the Governor a summary of their reports and investigations. The summaries shall detail recommendations, status of implementation of the recommendations and may include recommendations from other audits, reviews and inspections. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

This bill became effective April 12, 2012.

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**LB 825 (Dubas) Provide requirements for staffing, services, contracts for public assistance programs administered by DHHS.**

**STAFFING:**

DHHS shall staff multiple, integrated access points for economic assistance programs administered by DHHS in order to assure that Nebraskans who rely on such programs will be able to utilize them effectively.

DHHS shall staff existing local offices that provide access to economic assistance programs throughout the state with caseworkers to provide in-person services to DHHS clients. DHHS shall provide sufficient numbers and hours of staff to perform these activities.

DHHS shall determine appropriate numbers and hours of staff for each existing local office based on a review of the need in each service area. In determining the appropriate numbers and hours of staff, DHHS, shall, at the minimum, consider:

- Need for staff to travel to community-based organizations;



- Volume of economic assistance cases in the counties served by the existing local offices;
- Number of community-based organizations in the counties served by the existing local office;
- Volume of call-center calls originating in the counties served by the existing local office; and
- Requirements of this act.

Caseworkers at existing local offices shall perform the following activities by appointment and on a drop-in basis:

- Help clients complete assistance and renewal applications;
- Screen clients for program eligibility;
- Interview clients for assistance eligibility and assistance renewal eligibility;
- Determine program eligibility of the client; and
- Answer client questions in person.

DHHS call centers for economic assistance programs shall take appointments for face-to-face help for clients regarding such assistance upon request of the client.

Each existing local office shall be equipped with a reasonable number of computers, telephones, and scanning equipment.

#### SERVICES:

DHHS shall provide high-quality services for clients who apply for or receive benefits under public benefit programs administered by DHHS.

DHHS shall utilize DHHS caseworkers who are located in call centers, dedicated caseworkers, and specialized DHHS employees or units who will provide in-person assistance to specific clients.

Upon the request of the client, dedicated caseworkers shall, at a minimum, be utilized for persons with chronic physical or mental disorders and the elderly that require the provision of medical and personal care services on a recurring or continuing basis.

Specialized DHHS employees or units shall, at a minimum, be utilized for complex cases, including Medicaid waiver cases, Medicaid spousal impoverishment cases, disability cases, and other similar cases upon request of the client.

The dedicated caseworkers and specialized DHHS employees or units shall be placed in the existing local offices and shall be accessible to DHHS caseworkers in call centers.

Community support specialists with DHHS shall:

- Act as a liaison between DHHS and community-based organizations;

- Facilitate client assistance by community-based organizations;
- Train community-based organizations in how to help clients access economic assistance programs through the DHHS website; and
- Respond to client problems with the application process known as Access Nebraska or its successor.

DHHS shall determine the appropriate numbers and hours of community support specialists, but shall, at a minimum, employ 8 community support specialists to perform these requirements. The community support specialists shall receive annual training in:

- Principles and practices of public administration;
- Procedure and policy development; and
- Federal and state laws, rules, regulations and procedures pertaining to health and human services programs.

#### CONTRACTS:

DHHS shall enter into contracts with community-based organizations which allow DHHS to keep caseworkers present at the community-based organization at the time specified in the contract.

A contract under this act shall specify sufficient times to allow caseworkers to:

- Screen and conduct interviews for assistance eligibility and assistance renewal;
- Assist clients with applications and renewals;
- Receive assistance applications and renewals;
- Answer questions in person;
- Train and provide technical assistance to staff of community-based organizations; and
- Conduct face-to-face interviews with clients by appointment and on a drop-in basis.

These contracts shall also allow the community-based organization to:

- Provide quality, accurate information relating to economic assistance programs that are targeted at populations known to have low participation rates in or difficulty accessing such assistance programs;
- Provide quality outreach to clients in the target populations who utilize economic assistance programs;
- Assist clients in scheduling appointments with caseworkers at a community-based organization facility or local office that provides access to economic assistance programs, whichever the client prefers;
- Assist with the organization of information required for economic assistance application or renewal; and
- Negotiate fair compensation for services provided to applicants for economic assistance benefits.

DHHS shall maintain a sufficient number of contracts to provide access to assistance for all Nebraska citizens in establishing and maintaining eligibility for economic assistance

programs. In determining the number of contracts with community-based organizations, DHHS shall, at a minimum, consider:

- Geographic distance applicants would be required to travel to meet with a caseworker in person and how to minimize that distance;
- Volume of economic assistance cases in the service area and how to adequately serve those cases;
- Number of clients in an area who have difficulty in verbal and written communication due to hearing or vision impairment, language barriers, or literacy challenges and how to accommodate their needs;
- Community-based organization's ability to serve the need; and
- Number of existing local offices in the service area.

#### REPORTING REQUIREMENTS:

DHHS shall fulfill the requirements of this act by September 1, 2012. DHHS shall train community-based organizations by September 1, 2012. DHHS shall report back to the Health and Human Services Committee by September 15, 2012, regarding the implementation of this act. This report shall include, but not be limited to, the reasons for DHHS' determinations of the appropriate number of staff and hours and the number of community-based organization contracts.

This bill becomes effective July 19, 2012.

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### **LB 834 (Gloor) Change the Nebraska Regulation of Health Professions Act.**

#### INTENT/PURPOSE:

This bill provides changes to the intent language. The credentialing system referred in this language will now include activities conducted under the Nebraska Regulation of Health Professions Act.

This bill provides changes to the purpose language. Specifically, the Legislature believes that all individuals should be permitted to provide a health service, a health-related service, or environmental services unless there is an overwhelming need for the state to protect the public from harm.

#### FUNDING:

This bill provides changes to the Professional and Occupational Credentialing Cash Fund. The State Treasurer shall transfer any money in the Nebraska Regulation of Health Professions Fund to the Professional and Occupational Credentialing Cash Fund.

## DEFINITIONS:

The definition of health profession is changed to a vocation including health services, health-related services, or environmental services requiring specialized knowledge and training. Health profession does not include the vocation of duly recognized members of the clergy acting in their ministerial capacity.

Also, the language, providing any other health service, health-related service, or environmental service is added to the definitions of health professional group not previously regulated and regulated health professions.

## SCOPE:

This bill changes the scope of practice criteria by removing language regarding “potential for harm.” Also, “cost effective manner” is replaced by “a more effective alternative.”

The scope of practice of a regulated health profession is changed. The following criteria for changes in scope of practice are eliminated:

- The present scope of practice create a situation of harm or danger to the health, safety, or welfare of the public and the potential of harm is easily recognizable and not remote or dependent upon tenuous argument; and
- The public cannot be effectively protected by other means in a more cost effective manner.

The following criteria for changes in scope of practice are added:

- The health, safety, and welfare of the public are inadequately addressed by the present scope of practice or limitations on the scope of practice;
- The current education and training for the health profession adequately prepares practitioners to perform the new skill or service;
- There are appropriate post-professional programs and competence assessment measures available to assure that the practitioner is competent to perform the new skill or service in a safe manner; and
- There are adequate measures to assess whether practitioners are competently performing the new skill or service and to take appropriate action if they are not performing competently.

## APPLICATION REQUIREMENTS INVOLVING SCOPE OF PRACTICE:

This bill simplifies these application requirements by striking much of the current prescriptive requirements of what the application must include. This bill then adds in the following new application requirements of what the explanation must include:

- The problem created by not regulating a health professional group not previously regulated or by not changing the scope of practice of a regulated health profession;

- If the application is for the regulation of a health professional group not previously regulated, all feasible methods of regulation;
- The benefit to the public of regulating a health professional group not previously regulated or changing the scope of practice of a regulated health profession;
- The type of standards that exist to ensure that a practitioner of a health profession would maintain competency;
- The role and availability of third-party reimbursement for the services provided by the applicant group;
- The experience of other jurisdictions in regulating the practitioners affected by the application; and
- Other information relevant to the requested review as determined by the Public Health Division of DHHS.

#### TECHNICAL REVIEW COMMITTEE:

This bill provides changes to the role of the Technical Review Committee.

The committee shall serve as a fact-binding body and undertake such investigation as it deems necessary to address the issues identified in the application. As part of its investigation, each committee shall consider available scientific evidence and conduct public fact-finding hearings.

The committee shall make written findings on all criteria, and shall make a recommendation for approval or denial. Whether it recommends approval or denial of an application, the committee may make additional recommendations regarding changes to the proposal or other solutions to problems identified during the review and may comment on the anticipated benefits to the health, safety, and welfare of the public.

The committee is changed to allow no more than one member of the applicant group or the profession seeking to be regulated or changing the scope of practice.

#### TIME FRAMES FOR FINAL REPORT:

This bill changes the time frame in which DHHS has to make a final recommendation from the current 9 months to 12 months, starting at the point when the application is submitted and found to be complete.

This bill becomes effective July 19, 2012.

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**LB 842 (Harms) Change the termination date relating to self-sufficiency activities under the Welfare Reform Act and provide ADC data collection duties for DHHS.**

Under current law, for purposes of creating the self-sufficiency contract and meeting the activity's work requirement, an applicant shall be allowed to engage in vocational training that leads to an associate degree, a diploma, or a certificate for minimum of 20 hours per week for up to 36 months. This bill changes the termination date of this section of law from September 30, 2012, to December 31, 2016.

DHHS shall collect the following data and information yearly:

- The total number of participants in the ADC program pursuing an associate degree;
- Graduation rates of these participants, then number of participants that are making satisfactory progress in their educational pursuits, and the length of time participants participate in education to fulfill their work requirement under the program;
- The monthly earnings, educational level attained, and employment status of these participants at 6 months and at 12 months after terminating participation in the ADC program; and
- A summary of activities performed by DHHS to promote postsecondary educational opportunities to participants in the ADC program.

DHHS shall provide a report to the Governor and the Legislature no later than December 1 each year regarding this data and information, including a summary of this data and information. The data and information collected under this law shall be considered a public record.

This bill becomes effective July 19, 2012.

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**LB 858 (Avery) Change requirements and exceptions for certain state contracts.**

This bill prohibits a state agency from entering into a proposed contract for services in excess of \$15 million until the state agency has submitted to the materiel division of the Department of Administrative Services (DAS) a copy of the proposed contract and proof-of-need analysis and has subsequently received certification from this division to enter into the contract.

The proof of need analysis shall require state agencies to provide the following information:

- Description of the service that is the subject of the proposed contract;
- Reason for purchase of the service rather than the use or hiring of state employees;
- Review of any long-term actual cost savings of the contract and an explanation of the analysis used to determine such savings;
- An explanation of the process by which the state agency will include adequate control mechanisms to ensure that the services are provided pursuant to the terms of the contract;

- Identification of the specific state agency employee who will monitor the contract for services for performance;
- Identification and description of whether the service is requested is temporary or occasional;
- An assessment of the feasibility of alternatives within the state agency to contract for performance of the services;
- A justification for entering into the contract for services if this contract will not save costs and exceeds the public's interest;
- Any federal requirement that the service be provided by a person other than the state agency;
- Demonstration by the state agency that it has taken formal and positive steps to consider alternatives to such contract; and
- Description of any relevant legal issues.

The materiel division of DAS shall certify receipt of a proof-of-need analysis and shall report its receipt of this analysis to the state agency within 30 days. Certification of this analysis means that all of this required information has been provided to this division by the state agency. If this division certifies this analysis, the state agency may enter into the proposed contract. If this division does not certify this analysis, it shall inform the state agency of the additional information required.

If the division certifies a proof-of-need analysis, the state agency shall file the proposed contract, proof-of-need analysis and proof of certification with the Legislative Fiscal Analyst.

This bill also changes the exemption for service contracts with direct providers of medical, behavioral, or developmental health services, child care, or child welfare services to an individual. These contracts will be exempted from this bill if the contract is \$15 million or less.

This bill also changes provisions regarding priority for awarding vending facility contracts to blind persons.

This bill becomes effective July 19, 2012.

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**LB 871 (Gloor) Provide for policies on financial eligibility and schedule of fees and copays under the Nebraska Behavioral Health Services Act.**

This bill exempts the regional behavioral health authorities from the methodology used by the Division of Behavioral Health in determining a consumer's financial eligibility that includes asset determination and copays.

Each regional behavioral health authority shall adopt a policy for use in determining the financial eligibility of all consumers and shall adopt a uniform schedule of fees and copays. These fees and copays shall be based on the policy and schedule developed by the division and to be assessed against consumers utilizing community-based behavioral health services in the region. The methods used to determine the financial eligibility of all consumers shall take into account taxable income, the number of family members dependent on the consumer's income, liabilities, and other factors as determined by the division. The policy and the schedule of fees and copays shall be approved by the regional governing board and included with the budget plan submitted to the division annually. Providers shall charge fees consistent with the schedule of fees and copays in accordance with the financial eligibility of all consumers, but not in excess of the actual cost of the service. Each regional behavioral health authority shall assure that its policy and schedule of fees and copays are applied uniformly by the providers in the region.

This bill becomes effective July 19, 2012.

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**LB 880 (Pahls) Provide duties relating to reducing costs and adopting modern methods of state and local records management.**

This bill, in addition to current requirements, requires the head of any state agency to establish a cost-effective and modern records keeping program. Also, the head of any state agency is required to strive to reduce the costs to manage record retention.

This bill provides duties for the Secretary of State.

This bill becomes effective July 19, 2012.

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**LB 904 (Gloor) Change Vital Statistics Act reporting requirements for annulments and dissolutions of marriage.**

This bill eliminates the requirement for clerks of the district court to submit information to Vital Records as a prerequisite for granting a final decree for divorce or annulment. If, after reasonable attempts are made by the plaintiff or his/her legal representative to attain such information and the information is unavailable, the designation unknown shall be accepted by DHHS. Further, this bill eliminates the \$25 fine against the district court clerks for failure to submit the information to Vital Records.

This bill becomes effective July 19, 2012.

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### **LB 933 (Ashford) Change provisions relating to truancy.**

This bill amends state law regarding excessive absenteeism.

If the child is absent more than 20 days per year or the hourly equivalent and all of the absences are due to documented illness that makes attendance impossible or impracticable or are otherwise excused by school authorities, the attendance officer may report such information to the county attorney.

If the child is absent more than 20 days per year or the hourly equivalent and any of these absences are not excused, the attendance officer shall file a report with the county attorney. The form for this report must include the following two statements, one of which must be by the school representative signing the report:

- The school representative requests additional time to work with this student prior to intervention by the county attorney; and
- The school representative believes that the school has used all reasonable efforts to resolve the student's excessive absenteeism without success and recommends county attorney intervention.

If further action is necessary to address the child's attendance, the initial meeting between the parent or guardian of the child, the school and the county attorney or designee shall be at a location determined by the school.

This bill becomes effective July 19, 2012.

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### **LB 949 (Legislative Performance Audit Committee) Require reports and a strategic plan by the Division of Children and Family Services (CFS) of DHHS.**

#### REPORTING REQUIREMENTS:

On or before July 30, 2012, CFS shall report in writing its expenditures between January 1, 2012, and June 30, 2012, and the outcomes relating to these expenditures to the Appropriations Committee and Health and Human Services Committee. This report shall identify any changes or movement of funds in excess of \$250,000 relating to child welfare between subprograms within Budget Program 347.

Beginning with the third calendar quarter of 2012, CFS shall report in writing its expenditures for each quarter and the outcomes relating to such expenditures within 30 days after the end of the quarter to the Appropriations Committee and Health and Human Services Committee. This report shall identify any changes or movement of funds in the excess of \$250,000 relating to child welfare between subprograms with Budget Program 347.

## STRATEGIC PLAN:

For the biennium ending June 30, 2015, and the biennium ending June 30, 2017, CFS shall, as part of the appropriation request process, include a strategic plan. The strategic plan shall identify:

- Main purpose or purposes of each program;
- Verifiable and auditable key goals that CFS believes are fair measures of its progress in meeting each program's main purpose or purposes; and
- Benchmarks for improving performance on the key goals for the state as a whole and for each DHHS service area.

CFS shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. These key goals and benchmarks shall be developed by CFS with the assistance of the budget division of DAS.

Not later than September 15, 2013, and not later than September 15, 2015, CFS shall report to the Health and Human Services Committee and Appropriations Committee on the progress these key goals that occurred in the past 12 months.

## BUDGET:

It is the intent of the Legislature that appropriations of funds for child welfare aid be designated as a separate budget program (Program 354) beginning July 1, 2012.

This bill became effective April 10, 2012.

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### **LB 959 (Janssen) Provide immunity to employers for job references.**

This bill allows a current or former employer to disclose information about a current or former employee's employment history to a prospective employer upon the employee's written consent. This information shall be date and duration of employment, most recent evaluation, job description/duties, pay rate and wage history, attendance, threats of violence, reasons for separation from employment and eligible for rehire.

This employer shall be presumed to be acting in good faith and shall be immune from civil liability unless he/she knew this disclosed information was false. This immunity shall not apply when the employer discriminates or retaliates against an employee who has exercised a federal or state right.

This bill also provides requirements for the consent form.

This bill becomes effective July 19, 2012.

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**LB 961 (Health and Human Services Committee) Change provisions relating to case management, caseloads, contracts, and contract extensions for child welfare services.**

CASE MANAGEMENT:

The Legislature finds and declares that:

- The State of Nebraska has the legal responsibility for children in its custody and should maintain the decision-making authority in direct case management of child welfare services;
- Training and longevity of child welfare case managers directly impact the safety, permanency and well-being of children receiving child welfare services;
- Meaningful reform can only occur when case managers educated in evidence-based child welfare best practices are making determinations for the care of children and families and providing direct information to the courts relating to the best interests of the children;
- Maintaining case managers is essential and will be a core component in child welfare reform;
- DHHS retains legal custody of state wards and remains responsible for their care and privatized case management can result in the loss of a trained, experienced, and stable workforce;
- The risk of a private entity abandoning the case management contract creates a high risk to the entire child welfare system;
- Privatization of case management and child welfare services may create conflict of interests and result in loss of child welfare services by reducing market competition and driving providers out of the market;
- Privatization of case management and child welfare services adversely affect outcomes and permanency for children and families; and
- Private lead contracts require complex monitoring capabilities to insure compliance and oversight of performance.

By April 1, 2012, the case manager shall be an employee of DHHS for all cases in which a court has awarded a juvenile to the care of DHHS and for any non-court and voluntary cases. Such case manager shall be responsible for and shall directly oversee:

- Case planning;
- Service authorization;
- Investigation of compliance;
- Monitoring and evaluation of the care and services provided to children and families; and
- Decision making regarding the determination of visitation and the care, placement, medical services, psychiatric services, training and expenditures on behalf of each juvenile.

Such case manager shall be responsible for decision making and direct preparation regarding the proposed plan for the care, placement, services and permanency of the juvenile filed with the court. The health and safety of the juvenile shall be the paramount concern in the proposed plan.

#### CONTRACTS:

DHHS may contract with a lead agency for a case management lead agency model pilot project in the eastern service area. DHHS shall include in the pilot project the appropriate conditions, performance outcomes, and oversight for the lead agency, including, but not limited to:

- Reporting and survey requirements of lead agencies (see LB 1160);
- Departmental monitoring and functional capabilities of lead agencies (see LB 1160);
- Key areas of evaluation (see LB 1160);
- Compliance and coordination with the development of the statewide strategic plan for child welfare program and service reform (see LB 821); and
- Assurance of financial responsibility and reporting by the lead agency.

Prior to April 1, 2013, the Health and Human Services Committee shall review the pilot project and provide to DHHS and the Legislature recommendations, and any legislation necessary to adopt the recommendations, regarding the adaptation or continuation of the pilot project. In making the recommendations, the committee shall utilize:

- The evaluation (see LB 1160);
- The recommendations of the statewide strategic plan (see LB 821);
- DHHS's assessment of the pilot project;
- Any additional reports, surveys, information, and data provided to and requested by the committee.

If the pilot project continues past April 1, 2013, the lead agency shall comply with the strategic plan requirements in LB 821.

On and after the effective date of this act, DHHS shall not reinstate a lead agency in the southeast, central, western, or northern service areas of Nebraska.

On or after September 1, 2012, the western, central and northern service areas shall be aligned to be coterminous (enclosed within a common boundary) with the district court judicial districts.

#### CASELOADS:

DHHS and the pilot project shall maintain caseloads to carry out child welfare services which provide for adequate, timely and in-depth investigations and services to children and families. Caseloads shall range between 12 and 17 cases. In establishing the specific caseloads within

this range, DHHS and the pilot project shall include the current workload factors in statute and utilize the workload criteria of the standards established as of January 1, 2012, by the Child Welfare League of America (CWLA). The average caseload shall be reduced by DHHS in all service areas and by the pilot project to comply with the new caseload range by September 1, 2012. Beginning September 15, 2012, DHHS shall include in its annual caseloads report a report on the attainment of the decrease according to these caseload standards. DHHS's annual report shall also include changes in the standards of the CWLA or its successor.

Caseload size shall be determined in the following manner:

- If the children are placed in the home, the family shall count as one case regardless of how many children are placed in the home;
- If a child is placed out of the home, the child shall count as one case;
- If, within one family, one or more children are placed in the home and one or more children are placed out of the home, the children placed in the home shall count as one case and each child placed out of home shall count as one case; and
- Any child receiving services from DHHS or a private entity under contract with DHHS shall be counted as provided in this subsection whether or not such child is a state ward.

For purposes of this act, a child is considered to be placed in the home if the child is placed with his/her biological or adoptive parent or legal guardian. A child is considered to be placed out of home if the child is placed in foster care, group home, or any other setting which is not the child's planned permanent home.

To ensure appropriate oversight of non-court and voluntary cases when any child welfare services are provided, as a result of a child safety assessment, DHHS or the lead agency shall develop a case plan that specifies the services to be provided and the actions to be taken by DHHS or lead agency in such case.

This bill became effective April 10, 2012.

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### **LB 968 (Speaker Flood) Provide for deficit appropriations.**

This bill provided the following new language relating to appropriations.

#### ACCESSNebraska:

It is the intent of the Legislature that the additional \$4,832,075 General Funds provided in FY2011-12 be only used for personnel-related and operating costs for additional case managers, supervisors, and support staff. This additional staff will be used to reduce caseload ratios to 1:16 children in out-of-home care and 1:17 families for in-home and family preservation cases. Also, these additional funds will be used for resource development in the central, northern, and western service areas. It is the intent of the Legislature that the

additional \$10,816,782 General Funds and \$2,700,000 federal funds provided in FY2012-13 be only used for the same purposes as in FY2011-12.

Learning Connection Registry:

It is the intent of the Legislature to request DHHS beginning July 1, 2012, to encourage each provider of child care and school-age-care programs receiving funds under the federal Child Care Subsidy program to register in the Learning Connection Registry.

Home Visitation Programs:

This bill appropriates, for FY2011-12, \$500,000 General Funds for home visitation programs. Also, for FY2012-13, \$750,000 General Funds are appropriated for home visitation programs.

UNMC Poison Control Center:

Included in the appropriation to the Children's Health Insurance program for FY2012-13 is \$200,000 Cash Funds from the Nebraska Health Care Cash Fund for the Poison Control Center at UNMC, which shall only be used by the medical center for the Poison Control Center.

Medicaid Appropriations:

For FY2012-13, DHHS shall not implement, by rule or regulation, the following changes to the Medicaid program:

- Elimination of private duty nursing services;
- Elimination of oral nutritional supplements;
- An increase in co-payments on physical, speech, and occupational therapists;
- An increase in co-payments for non-emergency visits to the emergency departments;
- A limit of 240 hours per year of home health services;
- Elimination of private duty nursing services;
- An increase in the level of care required to receive personal assistance services;
- A limit for personal assistance services to 3 ½ hours of service per day with a 60 hour limit per month;
- Elimination oral nutritional supplements provided through the durable medical equipment program;
- A limit to behavioral health therapy visits of 60 visits per year;
- Elimination of dental services, including dentures, for adults;
- Elimination of chiropractic services;
- Elimination of eyeglasses for adults;
- Elimination of hearing aids for adults;
- Elimination of occupational therapy for adults;
- Elimination of physical therapy for adults;

- Elimination of speech therapy for adults;
- A limit of prescription drugs to 10 per month for adults;
- A limit of inpatient hospital days to 45 days or 30 days per year for adults; and
- A limit of physician visits for adults to 12 per year, excluding pregnancy-related visits.

Community Health Centers:

The following community health centers, Charles Drew Health Center, One World Community Health Center, Good Neighbor Community Health Center, Panhandle Community Health Center, Norfolk Community Health Center and People’s Health Center will each receive an appropriation of \$300,000 instead of the base amount of \$100,000 with the balance of the funding distributed proportionally based on last year’s percentage of uninsured clients.

This bill became effective April 3, 2012.

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**LB 969 (Speaker Flood) Provide for fund transfers and change provisions relating to various funds.**

This bill changes the transfer amount that is going from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust to the Nebraska Health Care Cash Fund. It is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

This bill eliminates provisions relating to the Autism Treatment Program Cash Fund.

This bill repeals sections on the transfer of \$50,000 from the Stem Cell Research Cash Fund to the HHS Cash Fund and the transfer of \$485,700 from the Tobacco Prevention and Control Cash Fund to the HHS Cash Fund.

This bill became effective April 3, 2012.

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**LB 972 (Ashford) Change provisions relating to Youth Rehabilitation and Treatment Centers (YRTCs).**

The minimum age of a juvenile placed with or committed to a YRTC is raised from 12 to 14.

In determining how to file a petition or charge on a juvenile under the age of 16 for a law violation, the county attorney must consider whether the juvenile has previously been committed to a YRTC.

The Office of Juvenile Services (OJS) shall collaborate with the Department of Corrections regarding the training of all employees and the safety and security of the YRTCs. OJS shall include information regarding such collaboration in the current annual report.

If a juvenile committed to a YRTC assaults an employee or another youth at a YRTC or escapes or attempts to escape, the CEO of the YRTC must document such act and send a copy to the committing court and county attorney as soon as possible. Such documentation may be offered as evidence presented at any hearing conducted regarding the amenability of the juvenile to the rehabilitative services that can be provided under the Nebraska Juvenile Code.

This bill becomes effective July 19, 2012.

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### **LB 985 (Krist) Provide for a juvenile justice pilot program.**

The Nebraska Juvenile Service Delivery Project shall be established as a pilot program administered by the Office of Probation Administration. The pilot program shall be evaluated by UNMC's College of Public Health. The project may be expanded by Probation.

The purpose of the pilot program is to:

- Provide access to services in the community for juveniles placed on probation;
- Prevent unnecessary commitment of juveniles to the OJS/DHHS;
- Eliminate barriers preventing juveniles from receiving needed services;
- Prevent unnecessary penetration of juveniles further into juvenile justice system;
- Enable the juvenile's needs to be met in the least intrusive and least restrictive manner while maintaining the safety of the juvenile and the community;
- Reduce the duplication of resources within the juvenile justice system through intense coordinated case management and supervision; and
- Use evidence-based practices and responsive case management to improve outcomes for adjudicated juveniles.

This bill became effective April 6, 2012.

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**LB 993 (Ashford) Change provisions relating to child abuse neglect treatment teams and child advocacy centers.**

CHILD ABUSE AND NEGLECT TREATMENT TEAMS:

This bill changes the protocols for the child abuse and neglect investigation team. Each team shall now have the following protocols:

- Mandatory reporting of child abuse and neglect to include training to professionals on identification and reporting of abuse;
- Assigning roles and responsibilities between law enforcement and DHHS for the initial response;
- Outlining how reports will be shared between law enforcement and DHHS;
- Coordinating the investigative response including, but not limited to,
  - defining cases that require a priority response,
  - contacting the reporting party,
  - arranging for a video-recorded forensic interview,
  - assessing the need for and arranging a medical evaluation of alleged child victim,
  - assessing the need for and arranging appropriate mental health services for the alleged child victim or non-offender caregiver,
  - conducting collateral interviews with other persons with information pertinent to the investigation,
  - collecting, processing and preserving physical evidence, and
  - interviewing the alleged perpetrator.
  
- Ensuring that child is in safe surroundings, including removing the perpetrator when necessary or arranging for temporary custody of the child when the child is seriously endangered in his/her surroundings and immediate removal appears to be necessary for the child's protection;
- Outlining that what cases will be reviewed by the investigative team including sexual abuse cases, high risk cases determined by DHHS and cases involving a system-response issue.

In addition the protocol for case staffing to include safety plans particularly in those cases in which ongoing services are provided by DHHS or a contracted agency, but the juvenile court is not involved. Also, the protocol for working with multi-problem delinquent youth is expanded to include status offenders. Further, current language on these protocols relating to timeliness of team meetings, response to drug endangered children, joint investigations, and videotaped forensic interviews is stricken.

Forensic interview is defined as a video-recorded interview of an alleged child victim conducted at a child advocacy center by a professional with specialized training designed to elicit details about alleged incidents of abuse or neglect, and such interview may result in intervention in criminal or juvenile court.

Child abuse and neglect training requirements for these teams are changed to eliminate law enforcement standards as a basis for child abuse and neglect investigation procedures, adding the roles and responsibilities of child advocacy centers and adding developing ongoing best practices.

#### CHILD ADVOCACY CENTERS:

This bill redefines the purpose of a child advocacy center to provide a child-focused location for conducting forensic interviews and medical evaluations for alleged child victims of abuse and neglect and for coordinating a multidisciplinary team response that supports the physical, emotional, and psychological needs of children who are alleged victims of abuse or neglect.

The duty to report the names of each team member and the number of times the team met annually to the Crime Commission would be transferred from the county attorney to the representative from the child advocacy center.

This bill becomes effective July 19, 2012.

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#### **LB 998 (Krist) Create the Foster Care Review Office and eliminate the State Foster Care Review Board.**

This bill creates the Foster Care Review Office.

#### PURPOSE:

The purpose of this office is to:

- provide information and direct reporting to the courts, DHHS, and the Legislature regarding the foster care system in Nebraska;
- provide oversight of the foster care system;
- and the make recommendations regarding foster care policy to the Legislature.

#### EXECUTIVE DIRECTOR:

The executive director of this office shall provide information and reporting services, provide analysis of information obtained, and oversee foster care file audit reviews and tracking of cases of children in the foster care system. The executive director shall, through information analysis and with the assistance of the Foster Care Committee:

- determine key issues of the foster care system and ways to resolve the issues and to otherwise improve the system and
- make policy recommendations.

The executive director shall hire, fire and supervise office staff. Also, the executive director shall be responsible for the duties of the office, including the annual report and other reporting, review, tracking, data collection and analysis, and oversight and training of local boards.

The executive director shall provide, at a time specified by the Health and Human Services Committee, regular updates regarding child welfare data. Also, this director shall provide information, at least quarterly, and a fourth quarter report which shall be the annual report. This director shall include issues, policy concerns, and problems which have come to the office and director from analysis of the data. This director shall recommend alternatives to the identified problems and related needs of the office and the foster care system to the committee. The Health and Human Services Committee shall coordinate and prioritize data and information requests submitted to the office by members of the Legislature. The annual report of the office shall be completed by December 1 each year, beginning December 1, 2012.

#### TRANSITION OF FOSTER CARE REVIEW BOARD TO FOSTER CARE REVIEW OFFICE:

The State Foster Care Review Board shall terminate on the operative date of this act.

All equipment and effects of the State Foster Care Review Board on the operative date of this act shall be transferred to the Foster Care Review Office.

All the staff, except for the executive director and interim executive director, shall be transferred to this office. Beginning on the operative date of this act, the data coordinator of the board shall serve as the executive director until the Foster Care Advisory Committee hires an executive director. It is the intent of the Legislature that the staff of the board employed prior to the operative date of this act shall continue to be employed by the office until such time as the executive director is hired by the committee.

It is the intent of the Legislature that the funds appropriated to the Board be transferred to the Foster Care Review Office for FY2012-13. Also, the State Treasurer shall transfer any funds in the Board Cash Fund on the operative date of this act to the Office.

This bill replaces the term Board with Office throughout the current statutes and transfers the current duties of the Board to the Office.

In the Office's rulemaking authority section, the annual reports of children in foster care shall now include the frequency and results of foster care file audit case reviews and court review hearings; trend data impacting foster care, services and placements; trend data impacting foster care, services and placements; analysis of the data; and recommendations for improving the foster care system in Nebraska.

The Office shall be the only entity responsible for the conduct of periodic foster care file audit case reviews which shall be identified as reviews which meet the federal requirements for six-month reviews.

## FOSTER CARE ADVISORY COMMITTEE:

The Foster Care Advisory Committee is created.

### **Membership:**

The committee shall have 5 members appointed by the Governor. The members shall have no pecuniary interest in the foster care system and shall not be employed by the office, DHHS, a county, a child-caring agency, a child-placing agency or a court. The Governor shall appoint:

- 3 members from a list of 12 local board members submitted by the Health and Human Services Committee;
- 1 member from a list 4 persons with data analysis experience submitted by the Health and Human Services Committee; and
- 1 member from a list of 4 persons who are residents of the state and are representative of the public at large submitted by the Health and Human Services Committee.

The Health and Human Services Committee shall hold a confirmation hearing for the appointees and the appointments shall be subject to confirmation by the Legislature.

The terms of the members shall be for 3 years, except that the Governor shall designate 2 of the initial appointees to serve initial terms ending on March 1, 2014, and 3 of the initial appointees to serve initial terms ending on March 1, 2015. The Governor shall make the initial appointments within 30 days after the operative date of this act. Members shall not serve more than 2 consecutive terms, except that members shall serve until their successors have been appointed and qualified. The Governor shall appoint members to fill vacancies in the same manner as the original appointments to serve for the remainder of the unexpired term.

### **Meetings:**

The Foster Care Advisory Committee shall meet at least 4 times each calendar year. Each member shall attend at least 2 meetings each calendar year and shall be subject to removal for failure to attend at least 2 meetings unless excused by a majority of the committee. Members shall be reimbursed for their actual and necessary expenses.

### **Duties:**

The duties of this committee are to:

- Hire and fire an executive director for the office who has training and experience in foster care; and
- Support and facilitate the work of the office, including the tracking of children in foster care and reviewing foster care file audit case reviews.

## LOCAL BOARDS:

Members of local boards serving on the operative date of this act shall continue to serve the unexpired portion of their terms.

The office shall designate a local board to conduct foster care audit case reviews for each case of children in foster care placement. A local board shall send a written report to the office for each file audit case review. A court shall send a written report to the office for each foster care review hearing conducted by the court. The office may provide the designated local board with copies of the information provided by the court.

This bill becomes operative July 1, 2012.

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### **LB 1005 (Lambert) Include state emergency response teams under the Volunteer Emergency Responders Job Protection Act.**

This bill expands the definition of volunteer emergency responder to include an individual who is a member of a state emergency response team. Also, this bill prohibits an employer from terminating or taking disciplinary actions against any employee who is a volunteer emergency responder when actively deployed as a volunteer emergency responder.

This bill becomes effective July 19, 2012.

### **LB 1038 (Council) Provide for lead poisoning prevention program for children.**

This bill requires the Division of Public Health of DHHS to establish a lead poisoning prevention program that has the following components:

- A coordinated plan to prevent childhood lead poisoning to minimize exposure of the general public to lead-based paint hazards. This plan shall:
  - provide a standard, stated in terms of micrograms of lead per deciliter of whole blood, to be used in identifying elevated blood-lead levels;
  - require a child to be tested for an elevated blood-lead in accordance with the Medicaid State Plan if the child is a participant in the Medicaid program; and
  - recommend that a child be tested for elevated blood-lead levels if the child resides in a zip code with a high prevalence of children with elevated blood lead levels as demonstrated by previous testing data or if the child meets one of the criteria included in a lead poisoning prevention screening questionnaire developed by DHHS; and
- An educational and community outreach plan regarding lead-based poisoning prevention that shall include educational materials targeted to health care providers, child care providers, public school personnel, owners and tenants of dwellings, and parents of young children and are made available on DHHS' website.

The results of all blood-lead level tests shall be reported to DHHS. When DHHS receives notice of a child with an elevated blood-lead level, it shall initiate contact with the local public health department or the physician, or both, of such child and offer technical assistance, if necessary.

DHHS shall report to the Legislature by January 1, 2013, and each January 1 thereafter, the number of children from birth through age 6 who were screened for elevated blood-lead levels during the preceding fiscal year and who were confirmed to have elevated blood-lead levels. This report shall compare such results with those of previous fiscal years and shall identify any revisions to the plan.

This bill does not require DHHS to pay the cost of elevated-blood-lead-level testing except in Medicaid cases.

This bill becomes effective July 19, 2012.

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**LB 1042 (Campbell) Authorize nurse practitioners to sign death certificates.**

This bill allows a nurse practitioner to pronounce death and may complete and sign death certificates and any other forms if such acts are within the scope of practice of the nurse practitioner and are not otherwise prohibited by law.

In addition to the current grounds for disciplinary action, a license to practice as a nurse practitioner may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it when the applicant or licensee fails to comply with the current law relating to the signing of death certificates.

This bill becomes effective July 19, 2012.

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**LB 1051 (Coash) Change registry provisions regarding adult protective services and child protection cases.**

This bill provides technical changes to clarify provisions of the Adult Protective Services Act.

**DEFINITIONS:**

This bill changes the definition of abuse by replacing “denial of essential services” with “neglect.” The definition of “sexual exploitation” is added and is defined as “unlawful intrusion and causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, in exhibitionism, in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult. The definition of “unreasonable

confinement” is expanded to include “false imprisonment.” Also, the definitions of “abuse,” “neglect,” and “exploitation” are further clarified.

NOTICE:

**Adult Protective Services:**

Upon completion of the investigation, the person who allegedly abused, neglected or exploited a vulnerable adult shall be given written notice of the determination of the investigation and whether the person who allegedly abused, neglected, or exploited a vulnerable adult will be entered into the registry.

If the person who allegedly abused, neglected, or exploited a vulnerable adult will be entered into the registry, the notice shall be sent by certified mail with return receipt requested or first-class mail to the last known address of this person and shall include:

- The nature of the report;
- The classification of the report; and
- The right of this person to request DHHS to amend or expunge identifying information from the report or to remove the substantiated report from the registry.

If the person who allegedly abused, neglected, or exploited a vulnerable adult will not be entered into the registry, the notice shall be sent by first-class mail and shall include:

- The nature of the report; and
- The classification of the report.

**Child Protection Cases:**

If the subject of the report will be entered into the central register, the notice of the subject shall be sent by certified mail with return receipt requested or first-class mail to the last known address of the subject of the report of child abuse or neglect. The notice must include the right of the alleged abuser to request to amend or expunge identifying information from the report or to remove the substantiated report from the central register.

If the subject of the report will not be entered into the central register, the notice to the subject shall be sent by first-class mail and shall include:

- The nature of the report; and
- The classification of the report.

This bill becomes effective July 19, 2012.

## REGISTRY:

DHHS shall establish and maintain an Adult Protective Services Central Registry which shall contain any substantiated report regarding a person who has allegedly abused, neglected, or exploited a vulnerable adult. The person who has allegedly abused, neglected, or exploited the vulnerable adult shall be entitled to receive a copy of all information contained in the registry pertaining a report of this matter. This bill removes the requirement that all cases determined to be unfounded shall be expunged from the registry.

This bill becomes effective July 19, 2012.

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## **LB 1058 (Carlson) Change the New Hire Reporting Act and the Employment Security Law.**

For the purposes of child support enforcement, this bill changes the definition of rehire in the New Hire Reporting Act. Specifically, this definition clarifies that a temporary layoff is less than 60 days.

This bill also changes provisions relating to the Employment Security Law.

This bill as it relates to the New Hiring Report Act becomes operative on October 1, 2012.

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## **LB 1062 (Nordquist) Change provisions relating to adoption assistance.**

Before a final decree of adoption is issued, DHHS and the adoptive parent or parents shall enter into a written adoption assistance agreement stating the terms of assistance if the child is eligible for such assistance and designating a guardian for the child in case of death of the adoptive parent or parents.

Payment of adoption assistance ceases upon the death of the adoptive parent or parents except:

- In cases in which to adoption assistance agreement provides for assignment to a guardian or conservator; or,
- For up to 6 months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

Payment of adoption assistance ceases upon the placement of the child with DHHS or child placement agency.

This bill becomes effective July 19, 2012.

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## **LB 1063 (Cook) Adopt the Children’s Health and Treatment Act.**

This act provides purpose language.

First, the purpose is to require that the guidelines and criteria that DHHS utilizes to determine medical necessity for Medicaid services be published on its website and websites of its contractors for managed care and administrative services. The treating guidelines and criteria shall be referenced specifically to providers when utilized as a determination of medical necessity under the Medicaid program. Treating guidelines and criteria in effect on the effective date of this act shall be published on these websites 30 days after the effective date of this act. Notice of changes to treating guidelines and criteria shall be given to providers and time for public comment provided at least 60 days before the implementation of these changes.

Second, the purpose is to require that DHHS collect and report on authorization and denial rates for behavioral health services for children under 19 years of age.

DHHS shall report to the Health and Human Services Committee on utilization controls. These controls include, but are not limited to, rates of initial service authorizations, reauthorizations subsequent to initial service authorizations and denials for behavioral health services for children under 19 years of age. The first report shall be due on October 1, 2012, and shall contain these utilization controls for the first 3 quarters of 2012. Thereafter, on January 1, April 1, and July 1 of each year, DHHS shall report these utilization controls for the previous calendar quarter.

DHHS shall adopt and promulgate rules and regulations to carry out this act. On or after April 1, 2013, DHHS shall not apply medical necessity criteria to determine medical necessity for children under 19 years of age that have not been adopted and promulgated as rules and regulations.

This bill becomes effective July 19, 2012.

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## **LB 1072 (Business and Labor Committee) Provide for payment of claims against the state.**

This bill provides payment of certain claims against the State as well as authorized agency write-offs of certain claims.

This bill provides payment of claims by all the subcontractors of Boys and Girls Home, a former lead contract agency with DHHS. The amount of these claims was \$2,499,342.98.

This bill also provides payment of other claims involving state agencies as well as write-offs.

This bill became effective April 4, 2012.

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**LB 1077 (Howard) Require certain health care facilities to offer vaccination to residents and patients.**

Beginning no later than October 1 and ending on the following April 1 when no national vaccine shortage exists, health care facilities (i.e. ICF, general acute hospital, nursing facility, skilled nursing facility) shall annually offer onsite vaccinations for influenza and pneumococcal disease to all residents and to all inpatients prior to discharge. These vaccinations shall be pursuant to procedures of the facility and in accordance with recommendations of the advisory committee on immunization practices of the CDC and the U.S. Department of Health and Human Services. Nothing in this bill shall be construed to require these facilities to cover the cost of these vaccinations.

This bill becomes effective July 19, 2012.

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**LB 1079 (Mello) Provide grants for educational bridge programs for low-income adults.**

This bill provides funding to the Department of Education to provide grants to establish bridge programs. A bridge program is a structured career pathway program which assists students in obtaining academic employability and technical skills needed to enter and succeed in postsecondary education and training and the labor market. This bill provides a competitive bidding process for the Department of Education, requirements for the recipients and the allocation of the Education Innovation Fund.

DHHS shall cooperate with these applicants and recipients who are pursuing funding under SNAP, TANF and ADC.

This bill became effective April 7, 2012.

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**LB 1083 (Bloomfield) Clarify permitted practices under the Nurse Practice Act.**

This bill provides that the Nurse Practice Act does not prohibit home care provided for compensation or gratuitously by a parent, foster parent, family member, or friend if such person is a licensed nurse and represents or holds himself/herself out to be a nurse and uses any designation in connection with his/her name which tends to imply that he/she is licensed to practice under this act.

This bill became effective April 11, 2012.

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**LB 1122 (Bloomfield) Change the Medical Assistance Act with respect to certain home health services.**

This bill provides that any limitation on the amount, duration, or scope of goods and services that recipients may receive under the Medicaid program shall give full and deliberate consideration to the role of home health services from private duty nurses in meeting the needs of a disabled family member or disabled person.

This bill becomes effective April 11, 2012.

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**LB 1145 (McGill) Change the penalty for pandering and create a task force and require training of certain officials regarding human trafficking.**

This bill creates a task force for the purposes of investigating and studying human trafficking. The membership of this task force consists of various law enforcement related positions as well as a person involved with the control or prevention of juvenile delinquency and a person involved with the control or prevention of child abuse. It is the intent of the Legislature that law enforcement agencies, prosecutors, public defenders, judges, juvenile detention staff and others involved in the juvenile justice system and criminal justice system be provided mandatory training on human trafficking issues.

This bill becomes effective July 19, 2012.

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**LB 1148 (Gloor) Change certification provisions for marriage and family therapists.**

Under current law, a marriage and family therapist must provide evidence to DHHS that he/she has at least 3000 hours of experience in marriage and family therapy under a qualified supervisor. This bill requires that these 3000 hours include at least 1500 hours of direct-client contact during the 5 years preceding application for certification. During the course of completing the client-contact hours, there shall be at least 100 hours of supervisor-supervisee contact hours with a qualified supervisor and supervision shall be provided at least 1 hour per week or 2 hours every two weeks.

Also, this bill redefines “quality supervisor.” First, in addition to current requirements, a quality supervisor shall mean a licensed physician who holds a designation of approved supervisor from an association which establishes standards for marriage and family therapy in conformity

with accepted industry standards. Second, this definition means a marriage and family therapist who has practiced for 5 years and has completed a 5 hour supervision course that may be provided by an association which establishes standards for marriage and family in conformity with accepted industry standards. These standards must be specified in rules and regulations approved by the board and adopted and promulgated by DHHS.

This bill removes the requirement of the ratio of 2 hours supervision per 15 hours of applicant's contact with client from the definition of "supervisor."

This bill becomes effective July 19, 2012.

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**LB 1158 (Krist) Provide requirements for medical assistance behavioral health managed care contracts.**

This bill provides certain requirements for all contracts and agreements relating to the Medicaid program governing at-risk managed care service delivery for behavioral health services entered into by DHHS on or after July 1, 2012.

The first requirement is to provide a definition and cap on administrative spending that:

- Shall not exceed 7% unless the implementing department includes detailed requirements for tracking administrative spending to ensure:
  - that administrative expenditures do not include additional profit; and
  - that any administrative spending is necessary to improve the health status of the population to be served; and
- Shall not under any circumstances exceed 10%.

The second requirement is to provide a definition of annual contractor profits and losses and restrict such profits and losses under the contract so that:

- Profit shall not exceed 3% per year; and
- Losses shall not exceed 3% per year, as a percentage of the aggregate of all income and revenue earned by the contractor and related parties.

The third requirement is to provide for reinvestment of:

- Any profits in excess of the contracted amount;
- Performance contingencies imposed by DHHS; and
- Any unearned incentive funds, to fund additional behavioral health services for children, families, and adults according to a plan developed from stakeholders (i.e. consumers, regional behavioral health authorities). This plan shall address the behavioral health needs of adults and children.

The fourth requirement is to provide for a minimum medical loss ratio of 85% of the aggregate of all income and revenue earned by the contractor and related parties under the contract.

The fifth requirement is to provide that contractor incentives, in addition to potential profit, be at least 1.5% of the aggregate of all income and revenue earned by the contractor and related parties under the contract.

The sixth requirement is to provide that a minimum of .25% of the aggregate of all income and revenue earned by the contractor and related parties under the contract be at risk as a penalty if the contractor fails to meet the minimum performance metrics defined in the contract. Such penalties, if charged, shall be accounted for in a manner that shall not reduce or diminish service delivery in any way.

The last requirement is to be reviewed and awarded competitively and in full compliance with the procurement requirements of the State.

Also, DHHS may apply for and implement waivers and managed care plans for services for eligible recipients including services under the Nebraska Behavioral Health Services Act.

This bill became effective April 12, 2012.

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### **LB 1160 (Health and Human Services Committee) Require DHHS to develop an information system and provide for reports and an evaluation.**

LB 1160 provides legislative findings relating to concerns about Nebraska's capacity to collect child welfare data, the difficulties of using NFOCUS and DHHS' leadership needed to develop a uniform electronic data collection system.

LB 1160 provides intent language for legislative oversight of the child welfare system through an improved electronic data collection system, improved child welfare outcome measurements through increased reporting by any lead agencies, pilot project and DHHS, an independent evaluation of the child welfare system and to develop an electronic data system.

#### **IMPLEMENTATION OF CHILD WELFARE INFORMATION SYSTEM:**

LB 1160 requires DHHS to develop and implement a web-based, statewide automated child welfare information system to integrate child welfare into one system.

Objectives for this information system shall include:

- improving efficiency and effectiveness by reducing paperwork and redundant data entry allowing case managers to spend more time working with families and children;

- improving access to information and tools that support consistent policy and practice standards across the state;
- facilitating timely and quality case management decisions and actions by providing alerts and accurate information;
- providing consistent and accurate data management;
- establishing integrated payment processes and procedures for tracking services available and provided to children and accurately paying for those services;
- improving the capacity for case managers to complete major functional areas of their work;
- utilizing business intelligence software to track progress through dashboards;
- access to real-time data to identify specific child welfare cases and take immediate corrective and supportive actions;
- helping case managers to expediently identify foster homes and community resources available to meet each child's needs; and
- providing opportunity for greater accuracy, transparency, and oversight of the child welfare system through improved reporting and tracking capabilities.

The capacity of the web-based, statewide automated child welfare information system shall include:

- integration across related social services programs through automated interfaces;
- ease in implementing future system modifications as user requirements or policies change;
- compatibility with multiple vendor platforms;
- system architecture that provides multiple options to build additional capacity to manage increased user transactions as system volume requirements increase over time;
- protection of the system at every tier in case of hardware, software, power, or other system component failure;
- vendor portals to support direct entry of child welfare case information, as appropriate, by private providers' staff serving children, to increase collaboration between private providers and DHHS;
- key automated process analysis to allow supervisors and management to identify child welfare cases not meeting specified goals, identify issues, and report details and outcome measures to cellular telephones or other mobile communication devices used by management and administration;
- web-based access and availability 24 hours per day, 7 days per week;
- automated application of policy and procedures, to make application of policy less complex and easier to follow;
- automated prompts and alerts when actions are due, to enable case managers and supervisors to manage child welfare cases more efficiently; and
- compliance with federal regulations related to statewide automated child welfare information systems.

## REPORTING REQUIREMENTS:

### **Report on Child Welfare Information System:**

On or before December 1, 2012, DHHS with assistance from other agencies as necessary, including the data coordinator for the State Foster Care Review Office, shall report in writing to the Legislature on a plan for the statewide automated child welfare information system. This report shall include a review of the design, development, implementation and cost of the system. This report shall describe the requirements of the system and all available options and compare costs of the options.

This report shall include, but not be limited to, a review of the options for:

- system functionality;
- potential of the system's use of shared services in various areas which may include intake, rules, financial information and reporting;
- integration;
- maintenance costs;
- application architecture to enable flexibility and scalability;
- deployment costs;
- licensing fees;
- training requirements; and
- operational costs and support needs.

This report shall compare the costs and benefits of a custom-built system and a commercial off-the-shelf system, total cost of ownership and the costs of any other options considered.

In conjunction with the report, DHHS shall prepare the advance planning document required to qualify for federal funding for the statewide automated child welfare information system. This document shall describe the proposed plan for managing the design, development and operations of a statewide automated child welfare information system that meets federal requirements and the state's needs in an efficient, comprehensive and cost-effective manner.

### **Report on Child Welfare Services: Children Served by Lead Agency, Pilot Project and DHHS**

On or before September 15, 2012, and each September 15, thereafter, DHHS shall report to the Health and Human Services Committee the following information regarding child welfare services with respect to children served by any lead agency or the pilot project and children served by DHHS:

- percentage of children served and the allocation of the child welfare budget, categorized by service area and by lead agency or the pilot project, including:

- percentage of children served, by service area and the corresponding budget allocation; and
- percentage of children served who are state wards and the corresponding budget allocation;
- number of siblings in out-of-home care placed with siblings as of the June 30<sup>th</sup> immediately preceding the date of the report;
- an update of the information in the Children’s Behavioral Health Task Force including:
  - number of children receiving mental health and substance abuse services annually by Division of Behavioral Health,
  - number of state wards receiving behavioral health services annually at HRC;
  - number of state wards receiving behavioral health services as of September 1 immediately preceding June 30,
  - expenditures in the immediately preceding fiscal year by the division, categorized by services and region; and
  - expenditures in the immediately preceding fiscal year from the Medicaid program and CHIP for mental health and substance abuse services, for all children and state wards;
- information as obtained for each service area and lead agency or the pilot project:
  - case manager education;
  - average caseload per case manager;
  - average number of case managers per child during preceding 12 months;
  - average number of case managers per child for children who have been in the child welfare system for 3 months, 6 months, 12 months and 18 months and the consecutive yearly average for children under the age of majority or permanency attained;
  - monthly case manager turnover;
  - monthly face-to-face contacts between each case manager and the children on his/her caseload;
  - monthly face-to-face contacts between each case manager and the parent or parents of the children on his/her caseload;
  - case documentation of monthly consecutive team meetings per quarter;
  - case documentation of monthly consecutive child contacts with case manager per quarter;
  - case documentation of monthly consecutive parent contacts with case manager per quarter;
  - case documentation of monthly consecutive contacts with child welfare providers and case managers per quarter;
  - timeliness of court reports; and
  - non-court-involved children.
- all placements in residential treatment settings made or paid by the child welfare system, OJS, Department of Education or local education agencies, any lead agency or pilot project and the Medicaid program including, but not limited to:
  - child variables;



- reasons for placement;
- percentage of children denied Medicaid-reimbursed services and denied the level of placement requested;
- with respect to each child in a residential treatment setting:
  - status information involving a denial of initial placement request
  - funds expended and length of placements;
  - number and level of placements;
  - facility variables;
  - identification of specific child welfare services unavailable in the child's community that, if available, could have prevented the need for residential treatment; and
  - identification of child welfare services unavailable in the state that, if available, could prevent out-of-state placements,

- From any lead agency or the pilot project, the percentage of its accounts payable to subcontracted child welfare service providers that are 30 days overdue, 60 days overdue, and 90 days overdue; and
- For any individual involved in the child welfare system receiving a service or a placement through DHHS or its agent, the dates involving referrals.

### **Annual Surveys of Children:**

Each service area administrator and any lead agency or the pilot project shall annually survey children, parents, foster parents, judges, guardians ad litem, attorneys representing parents and service providers involved with the child welfare system. These surveys shall monitor satisfaction with:

- Adequacy of communication by the case manager;
- Response by DHHS, any lead agency or the pilot project to requests and problems;
- Transportation issues;
- Medical and psychological services for children and parents;
- Visitation schedules;
- Payments;
- Support services to foster parents,
- Adequacy of information about foster children provided to foster parents; and
- The case manager's fulfillment of his/her responsibilities.

A summary of the survey shall be reported to the Health and Human Services Committee on September 15, 2012, and each September 15 thereafter.

### **Reports to Child Advocacy Centers:**

Each service area administrator and any lead agency or the pilot project shall provide monthly reports to the child advocacy center that corresponds with the geographic location of the child regarding these services when the child is identified as voluntary or non-court-involved. The monthly report shall include the plan implemented by DHHS, lead agency or pilot project and the status of compliance by the family with the plan. The child advocacy center shall report to the Health and Human Committee on September 15, 2012, and every September 15 thereafter, or more frequently if requested by this committee.

### **Report on Lead Agencies/Pilot Project:**

On or before September 15, 2012, and on or before each September 15 thereafter, DHHS shall provide a report to the Health and Human Services Committee on its monitoring of any lead agencies or the pilot project. This report shall include:

- Actions taken for contract management, financial management, revenue management, quality assurance and oversight, children’s legal services, performance management and communications; and
- Review of the functional capacities of each lead agency or pilot project for
  - direct case management;
  - utilization of social work theory and evidence-based practices;
  - supervision;
  - quality assurance;
  - training;
  - subcontract management;
  - network development and management;
  - financial management;
  - financial controls;
  - utilization management;
  - community outreach;
  - coordination and planning;
  - community and stakeholder engagement; and
  - responsiveness to requests from policymakers and the Legislature.

On or before December 31, 2012, DHHS shall provide an additional report to this committee updating the information on the pilot project contained in the report of September 15, 2012.

### **Dual Diagnosis Report:**

On or before December 1, 2012, the Directors of the Behavioral Health Division, Medicaid and Long-Term Care Division, Developmental Disabilities Division and the Children and Family Services Division shall provide a report to the Health and Human Services Committee and the Developmental Disabilities Special Investigative Committee. This report concerns the access of

individuals with co-occurring conditions of an intellectual disability and mental illness to the full array of services needed to appropriately treat their specific conditions.

The report shall include, but not be limited, to:

- A summary of how these individuals are currently served, including eligibility determinations;
- An identification and further defining of individuals who currently fall in the gap between the divisions or who move from one division to another in search for appropriate services;
- Information on the individuals currently receiving services from more than one division who have these co-occurring conditions;
- An explanation of the differences and similarities in funding for services provided by the divisions and how funds from each division are being blended or can be blended to best serve these individuals;
- A plan that could be implemented by the divisions that would provide more integrated and coordinated treatment for these individuals by the divisions; and
- Any recommendations for potential legislation that would assist these divisions in carrying out this plan.

#### **Miscellaneous Reporting Requirements:**

On December 15 of 2012, 2013, and 2014, the Health and Human Committee shall provide a written report to the Legislature, Governor and Supreme Court with respect to progress made by DHHS in implementing the LR 37 recommendations. In order to facilitate this report, DHHS is required to provide this committee by September 15 of 2012, 2013, and 2014 the current statutorily required reports involving associations receiving juveniles, Office of Juvenile Services, family policy, caseloads, Family Support Hotline, waiver of foster care training requirements, and child deaths. The Children's Behavioral Health Oversight Committee shall provide its final report to the Health and Human Services Committee on or before September 15, 2012.

#### **EVALUATOR:**

DHHS shall engage a nationally recognized evaluator to provide an evaluation of the child welfare system.

The evaluator shall:

- Be a national entity that can demonstrate direct involvement with public and tribal child welfare agencies, partnerships with national advocacy organizations, think tanks, or technical assistance providers, collaboration with community agencies and independent research and

- Be independent of DHHS and any lead agency or the pilot project, shall not have been involved in a contractual relationship with DHHS, any lead agency, or the pilot project within the preceding 3 years and shall not have been served as a consultant to DHHS, any lead agency or the pilot project within the preceding 3 years.

DHHS shall give consideration to evaluator candidates who have experience in:

- Outcome measurement,
- Use of data,
- Intervention research and evaluation, and
- Dissemination and implementation research.

The evaluation shall include the following key areas:

- The degree to which privatization of child welfare services in the eastern service area has been successful in improving outcomes for children and parents;
- Review of the readiness and capacity of any lead agency or the pilot project and DHHS to perform essential child welfare service delivery and administrative management functions. The readiness review shall include, but not be limited to, strengths, areas where functional improvement is needed, areas with current duplication and overlap in effort, and areas where coordination needs improvement; and
- A complete review of the preceding 3 years of placements of children in residential treatment settings, by service area and by any lead agency or the pilot project. The content of this review mirrors the requirements in the report of child welfare services: DSHS, lead contractor or pilot.

The evaluation shall be completed and a report issued on or before December 1, 2012, to the Health and Human Services Committee and the Governor.

The part of the bill regarding the dual diagnosis report and current reports become effective July 19, 2012. The rest of the bill becomes effective April 12, 2012.

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