

# HEALTH AND HUMAN SERVICES COMMITTEE

One Hundred and Sixth Legislature

## Summary of Legislation

### 2019 and 2020 Sessions

#### *Committee Members*

Senator Sara Howard, Chair  
Senator John Arch, Vice Chair  
Senator Machaela Cavanaugh  
Senator Ben Hansen  
Senator Dave Murman  
Senator Lynn Walz  
Senator Matt Williams

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<b>2019 Bills Referred to the HHS Committee</b>					
LB 22	Kolterman	Change provisions relating to the Nursing Facility Penalty Cash Fund		Passed & Approved	18
LB 25	Kolterman	Provide for additional fees under the Uniform Credentialing Act and create the Patient Safety Cash Fund		Passed & Approved	18
LB 29	Kolterman	Provide and eliminate telehealth provisions		Passed & Approved	18
LB 37	Hilkemann	Change the Podiatry Practice Act to authorize a physician assistant to assist a podiatrist		Amended into LB 755 (2020) which was Passed & Approved	19
LB 59	Cavanaugh	Change investigation and reporting provisions under the Children's Residential Facilities and Placing Licensure Act	Speaker	Passed & Approved	19
LB 60	Cavanaugh	Change terminology relating to shaken baby syndrome		Passed & Approved	19
LB 62	Howard	Provide for education regarding and treatment of trichomoniasis		Passed & Approved	20
LB 74	Williams	Provide for validation by certified pharmacy technicians		Passed & Approved	20
LB 112	Howard	Provide for waiver of certain occupational and licensing fees as prescribed		Passed & Approved	21
LB 119	Arch	Provide for immunity from liability, confidentiality of information, and a burden of proof under the Health Care Quality Improvement Act		Passed & Approved	21
LB 135	Stinner	Change provisions relating to students in emergency medical services training		Passed & Approved	22
LB 140	Kolowski	Change provisions relating to the Indoor Tanning Facility Act		IPP'd sine die	22

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 169	Hunt	Change provisions relating to eligibility for the Supplemental Nutrition Assistance Act	Hunt	IPP'd sine die; failed cloture on GF	22
LB 200	Wishart	Change provisions relating to licensure under the Health Care Facility Licensure Act of mental health substance use treatment centers providing civil protective custody of intoxicated persons		Passed & Approved	22
LB 205	Kolterman	Adopt the Surgical Technologist Registration Act		IPP'd sine die; failed to advance on General File	23
LB 220	Wishart	Change provisions regarding vending facility programs in state building for blind vendors		Passed & Approved	24
LB 244	Erdman	Provide for mobile massage therapy establishments		Passed on Consent & Approved	24
LB 245	Erdman	Eliminate exception to the Medicaid preferred drug list		IPP'd sine die	25
LB 248	Howard	Change terminology relating to hearing impaired persons		Passed on Consent & Approved	25
LB 255	McCollister	Change provisions relating to the Supplemental Nutrition Assistance program		General File; IPP'd sine die	25
LB 260	B. Hansen	Change provisions relating to Medicaid recovery audit contractors		Passed on Consent & Approved	26
LB 312	B. Hansen	Change and eliminate provisions related to dental hygienists		Passed & Approved	26
LB 323	Crawford	Change eligibility provisions under the Medical Assistance Act for certain disabled persons	Crawford	Passed & Approved	27
LB 328	Bolz	Adopt the Nebraska Family First Act, provide for non-court-involved response to reports of child abuse or neglect, and provide for a family finding project		IPP'd sine die; portion including in LB 468	27

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 329	Bolz	Change provisions relating to child care assistance and licensure		Select File; IPP'd sine die	29
LB 332	Bolz	Change eligibility requirements and other provisions of the Young Adult Bridge to Independence Act		Portions amended into LB 600	29
LB 341	Arch	Change provisions relating to a determination of ongoing eligibility for a child care subsidy		Amended into LB 460 which was Passed & Approved	30
LB 347	Murman	Exempt reflexology from licensure under the Massage Therapy Practice Act		General File; IPP'd sine die	30
LB 402	Hilkemann	Eliminate an eligibility provision relating to nutrition assistance benefits as described		IPP'd sine die	30
LB 422	Howard	Adopt the Art Therapy Practice Act		IPP'd sine die	31
LB 423	Howard	Change and eliminate provisions relating to school-based health centers under the Medical Assistance Act		IPP'd sine die	31
LB 439	Crawford	Require coverage for chiropractic services under the Medical Assistance Act		IPP'd sine die	31
LB 449	Walz	Prohibit scleral tattooing		Passed & Approved	31
LB 459	HHS	Change criminal background check provisions under the Child Care Licensing Act		Amended into LB 460 which was Passed & Approved	32
LB 460	HHS	Change criminal background check provisions under the Children's Residential Facilities and Placing Licensure Act	HHS Committee	Passed & Approved	32
LB 468	Walz	Prohibit additional services and populations under the Medicaid managed care program	HHS Committee	Passed & Approved	34
LB 489	Howard	Require registration for the prescription drug monitoring system		IPP'd sine die	35
LB 498	Wishart	Provide for medical assistance coverage of family planning services at prescribed		IPP'd sine die	35

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 499	Morfeld	Provide requirements for services by psychologists		IPP'd sine die	35
LB 518	Linehan	Adopt the Support for Trafficking Survivors Act		Passed & Approved with AM 3023 which replaced the bill with LB 745	36
LB 528	Hilkemann	Change provisions relating to use of pharmaceutical agents and use of certain treatments and procedures by optometrists		IPP'd sine die	38
LB 540	Walz	Eliminate the termination of a developmental disability service		Passed & Approved	38
LB 541	Walz	Provide a duty for the Department of Health and Human Services relating to bone marrow		Passed & Approved	39
LB 554	Wishart	Change provisions relating to a prescription drugs not on the preferred drug list under the Medical Assistance Act		IPP'd sine die	40
LB 555	Hunt	Adopt the Sexual Assault Emergency Care Act and provide for disciplinary action against hospitals		IPP'd sine die	40
LB 556	Howard	Change provisions relating to the prescription drug monitoring program	Howard	Passed & Approved	41
LB 557	Lindstrom	Change provisions relating to prescriptions for controlled substances		Amended into LB 556 which was Passed & Approved	42
LB 559	Arch	Change provisions relating to the State Anatomical Board		Passed on Consent & Approved	42
LB 567	Morfeld	Adopt the Prescription Drug Cost Transparency Act		IPP'd sine die	43
LB 570	Walz	Change provisions relating to an advisory committee and a strategic plan for services for persons with disabilities	Walz	Passed & Approved	44

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 571	Walz	Provide for a database of grievance procedures from assisted-living facilities		Passed & Approved	44
LB 590	Briese	Provide for reporting of staff training for early childhood education		Passed & Approved	45
LB 597	Walz	Require reporting of incident and development of policies for assisted living facilities		IPP'd sine die	45
LB 607	Kolterman	Change provisions relating to nail technology and body art		Passed by Legislature, Vetoed by Governor	45
LB 629	Pansing Brooks	Provide criteria for recipients of Title X grant funds		IPP'd sine die	46
LB 645	McDonnell	Change provisions of the Medical Assistance Act		IPP'd sine die	47
LB 653	Wayne	Adopt the Healthy Kids Act and require tests for lead-based hazards in housing		IPP'd sine die	47
LB 654	Wayne	Provide for a type 1 diabetes pilot study		IPP'd sine die	48
LB 692	Cavanaugh	Change provisions relating to commemorative certificates for a nonviable birth		IPP'd sine die	48
LB 701	Bostelman	Require billing for emergency medical services		IPP'd sine die	49
LB 716	Hilkemann	Create the Medicaid Cost and Quality Data and Analysis Center of Nebraska		IPP'd sine die	49
LB 726	Walz	Require a protocol for individuals eligible for medical parole to apply for medical assistance		Passed & Approved	50
LB 730	Walz	Change, transfer, and eliminate provisions relating to advanced practice registered nurses		IPP'd sine die	50
LB 735	Chambers	Provide a duty for the Department of Health and Human Services		IPP'd sine die	51
<b>2020 Bills Referred to the HHS Committee</b>					
LB 753	Blood	Adopt the Audiology and Speech-Language Pathology Interstate Compact		IPP'd sine die	52
LB 754	Blood	Provide for a new certificate of birth and amendment of a certificate of birth		Withdrawn	54



<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 755	Blood	Change provisions relating to home services under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and Barber Act	Blood	Passed & Approved	54
LB 759	Kolterman	Require consultation with school districts regarding placement of children		IPP'd sine die	56
LB 772	Williams	Change the scope of practice for physician assistants		Amended into LB 755 (2020) which was Passed & Approved	57
LB 783	Lowe	Change the definition of ambulatory surgical center	Lowe	Passed & Approved	57
LB 811	McCollister	Change pharmacist reporting requirements under the Parkinson's Disease Registry Act		Amended into LB 755 (2020) which was Passed & Approved	58
LB 815	Morfeld	Prohibit certain section 1115 waivers under the Medical Assistance Act		IPP'd sine die	58
LB 817	Stinner	Adopt the Prescribing Psychologist Practice Act		IPP'd sine die	58
LB 825	Hilkemann	Change provisions relating to infant health screenings		Amended into LB 755 (2020) which was Passed & Approved	60
LB 828	Hilkemann	Change provisions relating to the scope of practice of a licensed optometrist		IPP'd sine die	60
LB 833	Crawford	Exclude certain elderly care programs from the Health Care Facilities Act		Amended into LB 1053 which was Passed & Approved	61
LB 834	Arch	Change provisions of the Engineers and Architects Act		Amended into LB 755 which was Passed & Approved	61

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 836	Arch	Change provisions governing certain contracts and agreements relating to the medical assistance program		Amended into LB 1158 which was Passed & Approved	61
LB 837	Arch	Change provisions relating to background checks under the Child Care Licensing Act and the Children's Residential Facilities and Placing Licensure Act		Amended into LB 1185 which was Passed & Approved	61
LB 838	Arch	Provide an exemption from licensure under the Medicine and Surgery Practice Act		Amended into LB 783 which was Passed & Approved	61
LB 840	Quick	Prohibit the use of electronic smoking devices as prescribed under the Nebraska Clean Indoor Air Act	Quick	Passed & Approved	61
LB 847	Arch	Change requirement for dispensing drugs in certain health care facilities		Amended into LB 1052 which was Passed & Approved	62
LB 849	Pansing Brooks	Change eligibility requirements under the Young Adult Bridge to Independence Act		Portions Amended into Government, Military, and Veteran's Affairs LB 848, which was Passed & Approved	62
LB 851	McCollister	Change provisions relating to eligibility for services under the Medical Assistance Act		IPP'd sine die	63
LB 875	Howard	Require a Medicaid state plan amendment for outpatient assisted therapy		IPP'd sine die	63
LB 887	Arch	Authorize pharmacists to adapt prescriptions to aid consumers		Amended into LB 1052 which was	63

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
				Passed & Approved	
LB 893	Bostelman	Change provisions relating to emergency care providers and provide for community paramedicine and critical care paramedics		Amended into LB 1002 which was Passed & Approved	63
LB 917	Wayne	Provide for a diabetes pilot study		IPP'd sine die	63
LB 922	Kolterman	Require electronic issuance of prescriptions for controlled substances as prescribed		IPP'd sine die	64
LB 932	Wishart	Require expansion of the medical assistance program as prescribed		IPP'd sine die	65
LB 955	Walz	Change provisions relating to eligibility for medical assistance		Amended into LB 956 which was Passed & Approved	65
LB 956	Walz	Provide duties for managed care organizations under the Medical Assistance Act	Walz	Passed & Approved	65
LB 977	Bolz	Change provisions relating to the case management lead agency model pilot project		Portions amended into LB 219; which was Passed & Approved	66
LB 1002	Bostelman	Change provisions relating to wholesale drug distribution for emergency medical reasons	Bostelman	Passed & Approved	67
LB 1011	Arch	Require certain hospitals to accept reimbursement from the Medicare program		IPP'd sine die	69
LB 1037	Hunt	Change provisions relating to household eligibility for Supplemental Nutrition Assistance Program benefits		IPP'd sine die	69
LB 1038	Hunt	Change provisions relating to eligibility for Supplemental Nutrition Assistance Program benefits		IPP'd sine die	69

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Priority</b>	<b>Status</b>	<b>Page</b>
LB 1043	Hansen, B.	Change provisions relating to regulation of health care facilities		Amended into LB 1053 which was Passed & Approved	69
LB 1044	Hansen, B.	Change provisions relating to the practice of medical nutrition therapy		Amended into LB 1002 which was Passed & Approved	69
LB 1049	Bolz	Provide for participation in federal Child Care Subsidy child care assistance as prescribed		IPP'd sine die	69
LB 1051	Wishart	Create the Intergenerational Care Facility Incentive Cash Fund and provide for grants		IPP'd sine die	70
LB 1052	Wishart	Change provisions regarding the preferred drug list under the Medical Assistance Act	Wishart	Passed & Approved	70
LB 1053	HHS	Require rules and regulations for hospital and nursing facility Medicaid reimbursement rates	HHS Cmtee	Passed & Approved	71
LB 1058	Howard	Adopt the Population Health Information Act		Amended into LB 1183 which was Passed & Approved	73
LB 1059	Howard	Change provisions relating to health care facility licensure		IPP'd sine die	73
LB 1061	Crawford	Change the Child Protection and Family Safety Act and eliminate a committee		Passed & Approved	74
LB 1065	Halloran	Change provisions regarding pharmacies, pharmacists, and pharmacy personnel.		IPP'd sine die	75
LB 1104	Arch	Redefine a term under the Health Care Quality Improvement Act		Amended into LB 783 which was Passed & Approved	76
LB 1105	Hansen, B.	Change audit provisions under the Medical Assistance Act		Amended into LB 956 which was	76

Bill No.	Introducer	Description	Priority	Status	Page
				Passed & Approved	
LB 1124	Howard	Adopt the Opioid Prevention and Treatment Act	Speaker	Passed & Approved	76
LB 1138	Wishart	Establish a dementia registry		IPP'd sine die	76
LB 1140	HHS	Change provisions relating to youth rehabilitation and treatment centers and placement of juveniles	HHS Cmtee	Passed & Approved	77
LB 1141	HHS	Require the Department of Health and Human Services to develop operations plans for the youth rehabilitation and treatment centers		Amended into LB 1140 which was Passed & Approved	80
LB 1142	HHS	Provide for emergency plans at the youth rehabilitation and treatment centers		Amended into LB 1140 which was Passed & Approved	80
LB 1143	HHS	Provide duties for the Department of Health and Human Services with respect to establishment of an inpatient adolescent psychiatric unit		Amended into LB 1140 which was Passed & Approved	80
LB 1145	HHS	Require the Department of Health and Human Services to develop and implement policies regarding use of mechanical restraints and transportation of juveniles		Amended into LB 1140 which was Passed & Approved	80
LB 1147	Vargas	Provide duties for the Department of Health and Human Services regarding the youth rehabilitation and treatment centers		Amended into LB 1188 which was Passed & Approved	80
LB 1149	Vargas	Change provisions relating to the Office of Juvenile Services		Amended into LB 1188 which was Passed & Approved	80
LB 1150	Brandt	Require the youth rehabilitation and treatment centers to be fully operational by July 1, 2021		Amended into LB 1188 which was	80

Bill No.	Introducer	Description	Priority	Status	Page
				Passed & Approved	
LB 1158	Arch	Provide information on job-skills programs to applicants for medical assistance	Arch	Passed & Approved	81
LB 1170	Cavanaugh	Provide for implicit bias training, coverage under the medical assistance program for doula services and postpartum women, instruction to health professionals, and a pilot program		IPP'd sine die	82
LB 1172	Cavanaugh	Change provisions relating to juveniles and provide duties for the Department of Health and Human Services		IPP'd sine die	82
LB 1182	Wayne	Provide for notice of new drug or biologics license applications and for a study of drug costs		IPP'd sine die	83
LB 1183	Arch	Adopt the Population Health Information Act, create the Health Information Technology Board, and change prescription drug monitoring program and statewide health information exchange provisions	Hilgers	Passed & Approved	84
LB 1184	Arch	Require standards for certain psychiatric services under the Medical Assistance Act		Amended into LB 1002 which was Passed & Approved	86
LB 1185	HHS	Change provisions relating to participation in the federal Child Care Subsidy program and criminal history record information checks for child care staff members and child care providers	Speaker	Passed & Approved	86
LB 1188	Howard	Change provisions relating to youth rehabilitation and treatment centers	Kolowski	Passed & Approved	87
LB 1204	Cavanaugh	Require a family support waiver under the Medical Assistance Act and provide for a pilot family support program under the Disabled Persons and Family Support Act		IPP'd sine die	89

**2019 Bills Referenced to the HHS Committee  
and Passed by the Legislature in 2019**

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Status</b>
LB 22	Kolterman	Change provisions relating to the Nursing Facility Penalty Cash Fund	Passed & Approved
LB 25	Kolterman	Provide for additional fees under the Uniform Credentialing Act and create the Patient Safety Cash Fund	Passed & Approved
LB 29	Kolterman	Provide and eliminate telehealth provisions	Passed & Approved
LB 59	Cavanaugh	Change investigation and reporting provisions under the Children's Residential Facilities and Placing Licensure Act	Passed & Approved
LB 60	Cavanaugh	Change terminology relating to shaken baby syndrome	Passed & Approved
LB 62	Howard	Provide for education regarding and treatment of trichomoniasis	Passed & Approved
LB 74	Williams	Provide for validation by certified pharmacy technicians	Passed & Approved
LB 112	Howard	Provide for waiver of certain occupational and licensing fees as prescribed	Passed & Approved
LB 119	Arch	Provide for immunity from liability, confidentiality of information, and a burden of proof under the Health Care Quality Improvement Act	Passed & Approved
LB 135	Stinner	Change provisions relating to students in emergency medical services training	Passed & Approved
LB 200	Wishart	Change provisions relating to licensure under the Health Care Facility Licensure Act of mental health substance use treatment centers providing civil protective custody of intoxicated persons	Passed & Approved
LB 220	Wishart	Change provisions regarding vending facility programs in state building for blind vendors	Passed & Approved
LB 244	Erdman	Provide for mobile massage therapy establishments	Passed & Approved
LB 248	Howard	Change terminology relating to hearing impaired persons	Passed & Approved
LB 260	B. Hansen	Change provisions relating to Medicaid recovery audit contractors	Passed on Consent & Approved
LB 449	Walz	Prohibit scleral tattooing	Passed & Approved
LB 460	HHS	Change criminal background check provisions under the Children's Residential Facilities and Placing Licensure Act	Passed & Approved – includes LB 341 and LB 459

**2019 Bills Referenced to the HHS Committee  
and Passed by the Legislature in 2019**

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Status</b>
LB 468	Walz	Prohibit additional services and populations under the Medicaid managed care program	Passed & Approved – includes portions of LB 328
LB 541	Walz	Provide a duty for the Department of Health and Human Services relating to bone marrow	Passed & Approved
LB 556	Howard	Change provisions relating to the prescription drug monitoring program	Passed & Approved – includes LB 557
LB 559	Arch	Change provisions relating to the State Anatomical Board	Passed on Consent & Approved
LB 570	Walz	Change provisions relating to an advisory committee and a strategic plan for services for persons with disabilities	Passed & Approved
LB 571	Walz	Provide for a database of grievance procedures from assisted-living facilities	Passed & Approved
LB 590	Briese	Provide for reporting of staff training for early childhood education	Passed & Approved
LB 726	Walz	Require a protocol for individuals eligible for medical parole to apply for medical assistance	Passed & Approved



### 2019 Carry Over Bills Passed by the Legislature in 2020

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Status</b>
LB 37	Hilkemann	Change the Podiatry Practice Act to authorize a physician assistant to assist a podiatrist	Provisions Passed & Approved as part of LB 755
LB 312	B. Hansen	Change and eliminate provisions related to dental hygienists	Passed & Approved
LB 323	Crawford	Change eligibility provisions under the Medical Assistance Act for certain disabled persons	Passed & Approved
LB 540	Walz	Eliminate the termination of a developmental disability service	Passed & Approved
LB 607	Kolterman	Change provisions relating to nail technology and body art	Passed by Legislature, Vetoed by Governor

**2020 Bills Referenced to the HHS Committee  
and Passed by the Legislature in 2020**

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Status</b>
LB 755	Blood	Provide for and change home services permits for barbers, cosmetology, and nail technology	Passed & Approved – includes LBs 37, LB 772, 811, 825, 834, and Government, Military, and Veterans Affairs Committee LB 752.
LB 783	Lowe	Change the definition of ambulatory surgical center	Passed & Approved – includes LB 1104 and LB 838
LB 840	Quick	Prohibit the use of electronic smoking devices as prescribed under the Nebraska Clean Indoor Air Act	Passed & Approved
LB 956	Walz	Provide duties for managed care organizations under the Medical Assistance Act	Passed & Approved – includes LB 955 and LB 1105
LB 1002	Bostelman	Change provisions relating to wholesale drug distribution for emergency medical reasons	Passed & Approved – includes LB 893, LB 1044, and LB 1184
LB 1052	Wishart	Change provisions regarding the preferred drug list under the Medical Assistance Act	Passed & Approved – includes LB 887 and LB 847
LB 1053	HHS Committee	Require rules and regulations for hospital and nursing facility Medicaid reimbursement rates	Passed & Approved – includes LB 1043 and LB 833
LB 1061	Crawford	Change provisions relating to alternative response to reports of child abuse or neglect	Passed & Approved
LB 1124	Howard	Adopt the Opioid Prevention and Treatment Act	Passed & Approved
LB 1140	HHS Committee	Provide requirements for youth rehabilitation and treatment centers	Passed & Approved – includes LBs 1141, 1142, 1143, and 1145
LB 1158	Arch	Provide information on job-skills programs to applicants for medical assistance	Passed & Approved – includes LB 836
LB 1183	Arch	Create the Health Information Technology Board and change prescription drug monitoring provisions	Passed & Approved – includes LB 1058
LB 1185	HHS Committee	Change provisions relating to criminal history record information checks for child care staff members	Passed & Approved – includes LB 837

**2020 Bills Referenced to the HHS Committee  
and Passed by the Legislature in 2020**

<b>Bill No.</b>	<b>Introducer</b>	<b>Description</b>	<b>Status</b>
LB 1188	Howard	Provide duties for the Office of Juvenile Services relating to education and change the definition of interim program school	Passed & Approved – includes LB 1147, LB 1149, and LB 1150

## 2019 Bill Summaries

### **LB 22 (Kolterman) Change provisions relating to the Nursing Facility Penalty Cash Fund**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 18

**Summary:** LB 22 relates to the Nursing Facility Penalty Cash Fund. When monetary penalties are enforced against nursing facilities that are in violation of federal regulations relating to participation in the Medicaid program, those monetary penalties be distributed to the Nursing Facility Penalty Cash Fund. Language is amended in Neb. Rev. Stat. Sec. 71-2097, 71-2098, and 71-20,100 to specify monetary penalties are “civil” monetary penalties. LB 22 also amends the law to specify that any monetary penalties imposed on a nursing facility by the Centers for Medicare and Medicaid (CMS) pursuant to the federal Social Security Act should be distributed to the Nursing Facility Penalty Cash Fund (Cash Fund) and requires that funds distributed from the Cash Fund be distributed in accordance with the federal Social Security Act and be used “to support activities that benefit nursing home residents as provided in 42 C.F.R. 488.433.” This more general language replaces a list of specific circumstances considered as a basis for distribution from the fund. Those specific circumstances are eliminated under the bill.

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### **LB 25 (Kolterman) Provide for additional fees under the Uniform Credentialing Act and create the Patient Safety Cash Fund**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 25 establishes a new credentialing fee – a “patient safety fee” – for physicians, osteopathic physicians, and physician assistants and creates the Patient Safety Cash Fund to which the proceeds from this new fee will be distributed.

Regular fees are mandated under the Uniform Credentialing Act (Neb. Rev. Stat. 38-151 to 38-155.) Section 1 of LB 25 would create a new patient safety fee of \$50 for the initial issuance or renewal of a credential to practice as a physician or osteopathic physician. Similarly, physician assistants must pay a patient safety fee of \$20. The fees will be collected biennially with the initial credentialing or renewal of a credential. The revenue from the patient safety fee will be remitted to the State Treasurer for credit to the Patient Safety Cash Fund. The fee is sunset on January 1, 2026 under Section 1 of LB 25.

LB 25 creates the Patient Safety Cash Fund. The Cash Fund is to be used solely to support the activities of a patient safety organization organized under the Patient Safety Improvement Act. LB 25 directs that any money in the Patient Safety Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. This act becomes effective January 1, 2020.

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### **LB 29 (Kolterman) Provide and eliminate telehealth provisions**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 86

**Summary:** LB 29 amends the Uniform Credentialing Act (UCA) to allow patient-provider relationships to be established through telehealth for certain credential holders under the UCA.

LB 29 provides that a credential holder who is authorized to prescribe drugs under state and federal law, may prescribe for a patient while providing services through telehealth. LB 29 allows, but does not require, the

Department of Health and Human Services to adopt and promulgate rules and regulations that are consistent with the telehealth provisions in LB 29.

The provisions of telehealth under LB 29 do not apply to certain credential holders under the Uniform Credentialing Act. Specifically, they do not apply to a credential holder under the following acts:

- The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act
- The Dialysis Patient Care Technician Registration Act
- The Environmental Health Specialists Practice Act
- The Funeral Directing and Embalming Practice Act
- The Massage Therapy Practice Act
- The Medical Radiography Practice Act
- The Nursing Home Administrator Practice Act
- The Surgical First Assistant Practice Act
- The Veterinary Medicine and Surgery Act
- The Water Well Standards and Contractor's Practice Act

AM 86 struck the Athletic Training Practice Act from the exemptions under that section and added the Veterinary Medicine and Surgery Practice Act as an exempted act so that credential holders under that practice act would not be allowed to practice through telehealth.

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**LB 37 (Hilkemann) Change the Podiatry Practice Act to authorize a physician assistant to assist a podiatrist**

**Status:** Provisions enacted as part of AM2480 to LB 755 (2020)

**Committee Action:** Amended provisions into AM 2480 to LB 755 (2020)

**Summary:** Please see the summary for LB 755 (2020).

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**LB 59 (Cavanaugh) Change investigation and reporting provisions under the Children's Residential Facilities and Placing Licensure Act**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 622

**Summary:** LB 59 amends the Children's Residential Facilities and Placing Licensure Act, specifically the section that creates a procedure for submitting a complaint to the Department of Health and Human Services (DHHS) and requesting an investigation regarding any alleged violations of the Act. (Neb. Rev. Stat. 71-1936.)

LB 59 inserts language to include complaints of child abuse or neglect within the purview of complaints to be reviewed by DHHS. It also inserts a requirement that DHHS must determine whether an investigation should be done within five days of receiving a complaint. Finally, LB 59 as amended by AM 622, requires that if an investigation is conducted, an investigation report shall be issued within 60 days after the determination was made to conduct the investigation except that the report may be filed within 90 days if an interim report is filed within 60 days.

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**LB 60 (Cavanaugh) Change terminology relating to shaken baby syndrome**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 17

**Summary:** LB 60 updates and replaces all references to “shaken baby syndrome” with “abusive head trauma” or “abusive head trauma in infants and children,” in several statutes relating to child care provider training, information given to new parents by health care facilities, and public awareness activities by the state. LB 60 also adds crying plans to the training requirements of child care and school-age-care programs as well as adding information about crying plans to the information given to parents by hospitals, birth centers, and other medical facilities that discharge a newborn child.

LB 60 also strikes the language defining shaken baby syndrome and changes the language regarding the information in the “Learning Begins at Birth” packet given to every parent in the state. Specifically, the language is amended which describes the information in the packet relating to decreasing the risk, rather than preventing, unexplained infant death syndrome and changes the shaken baby syndrome language to “abusive head trauma in infants and children.”

AM17 to LB 60 inserts a reference to “abusive head trauma in infants and children” so that the information parents may receive about safety measure to prevent harm to the child would include safety measures regarding abusive head trauma. It also changes the language regarding the dangers of infants sleeping “in the same bed” with other children or adults by striking the “in the same bed” language and replacing it with “on the same surface.”

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**LB 62 (Howard) Provide for education regarding and treatment of trichomoniasis**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 62 amends Neb. Rev. Stat. 71-503.02 relating to the treatment of certain sexually transmitted diseases (STDs) and the responsibilities of medical professionals. LB 62 adds trichomoniasis to the list of STDs for which a licensed treating physician, physician assistant, nurse practitioner, or certified nurse midwife may prescribe or provide samples of prescription oral antibiotics to that diagnosed patient’s sexual partner without examination. Trichomoniasis is also added to that same list of STDs which the treating medical provider, listed above, must provide written information to the patient.

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**LB 74 (Williams) Provide for validation by certified pharmacy technicians**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 91

**Summary:** LB 74 amends the statutes relating to supervision of pharmacy technicians by pharmacists. Currently, a pharmacist who is supervising a pharmacy technician is the only person who can verify the authorized activities or functions of the technician they are supervising. LB 74 would allow supervising pharmacists to utilize a peer validation system to help them supervise. One pharmacy technician could validate the work of a peer pharmacy technician if certain criteria were met, as defined in LB 74. The peer validation could occur only if:

- Both technicians were certified
- Are working within a hospital
- Are using bar code technology, radio frequency identification technology, or similar technology to validate the accuracy of medication
- The technicians are only validating medication that is prepackaged by the manufacturer or prepackaged and verified by a pharmacist
- The technician is acting in accordance with policies and procedures in the hospital which were established by the pharmacist in charge.

LB 74 also lists the conditions under which peer validation is allowed. AM 91 strikes the language which requires that the pharmacy technicians work in a hospital and replaces it with more specific language that requires “Both certified pharmacy technicians are working within the confines of a hospital preparing medications for administration in the hospital.”

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**LB 112 (Howard) Provide for waiver of certain occupational and licensing fees as prescribed**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 112 waives the fees for initial credentials under the Uniform Credentialing Act for low-income individuals, military families, and young workers as those terms are defined under LB 112.

“Low-income individual” is defined as an individual enrolled in a state or federal public assistance program, including but not limited to, Medicaid, the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, or someone whose adjusted gross income is below 130% of the federal income poverty guidelines or a higher threshold to be set by the Licensure Unit of the Division of Public Health of the Department of Health and Human Services. LB 112 defines “military families” as active duty service members, military spouses, honorably discharged veterans, spouses of those honorably discharged veterans, and unremarried surviving spouses of deceased service members. The definition of “military spouse” is amended to change “officer or enlisted person on active duty” to “active duty service member.” As amended by AM 526, “young worker” is defined as an applicant for an initial credential who is between the ages of 17 or 18, depending on the occupation, and 25.

LB 112 removes the fee requirements for military spouses applying for temporary or initial regular credentials. LB 112 amends Neb. Rev. Stat. 38-131 to waive the fee for a criminal background check for low-income individuals, young workers, and military families when they apply for an initial credential. LB 112 adds subsection (3) to Neb. Rev. Stat. 38-155 to waive all fees for low-income individuals, military families, and young workers for initial credentials under the Uniform Credentialing Act.

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**LB 119 (Arch) Provide for immunity from liability, confidentiality of information, and a burden of proof under the Health Care Quality Improvement Act**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 211

**Summary:** LB 119 amends the Health Care Quality Improvement Act which relates to the peer review committee process in health care facilities and the protection from liability for actions taken in that peer review process. LB 119 would add professional health care service entities to the health care providers covered under the Health Care Quality Improvement Act.

As amended by AM 211, LB 119 adds a committee established by professional health care service entity to the definition of peer review committee. It also creates section (2) requiring a professional health care service entity to have written policies and procedures governing their peer review committee if they are going to conduct a peer review process under the Health Care Quality Improvement Act.

LB 119 protects officers, directors, employees, and members of a professional health care service entity from liability for damages for conduct within the scope of the functions of the peer review committee. Similarly, the Health Care Quality Improvement Act excludes documents from the peer review committee process from discovery or being used as evidence in a civil legal action and prohibits persons participating in the peer review process from being called as a witness in a civil action with regard to the peer review process and results. LB 119 amends this section to extend these protections to officers, directors, employees, or

members of a professional health care service organization who participates in a peer review committee established by that organization.

AM211 inserts subsection (2) to Neb. Rev. Stat. 71-7913 which states that anyone seeking the confidentiality protections under the peer review process has the burden of proving that the communications and documents are protected.

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**LB 135 (Stinner) Change provisions relating to students in emergency medical services training**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 135 amends Neb. Rev. Stat. 38-1220 which lists the persons and organizations that are exempt from the Emergency Medical Services Practice Act. LB 135 amends subsection (7) to insert language that would also exempt students under the supervision of an organization accredited by the Commission on Accreditation of Allied Health Education Programs for the level of training the student is completing.

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**LB 140 (Kolowski) Change provisions relating to the Indoor Tanning Facility Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 140 would amend the Indoor Tanning Facility Act to make it unlawful for an operator, owner, or lessee of a tanning facility to allow anyone under the age of 18 to use the tanning equipment. Currently persons 16 years of age or older can use a tanning facility as well as persons under the age of 16 if accompanied by a parent or legal guardian and with written consent of the parent or guardian. (Neb. Rev. Stat. 71-3905.) LB 140 eliminates those provisions and sets the minimum age at 18 to use a tanning facility. (Section 3.)

The minimum age of 18 to use a tanning facility also applies to the civil penalties under the law under LB 140. It amends Neb. Rev. Stat. 71-3906, so that an operator, owner, or lessee of a tanning facility who allows any person less than 18 years of age (rather than 16 years of age or younger with written parental consent), is subject to the existing civil penalties of \$100.

LB 140 exempts "phototherapy" used in the practice of medicine from the age limit.

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**LB 169 (Hunt) Change provisions relating to eligibility for the Supplemental Nutrition Assistance Act**

**Status:** Failed cloture; IPP'd sine die

**Committee Action:** Advanced from Committee with AM 710

**Summary:** LB 169 relates to eligibility for the Supplemental Nutrition Assistance Program (SNAP). It eliminates a lifetime ban on SNAP for certain drug felons and lessens the restrictions on eligibility for others.

As amended by AM 710, LB 169 would have changed SNAP eligibility so that a person convicted of a felony involving a controlled substance is only eligible for SNAP benefits if he or she (1) has completed his or her sentence, including any term of parole, probation, or post-release supervision or (2) he or she is serving a term of parole, probation, or post-release for such felony.

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**LB 200 (Wishart) Change provisions relating to licensure under the Health Care Facility Licensure Act of mental health substance use treatment centers providing civil protective custody of intoxicated persons**



**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 90

**Summary:** As amended by AM 90, LB 200 prevents the Department of Health and Human Services (DHHS) from denying the issuance or renewal of a license under the Health Care Facility Licensure Act if a mental health substance use treatment center utilizes locked rooms to provide civil protective custody services, provided the mental health substance use treatment center is otherwise in compliance with DHHS rules and regulations. The person placed into civil protective custody can only be kept in a locked room until the person is no longer a danger to themselves or others and no more than 24 hours.

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**LB 205 (Kolterman) Adopt the Surgical Technologist Registration Act**

**Status:** Failed to adopt AM 1436, failed on General file; IPP'd sine die

**Committee Action:** Advanced from Committee with AM 1436

**Summary:** LB 205 would create the Surgical Technologist Registration Act effective January 1, 2020. It requires that beginning January 1, 2020, surgical technologists contracting with or employed by a facility licensed under the Health Care Facility Licensure Act or a physician engaged in the practice of medicine and surgery, must register with the Surgical Technologist Registry no later than 180 days after the commencement of the contract period or date of employment or July 1, 2020, whichever is later.

LB 205 details the requirements to be eligible to register such as being 19, a high school graduate (or equivalent), of good moral character, as well as filing an application to register. The application process requires, among other things, that the applicant document (1) current certification as a surgical technologist by the State of Nebraska or a national certifying body, (2) completion of an accredited program in surgical technology accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools, or (3) certification of competency assessment completed by a licensed health care professional. LB 205 also creates a fee to register.

The Act lists the functions and tasks a surgical technologist can perform, including preparing the operating suite, creating and maintaining a sterile field through organization and preparation of instruments and supplies; assisting surgeons and assistants with gowning and gloving, assisting with the patient including positioning and draping, passing instruments, etc., assisting the surgeon or nurse as otherwise directed.

Supervision and oversight of the Surgical Technologist Registry is delegated to the Board of Medicine and Surgery. As amended by AM 1436, LB 205 allows surgical technologists to perform certain functions provided the functions are performed under the authority of a practitioner licensed under the Uniform Credentialing Act who is directing (not delegating) surgical tasks and functions based on the surgical technologist's education, knowledge, training, and skill.

The Department of Health and Human Services is required to establish and collect the fees for registering as allowed under the Uniform Credentialing Act.

DHHS is also granted the authority to deny or refuse renewal of registration or may remove a registrant from the Registry for failure to meet the standards or for violation of the Surgical Technologist Registration Act. LB 205 also establishes appeal procedures for an applicant or registrant that is denied or removed. Persons who are denied or removed can reapply under the terms outlines.

LB 205 amends Neb. Rev. Stat. Sec. 38-2025 which lists those professionals that will not be construed as engaging in the unauthorized practice of medicine. LB 205 adds to that list certain professionals and

nonprofessionals who are licensed, certified, or registered in their relevant practice area and are assigned tasked by a qualified physician.

AM 1436 also added a reporting requirement. Facilities or persons using the services of a surgical technologist must report to the department if they take any adverse action against the surgical tech due to alleged incompetence. The report must be made 30 days after the action or event. Similarly, subsection (2) allows (but does not require) “any person” to report facts concerning the alleged incompetence of a surgical tech to the department. The remainder of section 15 and section 16 concern the confidentiality of those reports, whether they are discoverable in court, and makes facilities or persons reporting immune from criminal or civil liability for reporting.

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**LB 220 (Wishart) Change provisions regarding vending facility programs in state building for blind vendors**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 660

**Summary:** LB 220 amends the Commission for the Blind and Visually Impaired Act. (Neb. Rev. Stat. 71-8601, et. seq.)

The Commission for the Blind and Visually Impaired Act codifies, in part, a federal law which creates a vending facilities program. The vending facilities program creates opportunities for blind and visually impaired persons to be gainfully employed through the operation of vending facilities on federal property. (20 U.S.C. 107, et. seq.) Nebraska’s law also allows for the operation of vending facilities by licensed blind persons on state owned or operated buildings and property. (Neb. Rev. Stat. 71-8611, page 3.)

LB 220 inserts a provision that would allow a blind licensee to operate a vending facility rent free on state owned property. As amended by AM 660, LB 220 requires that a blind vendor selected to operate a vending facility must offer products “at prices comparable to similar products sold in similar buildings or on similar property.”

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**LB 244 (Erdman) Provide for mobile massage therapy establishments**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 1214

**Summary:** LB 244 amends the Massage Therapy Practice Act to include mobile massage therapy establishments.

The definition of massage therapy establishment in Neb. Rev. Stat. 38-1707 is amended to include a mobile massage therapy establishment. LB 244 prohibits the operation of a massage therapy establishment unless the establishment is licensed by the Department of Health and Human Services (DHHS).

LB 244 creates licensing requirements for mobile massage therapy establishments which are as follows:

- The mobile establishment must be a “self-contained, self-supporting, enclosed unit;”
- It must have an auto insurance liability policy;
- It must be clearly identified to the public by a sign;
- It must comply with sanitary requirements of the Massage Therapy Practice Act and rules and regulations adopted by DHHS;
- Its entrance must provide safe access to the public;

- It must have at least 44 square feet of floor space for one practitioner and an additional 50 square feet for each additional practitioner employed at the same time; and
- It must include a functional sink and toilet and maintain an adequate supply of clean water and wastewater storage capacity.

Persons seeking to operate a mobile unit must submit an application to DHHS that includes a detailed floor plan or blueprint.

LB 244 details the application process. To maintain a license, mobile massage establishments must:

- comply with the Massage Therapy Practice Act and all relevant rules and regulations under the Act;
- notify DHHS of any change in ownership, contact information, or if the establishment closes;
- not permit unlicensed persons to perform massage therapy in the mobile establishment;
- display the name distinguishing it as a mobile establishment;
- permit duly authorized agents of DHHS to conduct inspections without notice during normal operation hours;
- display certain records listed in section 9(6);
- not employ more employees than allowed by the square footage;
- not perform massage therapy while the mobile unit is moving but rather the unit must be parked safely and legally while clients are present;
- not park within 300 feet of a brick and mortar massage therapy establishment;
- maintain a permanent address;
- not knowingly allow its employees or clients to use, consume, or serve alcohol or drugs.

DHHS will not enforce the parking requirements but may discipline a license for a reported violation.

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**LB 245 (Erdman) Eliminate exception to the Medicaid preferred drug list**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 245 amends the preferred drug list provisions under the Medical Assistance Act. The bill strikes the language in Neb. Rev. Stat. 68-954(1) that excludes antidepressants, antipsychotics, and anticonvulsant prescription drugs from the preferred drug list (PDL), thereby including those drugs in the PDL.

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**LB 248 (Howard) Change terminology relating to hearing impaired persons**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 248 replaces the term “hearing impaired” with the term “deaf or hard of hearing” when found in Nebraska statutes, specifically sections 20-126, 20-128, 20-131.01, 20-131.04, 28-1009.01, 71-4720, and 83-101.14. These sections of law encompass civil rights provisions, criminal statutes for violence against a service animal, and the creation of the Commission for the Deaf and Hard of Hearing.

LB 248 also strikes language relating to the transfer of property from the Commission for the Hearing Impaired to the Commission for the Deaf and Hard of Hearing in 1997.

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**LB 255 (McCollister) Change provisions relating to the Supplemental Nutrition Assistance program**

**Status:** IPP'd sine die

**Committee Action:** Advanced from Committee

**Summary:** LB 255 amends the eligibility provisions for the Supplemental Nutrition Assistance Program (SNAP). LB 255 amends Neb. Rev. Stat. 68-1017.02(3)(b)(i) to set gross eligibility at 140% of the federal poverty guidelines for SNAP benefits. The net income eligibility limit would not change.

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**LB 260 (B. Hansen) Change provisions relating to Medicaid recovery audit contractors**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 260 relates to the use of recovery audit contractors by the Department of Health and Human Services (DHHS). The stated purpose of a recovery audit contractor (RAC) is to assist with cost-containment in the Medicaid program by finding third party liability and overpayments. LB 260 amends Neb. Rev. Stat. 68-974 to make the use of RACs discretionary rather than mandatory. It also makes discretionary rather than mandatory contracting with a person to support a health insurance premium assistance payment program.

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**LB 312 (B. Hansen) Change and eliminate provisions related to dental hygienists**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 1134

**Summary:** LB 312 relates to the practice of dental hygienists in the context of public health-related services under Neb. Rev. Stat. 38-1130 in the Dentistry Practice Act.

Under current law, dental hygienists may perform the functions listed in the Dentistry Practice Act only when authorized by a licensed dentist, except as provided in 38-1130 in the context of public health related services. As amended by AM 1134, LB 312 amends the public health related services section of the law to authorize a dental hygienist to:

- perform all the authorized functions within their scope of practice, except periodontal scaling, root planning, and the administration of anesthesia and nitrous oxide,
- allows the Department of Health and Human Services (DHHS) to authorize a licensed dental hygienist, within the context of public health related services or in a health care facility and upon completion of education and testing approved by the Board of Dentistry, to:
  - write prescriptions for mouth rinses and fluoride products; and
  - make minor denture adjustments.

LB 312 strikes section 4(a) of 38-1130 which required dental hygienists to have 3,000 hours of clinical experience in order to perform a variety of functions in the conduct of public health related services to adults in a public health setting or health care facility, such as oral prophylaxis, pulp vitality testing, preventative measures, among others. It also strikes section 4(b) relating to the process by which DHHS verifies the required 3,000 hours of clinical experience and authorizes dental hygienists to perform services for adults in a public health related setting.) Section 4(c) is also struck which requires a report by the dental hygienist of the authorized functions he or she performed in the public health setting and requires the dental hygienists to inform the patient that their services are preventative in nature and do not constitute a comprehensive dental diagnosis and care.

AM 1134 also adds an evaluation provision which requires the department to annually evaluate the delivery of dental hygiene services and provide a report electronically to the Clerk of the Legislature on or before

September 15 each year beginning in 2020 regarding the evaluation. The Health and Human Services Committee is also required to hold a hearing at least once every three years to assess the reports submitted.

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**LB 323 (Crawford) Change eligibility provisions under the Medical Assistance Act for certain disabled persons**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 678

**Summary:** LB 323 amends the Medical Assistance Act, specifically the eligibility requirements in Neb. Rev. Stat. 68-915 as they relate to certain persons with disabilities.

Under current law, certain persons with disabilities who are able to work and earn income can maintain their Medicaid eligibility by paying a premium on a sliding scale.

AM 678 replaced the green copy. As amended by AM 678, LB 323 changes the authorizing references of federal law from the Balanced Budget Act of 1997 to the Ticket to Work and Work Incentives Improvement Act of 1999. To be eligible a family's income must still be below 250% of the poverty guidelines.

AM 3118 offered by Senator Crawford on Select File pushes the operative date of the act to Fiscal Year 2021-2022.

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**LB 328 (Bolz) Adopt the Nebraska Family First Act, provide for non-court-involved response to reports of child abuse or neglect, and provide for a family finding project**

**Status:** IPP'd sine die

**Committee Action:** Portions included in AM 1166 to LB 468

**Summary:** LB 328 creates the Nebraska Family First Act (NFFA). It also amends the Child Protection and Family Safety Act (Neb. Rev. Stat. 28-710 to 28-727) and the Foster Care Review Act (Neb. Rev. Stat. 43-1301.)

*Nebraska Family First Act*

Definitions: LB 328 creates definitions for the NFFA including: candidate for foster care; kin caregiver; non-court involved case; pregnant or parenting foster child; and prevention plan.

Prevention Services

LB 328 requires DHHS to provide prevention and family services for children who are candidates for foster care or who are pregnant and parenting foster children, including mental health and substance abuse prevention and treatment and in-home parent-skill-based programming. The services shall be trauma-informed. The services provided shall be specified in advance in a written prevention plan signed by the parents and caregivers. The services must be provided for up to 12 months unless renewed by DHHS.

DHHS must comply with this section in all non-court-involved cases and alternative response cases.

Rights Created by NFFA

LB 328 creates and details the rights of persons involved in all non-court involved cases or cases involving a candidate for foster care where the child lives temporarily with a relative or kin caregiver until reunification can be safely achieved or if the child lives permanently with a relative or kin caregiver.

Non-Court Involved Cases

LB 328 creates parameters and requirements for non-court involved cases.

#### Public Benefits

Throughout the NFFA, DHHS is required to assess the eligibility of a family for and assist in application for any public benefits, including Medicaid, WIC, SNAP, TANF, etc.

#### Nebraska Indian Child Welfare Act

In all non-court involved cases, DHHS shall assess whether the Nebraska Indian Child Welfare Act (ICWA) applies and if it does, shall comply with all ICWA protections.

#### Placement Settings

Section 10 requires DHHS to provide and contract with providers to create a full array of services statewide and DHHS *may* place a child in foster in care in one of the following placements:

- Foster family home
- Licensed residential family-based treatment facility for substance abuse
- Qualified residential treatment program (QRTP)
- A setting specializing in providing prenatal, postpartum, or parenting supports for parenting foster children
- A setting providing high-quality resident care and supportive services to children who are at risk of becoming victims of sex-trafficking

It creates additional requirements regarding placements at a QRTP.

#### Data reporting

DHHS must report annually to the Health and Human Services Committee of the Legislature specific data on prevention services offered, expenditures on prevention, data on who is receiving prevention services, and data on placement services.

#### DHHS Duties re: federal law and funding

LB 328 requires DHHS to submit a state plan amendment as necessary by October 15, 2019 to meet the NFFA and to seek funding under Title IV-E of the federal Social Security Act.

The NFFA is to be implemented in accordance with the FFPSA and in accordance with requirements to receive Title IV-E funding.

#### Kinship Navigator Program

LB 328 and the NFFA also require DHHS to create a Kinship Navigator Program pursuant to the FFPSA.

#### *Amending the Child Protection and Family Safety Act*

#### Definition changes

Section 20 of LB 328 amends the Child Protection and Family Safety Act by adding several definitions for: initial assessment worker; non-court involved case; voluntary placement; and voluntary placement agreement.

And by amending the existing definitions of investigation and out of home child abuse and neglect.

#### Law Enforcement and DHHS roles upon abuse and neglect report

LB 328 amends Neb. Rev. Stat. 28-713 to clarify the circumstance in which law enforcement must act immediately to protect a child and institute legal proceedings.

### Central Registry

LB 328 also amends the central registry provisions for non-court involved cases. It inserts a provision that allows a parent or custodian to be expunged from the registry within 90 days if the parent or guardian no longer presents a safety risk to the child.

### Initial Assessments

LB 328 inserts a new section of law regarding initial assessments by DHHS workers in response to a report of abuse or neglect and clarifies the findings that must be made.

### Amends 1184 Teams

Child abuse and neglect investigation teams were created in each county or group of counties under Neb. Rev. Stat. 28-728. The teams are led by the child advocacy centers in the state.

LB 328 amends the relevant statutes to change the duty of the investigation team.

### *Family Finding Project*

LB 328 would make the family finding project permanent.

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### **LB 329 (Bolz) Change provisions relating to child care assistance and licensure**

**Status:** IPP'd sine die

**Committee Action:** Advanced from Committee with AM 1183

**Summary:** LB 329 changes the eligibility and duration of transitional child care assistance under the Child Care Subsidy program and also amends the Child Care Licensing Act.

The green copy of LB 329 would have changed the income eligibility for the Child Care Subsidy program in Nebraska to 165% of the federal poverty level and changed the redetermination period to every 12 months. LB 329 also amends the language to allow a family to receive transitional child care subsidies until the family's income exceeds 200% of the federal poverty guidelines.

As amended by AM 1183, LB 329 changes the eligibility level for transitional child care assistance from 185% of the federal poverty guidelines to 200% of the federal poverty guidelines. This does not change the initial eligibility for the child care program. Families must still make less than 130% of the federal poverty guidelines to enter the program. But if they increase their earnings while on the program, they may stay on if their income remains under 200% of the federal poverty guidelines at the time their eligibility is redetermined.

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### **LB 332 (Bolz) Change eligibility requirements and other provisions of the Young Adult Bridge to Independence Act**

**Status:** Portions enacted in LB 600

**Committee Action:** Advanced from Committee with AM 629

**Summary:** LB 332 amends various provisions of law relating to the Young Adult Bridge to Independence Act to include (1) juveniles whose guardianship was disrupted or terminated after he or she had attained the age of 16 and (2) juveniles with adoption assistance agreements.

The goal of the Bridge to Independence Program is to support state wards transitioning to adulthood, becoming self-sufficient, and creating permanent relationships. (Neb. Rev. Stat. 43-4502.) It is available to juveniles who became state wards due to abuse and neglect and who were in an out-of-home placement or were discharged to independent living at the time they turned 19 or juveniles with a guardianship assistance agreement. (Neb. Rev. Stat. 43-4504.)

LB 332 also amends the Bridge to Independence Act so that a person whose housing is paid for by a Medicaid home and community-based services waiver is not eligible to receive foster care maintenance payments under the Bridge to Independence Program.

LB 332 inserts language so that the Bridge to Independence Advisory Committee which is under the jurisdiction of the Nebraska Children's Commission, will continue to exist in the event that the Nebraska Children's Commission terminates.

Finally, LB 332 requires the Department of Health and Human Services to amend Nebraska's state plan amendment to seek federal IV-E funding for Bridge to Independence Program services for juveniles whose guardianships were disrupted or terminated after they became 16 years old.

AM 629 amends sections 3 and 4 of LB 332 to change the eligibility requirements for the Bridge to Independence Program in Neb. Rev. Stat. 43-4504. First, AM 629 inserts a requirement in subsection (4) that the young adult be a resident of Nebraska unless the young adult was placed outside of Nebraska pursuant to the Interstate Compact for the Placement of Children.

Second, AM 629 inserts a provision that a young adult is not eligible for the Bridge to Independence Program if they are already covered under a home and community-based services waiver. This section was originally included in section 4 in the green copy.

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**LB 341 (Arch) Change provisions relating to a determination of ongoing eligibility for a child care subsidy**

**Status:** Enacted as part of LB 460

**Committee Action:** Advanced from Committee as part of AM 1211 of LB 460

**Summary:** LB 341 changes the eligibility and duration of transitional child care assistance under the Child Care Subsidy program. Please see the summary of LB 460.

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**LB 347 (Murman) Exempt reflexology from licensure under the Massage Therapy Practice Act**

**Status:** IPP'd sine die

**Committee Action:** Advanced from Committee

**Summary:** LB 347 amends the Massage Therapy Practice Act, specifically the provisions in section 38-1708 which exempts certain groups from licensure under the Act.

LB 347 exempts from licensure individuals engaged in the practice of reflexology whose practice is limited to the application of specific pressure by the practitioner's hands, thumbs, or fingers to the soft tissue of the hands, feet, and outer ears and whose services are not designated as or implied to be massage or massage therapy.

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**LB 402 (Hilkemann) Eliminate an eligibility provision relating to nutrition assistance benefits as described**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 402 eliminates a lifetime ban on Supplemental Nutrition Assistance Program (SNAP) benefits for persons who have been convicted of drug felonies.



LB 402 amends the language in 68-1017.02 by striking certain sections so that Nebraska would opt out of the provisions of federal law that create a lifetime ban on SNAP for persons convicted of a drug felony.

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**LB 422 (Howard) Adopt the Art Therapy Practice Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 422 creates the Art Therapy Practice Act under the Uniform Credentialing Act.

LB 422 defines several terms including professional art therapy and a licensed professional art therapist.

LB 422 prohibits the use of the title “licensed professional art therapist” or LPAT unless he or she is licensed by the Board of Art Therapy and prohibits anyone from practicing art therapy without a license.

LB 422 also details the licensure requirements for art therapists including graduation from an art therapy program at an accredited institution approved by the Board of Art Therapy or graduation with a four-year degree from an accredited institution and two consecutive years as a student art therapist, and the completion of an examination approved by the Board.

LB 422 also make provisions for licensure through continuing competency requirements for persons who have not practiced for more than three years or have practiced in another jurisdiction. In addition, a military spouse may apply for a temporary license.

The Department of Health and Human Services is required to establish and collect fees for initial licensure and renewal under the Act. The Act becomes operative on January 1, 2020.

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**LB 423 (Howard) Change and eliminate provisions relating to school-based health centers under the Medical Assistance Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 423 amends the definition of school-based health center for purposes of the Medical Assistance Act. LB 423 strikes several subsections in the definition including: the provision limiting school-based health services to school hours; the provision that prohibits a school-based health center from serving as a child’s medical or dental home; the provision related to reproductive health services; and the provision limiting health services to medical health, behavioral health, preventative health, and oral health.

LB 423 also repeals Neb. Rev. Stat. 68-968 which creates School Health Center Advisory Councils which are comprised of a representative from the school, from the sponsoring facility, a parent, and occasionally a student.

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**LB 439 (Crawford) Require coverage for chiropractic services under the Medical Assistance Act**

**Status:** IPP'd sine die

**Committee Action:** None (resolved administratively)

**Summary:** LB 439 amends the Medical Assistance Act to change provisions around chiropractic services. LB 439 would require Medicaid coverage for all services within the scope of practice provided by licensed chiropractors and would require Medicaid coverage for at least 24 treatments per benefit year.

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**LB 449 (Walz) Prohibit scleral tattooing**

**Status:** Enacted

**Committee Action:** Advanced from Committee

**Summary:** LB 449 amends the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to prohibit scleral tattooing.

LB 449 defines scleral tattooing as the practice of using needles, scalpels, or other related equipment to produce an indelible mark or figure on the human eye by scarring or inserting a pigment on, in, or under various parts of the “conjunctiva” (meaning the mucus membrane that covers the front of the eye and lines the inside of the eyelids) or another ocular surface.

LB 449 prohibits a person from performing or offering to perform scleral tattooing on another person, unless it is an act of a health care professional when performed in the scope of the health care professional’s practice.

LB 449 creates civil penalties not to exceed \$10,000 for each violation of this Act. Penalties collected are to be remitted to the State Treasurer for distribution in accordance with the state Constitution.

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**LB 459 (HHS Committee) Change criminal background check provisions under the Child Care Licensing Act**

**Status:** Enacted as part of LB 460

**Committee Action:** Advanced as part of am 1211 TO LB 460

**Summary:** LB 459 creates a requirement to align with federal law that persons applying for a license as a child care provider, or persons who are already licensed child care providers, must submit a request for a national criminal history record information check. Please see LB 460 for summary.

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**LB 460 (HHS Committee) Change criminal background check provisions under the Children's Residential Facilities and Placing Licensure Act**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 1211 which included LB 341 and LB 459

**Summary:** LB 460 amends the Children’s Residential Facilities and Placing Licensure Act with new federally mandated criminal background check requirements.

Any individual over the age of 18 who is employed by a residential child-caring agency is required to undergo a national criminal history record information check at least once every five years and submit to four other types of background checks.

To conduct a national criminal history record information check:

- the individual being screened must submit a complete set of fingerprints to the Nebraska State Patrol;
- the Nebraska State Patrol will transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record information check; and
- the State Patrol must then issue a report to the Department of Health and Human Services with the information collected during the criminal history record information check.

The four additional background checks include:

- A search of the National Crime Information Center’s National Sex Offender Registry
- A search of three different registries, repositories or databases in the state where the individual resides and in each state where the individual resided during the last five years:

- State criminal registries and repositories
- State sex offender registries or repositories
- State-based child abuse and neglect registries

The individual being screened must pay the actual cost of the fingerprinting and national criminal history record information check and the actual cost of the additional background checks.

AM 1211 revises some language in LB 460 and incorporates LB 341 and LB 459 into LB 460. LB 460 is amended to add that the Department of Health and Human Services (DHHS) may pay for all or part of the cost if funding becomes available. AM 1211, section 9, provides an emergency clause for LB 460. But section 6 carves out sections 1 and 2 (LB 341), section 3 (LB 459), and section 7 which will become operative three calendar months after the adjournment of this legislative session. All other sections become operative on their effective date.

LB 341 - Change provisions relating to a determination of ongoing eligibility for a child care subsidy

The original provisions of LB 341 amend Neb. Rev. Stat. 68-1206 to reflect the changes in federal law regarding the child care subsidy program and the eligibility and duration of transitional child care assistance. Families may receive child care assistance in Nebraska if their income is less than 130% of the federal poverty guidelines. When determining ongoing eligibility, if a family's income exceeds 130% of the federal poverty guidelines, the family may receive transitional child care assistance for the remainder of the family's eligibility period or until the family income exceeds 85% of the median income for a family of the same size, whichever occurs first.

In addition, the family will continue to be eligible for transitional child care assistance through the next eligibility period if the family's income is below 185% of the federal poverty guidelines, as long as the family's income does not exceed 85% of the state median income for a family of the same size.

The language limiting transitional child care assistance to 24 months is struck. The language in existing law which would end a family's transitional child care assistance and move the family back onto regular child care subsidy assistance if the family's income falls back below 130% of the federal poverty guidelines is struck.

Section 2 of AM 1211 strikes the 24 month limit on work related child care assistance to harmonize provisions.

LB 459 - Change criminal background check provisions under the Child Care Licensing Act

The original provisions of LB 459 relate to fingerprinting and criminal history record information checks for child care programs under the Child Care Development Block Grant.

Persons applying for a license as a child care provider, or persons who are already licensed child care providers, must submit a request for a national criminal history record information check for each child care staff member, including prospective child care staff members, at the applicant's or licensee's expense.

Child care staff member is defined as an individual who is not related to the children receiving care, who is employed by a child care provider for compensation, and whose activities involve the care or supervision of the children for the child care provider or unsupervised access to the children being served. In addition,

persons 18 years of age or older who reside in a family child care home are considered child care staff members for purposes of the criminal background checks.

Beginning September 1, 2019 all prospective child care staff members must submit to a criminal history record information check before they can be employed. Similarly, beginning on September 1, 2019, persons over 18 years of age residing in a family child care home must submit to a criminal history record information check. For child care staff members that are already employed before September 1, 2019, they will have until September 1, 2021 to submit to a national criminal history record information check unless they cease to be a child care staff member prior to that date.

To conduct a national criminal history record information check, a child care staff member must submit a complete set of fingerprints to the Nebraska State Patrol. The Nebraska State Patrol will transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The State Patrol must then issue a report to the DHHS with the information collected during the criminal history record information check.

A child care staff member is required to undergo a national criminal history record information check at least once every five year period.

The child care staff member being screened must pay the actual cost of the fingerprinting and national criminal history record information check.

Child care staff members must also submit to several other background checks at their expense, such as the National Crime Information Center's National Sex Offender Registry, a search of a variety of registries and data bases regarding criminal history, sex offenses, and child abuse and neglect in each state in which the staff member resides or has resided in the last five years. Any person who refuses to consent to the national criminal history record information check, knowingly makes false statements in connection with the background check, is a registered sex offender, has been convicted of a crime of violence, moral turpitude, or dishonesty may not be employed by a child care center.

DHHS and the Nebraska State Patrol may promulgate rules and regulations regarding the implementation of national criminal history record information checks, including the costs associated.

In addition, DHHS may also promulgate rules and regulations regarding the employment of child care staff members with criminal records. A child care provider will not be eligible for a license if they employ a staff member who is not eligible under these rules and regulations.

These provisions do not apply to child care providers licensed as family child care home I. A family child care home means a program in the licensee's residence which may serve at least four but not more than eight children. (391 NAC 1-002.)

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**LB 468 (Walz) Prohibit additional services and populations under the Medicaid managed care program**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 1166 which includes portions of LB 328

**Summary:** LB 468 amends the Medical Assistance Act. As amended by AM 1166, LB 468 prohibits

long term care services and supports, including skilled nursing facilities, nursing facilities, assisted-living facilities, and home and community based services, may not be added into the Medicaid managed care program before July 1, 2021.

LB 328 - Adopt the Nebraska Family First Act, provide for non-court involved response to report of child abuse or neglect, and provide for a family finding project

AM 1166 incorporates the family finding project portion of LB 328 into LB 468. The family finding project was a pilot project with a sunset date of June 30, 2019. AM 1166 incorporates the provisions from LB 328 that remove the sunset and pilot project status of the family finding program. The sunset for the family finding program is struck in section 3, and references to the pilot project are struck in several other sections.

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**LB 489 (Howard) Require registration for the prescription drug monitoring system**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 489 amends the Uniform Credentialing Act, specifically provisions relating to the prescription drug monitoring program (PDMP). Under LB 489 each credential holder under the Uniform Credentialing Act is required to register with the Department of Health and Human Services (DHHS) for the PDMP if the credential holder is a dispenser or prescriber as defined in Neb. Rev. Stat. 71-2454.

LB 489 requires DHHS to create a registration system. Registrations will be valid for the term of the credential and renewal of registration is a condition of the renewal of the credential. Credential holders must register within one month of receiving their original or renewal credential or within one year of the effective date of the Act, whichever is later. There is no charge for registration.

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**LB 498 (Wishart) Provide for medical assistance coverage of family planning services at prescribed**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 498 amends the Medical Assistance Act, specifically Neb. Rev. Stat. 68-911 which defines covered services.

LB 498 requires the state to submit a state plan amendment to the Centers for Medicare and Medicaid Services (CMS) to provide family planning services for families whose income is at or below the eligibility level for pregnant women in Nebraska's Medicaid program as set on January 1, 2019. The family planning services must be consistent with federal law and includes coverage of, without imposition of utilization controls, all U.S. Food and Drug Administration approved family planning methods.

Family planning services are further defined to include:

- Medical diagnosis and treatment of services that are provided in a family planning setting as part of or as a follow up to a family planning visit
- Preventative services routinely provided during a family planning visit
- Treatment of a major medical complication resulting from a family planning visit
- The insertion of long-acting reversible contraceptive immediately postdelivery as part of a family planning visit.

No state funds shall be utilized to pay for elective abortion services.

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**LB 499 (Morfeld) Provide requirements for services by psychologists**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 499 amends certain provisions of the Psychology Practice Act.

Section 1 of LB 499 amends the definition of code of conduct by striking the original definition which deferred to the rules adopted by the Board of Psychology and inserts language to define code of conduct as “a version of the American Psychological Association Ethical Principles of Psychologists and Code of Conduct” that is adopted by the Board of Psychology.

Section 2 amends Neb. Rev. Stat. 38-3129 which requires psychologists to conform with the code of conduct. LB 499 inserts new provisions into that requirement. It prohibits a psychologist from accepting a role outside that psychologist’s scope of competence. It also prohibits a psychologist from accepting a professional role if the psychologist has “a conflict of interest that could adversely affect the provision of such services” and requires the psychologist to decline to provide services in a way that is consistent with the code of conduct. Finally, if a psychologist is not able to serve an established patient, the psychologist must refer the patient to another professional, taking into account the patient’s “needs, abilities, and circumstances, in a manner that protects the safety of the patient and the public.”

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### **LB 518 (Linehan) Adopt the Support for Trafficking Survivors Act**

**Status:** Enacted with provisions from Judiciary bill LB 745

**Committee Action:** Advanced to General File with AM 899

**Summary:** LB 518 creates the Support for Trafficking Survivors Act. The intent of the Act is to “create a statewide multi-systemic response and provide supportive services that promote safety, well-being, and economic stability for victims of sex trafficking and commercial sexual exploitation” by establishing an Office of Support for Trafficking Survivors, a Support for Trafficking Survivors Advisory Board, and Support for Trafficking Survivors Fund.

#### Office of Support for Trafficking Survivors

Section 4 of the Act creates the Office of Support for Trafficking Survivors. The Office is established within the Department of Health and Human Services (DHHS) and shall be staffed with a program coordinator appointed by the CEO of DHHS and shall also include any other staff deemed necessary. The Office will be funded through the Support for Trafficking Survivors Fund.

#### Support for Trafficking Survivors Advisory Board

The main purpose of the Board is to award grants and create a state plan for supportive services for victims of sex trafficking and commercial sexual exploitation. The Board will consist of 15 members, 9 voting and 6 non-voting members. The voting members will be appointed by the Governor. The members of the Board include sex trafficking survivors, service providers, law enforcement, a county attorney, and a behavioral health provider.

The Board is to be appointed by October 1, 2019, and the program coordinator for the Office shall serve as the Chairperson. The Board’s duties include: meeting quarterly; creating and reviewing annually a state plan to “prevent, identify, and respond to sex trafficking and commercial sexual exploitation and to support the safety, well-being, and economic stability of victims of sex trafficking and commercial sexual exploitation”; revising the state plan every three years; developing criteria, reviewing applications and approving awards of grants; consulting with relevant state agencies, task forces, etc., to determine need for proposed programs; and identifying barriers to the provision of supportive services and recommending how to remove those barriers.

The following shall be included in the state plan developed by the Board:

- Strategies to develop and support provision of supportive services;
- Steps to develop and implement a screening tool for DHHS and other state agencies;
- Evaluation of the availability of services through the child welfare and criminal justice systems;
- Accounting of all receipts and disbursement in the Support for Trafficking Survivors Fund, including information regarding the grants awarded or reimbursements made to state or local agencies;
- Data on the number of victims of sex trafficking and commercial exploitation identified or served by DHHS.

The Board is also directed to establish a competitive grant program. The grants shall be awarded to programs providing supportive services to survivors of sex trafficking and commercial sexual exploitation as long as the programs meet the requirements of LB 518, such as (a) utilizing trauma informed approach; (b) using a victim-centered approach; (c) providing linguistically and developmentally appropriate services; (d) providing case management; (e) informing victims about options to work through the criminal justice system; and (f) providing services without discrimination. Programs are not eligible for grants if the services are coercive, do not allow for the free practice of religion or promote or require the practice of a particular religion, or if services are conditioned on participation in a criminal prosecution.

The first grants are to be awarded in calendar year 2020. (Sec. 7(5), page 10, line 13.) The funding for the grants would come from the Support for Trafficking Survivors Fund.

#### Support for Trafficking Survivors Fund

Section 9 creates the Support for Trafficking Survivors Fund and directs the State Treasurer to credit to the fund any money appropriated or donated or contributed to the Fund. The Fund will be administered by DHHS.

Under Section 10, \$450,000 is appropriated from the General Fund into the Support for Trafficking Victims Fund in both FY 20 and FY 21. Another \$50,000 is appropriated to the Human Trafficking Investigation Assistance Fund in both FY 20 and FY 21.

Section 11 amends the name of the previously created Human Trafficking Victim Assistance Fund by replacing “Investigation” for “Victim.” That Investigation Fund is administered by the Nebraska Commission on Law Enforcement and Criminal Justice. LB 518 requires the Department of Justice to approve and coordinate payments from this fund. The Investigation Fund is meant to support state and local law enforcement in conducting victim-centered and trauma-informed investigations, operations, and prosecutions. But these funds may not be used in the investigation, operations or prosecution of prostitution arrests.

#### **Explanation of Amendments:**

AM 899 strikes the appropriations for the two Funds in section 10 of the green copy.

Without the appropriations, the competitive grant program for supportive services for victims and all related requirements are contingent on public or private funding becoming available and language is inserted in several sections accordingly.

The reporting requirement in section 6(2)(e) and the requirement that the board contract with an independent consultant to evaluate the state plan are also made contingent on funding.

The Funds created in LB 518 are also amended. Under AM 899, the existing Human Trafficking Victim Assistance Fund would become the fund for supportive services and treatment for victims of human trafficking. (This replaces the Support for Trafficking Survivors Fund that was newly created under the green copy of LB 518 for supportive services.)

Under AM 899, the Sex Trafficking Investigation Assistance Fund would be newly created to reimburse state or local law enforcement for expenses associated with victim-centered, trauma-informed investigations, operations or prosecutions. It will be administered by the Nebraska Commission on Law Enforcement and Criminal Justice.

AM 899 removes the anti-discrimination provision for grantees in the green copy section 7(2)(f). It also amends the language in Sec. 7(3)(b) to require that grantees allow the free practice of the religion of choice.

Finally, there is no coordinator required for the Office of Support for Trafficking Survivors as previously required under LB 518 section 4(1) and that position is removed from list of Advisory Board members and as the chairperson of the Advisory Board Under AM 899 the board will elect a chairperson.

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**LB 528 (Hilkemann) Change provisions relating to use of pharmaceutical agents and use of certain treatments and procedures by optometrists**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 528 amends the Optometry Practice Act. The definition of optometry in Neb. Rev. Stat. 38-2605 is amended to include the use of surgery or the use of laser surgery if: (1) the treatment or procedure is taught as part of the curriculum of an accredited school of optometry and competency of a licensed optometrist can be tested; (2) the treatment or procedure is proposed for approval and authorization by the Board of Optometry with the approval of the State Board of Health; and (3) the treatment or procedure is to be provided at the same standard of care as that provided by a physician licensed to practice medicine and surgery in this state.

Similarly, section 4 inserts a new provision to authorize the use of pharmaceutical agents or routes of administration for a pharmaceutical agent which are not currently authorized for optometrists if the same standards detailed in section 3, above, are met with regard to the use of the pharmaceutical agents or routes of administration.

The additional pharmaceutical agents, for therapeutic purposes, authorized in section 4 are amended into the definition of pharmaceutical agents for purposes of the Optometry Practice Act, Neb. Rev. Stat. 38-2604.

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**LB 540 (Walz) Eliminate the termination of a developmental disability service**

**Status:** Enacted

**Committee Action:** Advanced with AM 1182

**Summary:** LB 540 amends the Developmental Disabilities Services Act. It removes a sunset provision in Neb. Rev. Stat. 83-1216.02 related to services that must be provided to persons with disabilities who are transitioning from the education system and attaining the age of 21.

The Developmental Disabilities Services Act sets out the funding priorities for the Home and Community Based Services waiver. The Department of Health and Human Services (DHHS) must distribute the funds under the waiver based on the following priorities:



- Priority 1: responding to the needs of persons with disabilities facing immediate crisis such as the death of a caregiver, homelessness, or threat to life and safety;
- Priority 2: responding to the needs of persons with disabilities who have been residing in a residential facility for the past 12 months and are requesting community-based services;
- Priority 3: responding to the needs of persons with disabilities who are former state wards or persons under the jurisdiction of the Office of Probation who are transitioning from the system at age 19 and no other alternative has been identified to support residential services;
- Priority 4: responding to the needs of persons with disabilities who are transitioning from the education system at the age of 21 and for whom day services are necessary to pursue self-sufficiency;
- Priority 5: responding to the needs of persons with disabilities who are dependents of members of the military living in Nebraska;
- Priority 6: responding to the needs of all other persons with disabilities in the order in which their application was received.

(Neb. Rev. Stat. 83-1216.) These priorities were amended in 2017 as part of LB 333.

Previously, persons with disabilities transitioning from the education system in Priority 4 had been guaranteed services, by law, upon their transition from the education system. But under the priority system, graduates are no longer guaranteed services. Last year, in 2018, section 83-1216.02 was passed through LB 793 to create a safety net of sorts for graduates that might be excluded under the waiver. Under section 83-1216.02, if there is not enough room and funding in the waiver to serve all graduates, DHHS must provide day services to those who would have received services under Priority 4.

AM 1182 reinstates the sunset but extends the date to June 30, 2025.

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**LB 541 (Walz) Provide a duty for the Department of Health and Human Services relating to bone marrow**

**Status:** Enacted

**Committee Action:** Advanced with AM 950

**Summary:** LB 541 amends Neb. Rev. Stat. 71-4819 which requires the Department of Health and Human Services (DHHS) to educate residents in the state about the need for bone marrow donors.

LB 541 inserts language to include two additional pieces of information to DHHS's education program: (1) the patient populations benefiting from bone marrow donations and (2) how to acquire a free buccal swab kit from a bone marrow registry as part of their education program.

**Explanation of Amendments:**

AM 950 inserts a new section into LB 541. Under this new section, physicians may ask new patients aged 18-45, if they are registered with the bone marrow registry. If the patient is not registered, the physician may provide information developed and disseminated by the DHHS about the bone marrow registry to the patient.

AM 950 also inserts a new subsection (2) into Section 1 in the green copy which would require DHHS to provide information and educational materials to the public regarding bone marrow donation and requires DHHS to seek assistance from the national bone marrow donor program on a system to distribute materials, update materials, and disclose the risks involved with bone marrow donation.

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**LB 554 (Wishart) Change provisions relating to a prescription drugs not on the preferred drug list under the Medical Assistance Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 554 amends the Medical Assistance Act and specifically the Medicaid Prescription Drug Act. LB 554 would allow a health care provider to prescribe an antidepressant, antipsychotic, or anticonvulsant prescription drug to a Medicaid recipient as long as the drug is medically necessary. It also prohibits managed care organizations from substituting a generic equivalent for an antidepressant, antipsychotic, or anticonvulsant medication. Finally, LB 554 strikes existing language which requires providers to show that a recipient is achieving therapeutic success with a course of antidepressant, antipsychotic, or anticonvulsant medication or that they have had a prior failure with a medication, in order to prescribe a drug that is not on the preferred drug list without prior authorization.

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**LB 555 (Hunt) Adopt the Sexual Assault Emergency Care Act and provide for disciplinary action against hospitals**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 555 creates the Sexual Assault Emergency Care Act. LB 555 establishes the duties and responsibilities of a hospital under the Act. Under this section hospitals must:

- Provide the sexual assault survivor with medically and factually accurate and objective written and oral information about emergency contraception;
- Provide the sexual assault survivor with written and oral information in a language they can understand about the option to receive emergency contraception;
- Dispense a complete course of emergency contraception in accordance with best practices to a sexual assault survivor who accepts and requests it; and
- Provide training to all personnel involved in providing care to sexual assault survivors regarding the provision of medically and factually accurate and objective information and create policies and procedures to comply with the Act.

Complaints for violation of the Act may be filed with the Department of Health and Human Services (DHHS) and requires that DHHS “immediately investigate every complaint it receives.” DHHS shall compile all complaints, maintain a record of them for 10 years for analysis of patterns, and provide a compilation electronically to the Legislature. If DHHS finds, after investigation of complaints, that a hospital has failed to comply with the Act, section 4(4) requires DHHS to send notice to the hospital and take disciplinary action within 15 days unless the hospital, within that time, requests an informal conference or hearing. The hospital may request a conference with a representative of the department or a representative of a “peer review organization with which the department has contracted.”

Section 5 establishes penalties for a violation of the Act.

- After the first complaint the hospital will receive a warning and must correct the deficiency that led to the violation.
- For the second through fifth violations, DHHS will impose a fine of \$1,000 per sexual assault survivor DHHS finds has been denied medically and factually accurate and objection information or who DHHS finds has not been offered emergency contraception OR a fine of \$1,000 per month until the hospital provides training in compliance with the Act; and
- For the sixth and subsequent complaints, DHHS shall revoke or suspend the hospital’s license.

Section 5 of LB 555 amends the Health Care Facility Licensure Act, Neb. Rev. Stat. 71-448, to add a violation of the Sexual Assault Emergency Care Act as a ground for disciplinary action.

AM 695 amends the penalty provisions in LB 555. It strikes section 4(5)(c) from the green copy which required DHHS to revoke the licenses of a hospital after the sixth and subsequent complaints received under the Act. AM 695 amends section 4(5)(b) of the green copy to apply the penalties in that subsection to the “second and subsequent complaints.”

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**LB 556 (Howard) Change provisions relating to the prescription drug monitoring program**

**Status:** Enacted with provisions of LB 557 amended into it

**Committee Action:** Advanced to General File with AM 383

**Summary:** LB 556 makes changes and adds provisions to the Prescription Drug Monitoring Program (PDMP.)

Neb. Rev. Stat. 71-2454 is amended in a variety of ways. First, LB 556 inserts language to clarify that purpose of the PDMP is to provide information to improve the health and safety of patients.

Subsection (3) of 71-2454 is amended to add additional information to what is required to be submitted to the PDMP. LB 556 adds:

- a patient’s telephone number and gender;
- a patient identifier like a driver’s license number or social security number, etc.;
- the number of refills that were authorized;
- the prescription number of the drug dispensed;
- the prescription directions if available in accordance with the American Society of Automation in Pharmacy version 4.2A format; and
- any other information as required by the Dispenser’s Implementation Guide for the PDMP as created by the statewide health information exchange in collaboration with the Department of Health and Human Services.

Under 71-2454, no patient-identifying information collected for the PDMP may be disclosed, made public, or released to any person or entity except the statewide health information exchange or as provided under LB 556.

LB 556 inserts provisions regarding who may receive and share the information in the PDMP. LB 556 also makes some minor technical language changes throughout, adds a definition of “deliver or delivery,” defines the department as DHHS, and strikes certain language regarding datelines that have passed. There is an emergency clause on this bill.

**Explanation of Amendments:**

Incorporating provisions of LB 557

AM 383 incorporates LB 557, with some minor changes from the green copy, into LB 556. Sections 1, 2, and 3 of AM 383 are the provisions from LB 557.

AM 383 defines practitioner to include physicians, physician assistants, dentists, pharmacists, podiatrists, optometrists, and various advanced practice nurses.

Neb. Rev. Stat. 28-473 is amended to change a practitioner's duty to consult with a patient about the variety of risks related to a controlled substance. Rather than have that conversation before the initial prescription and the third course of the prescription, the law instead requires the conversation if it has not been had in the last 60 days. It also amends 28-473 to allow other members of the patient care team who are under the direct supervision of or in consultation with the prescribing practitioner to have the conversation about risks with the patient. Finally, it adds a subsection to clarify that the duty to have this conversation does not apply to a prescription given for a hospice patient or for the course of treatment for cancer or palliative care.

#### Changes to LB 556

AM 383 also makes some minor changes to the original provisions of LB 556.

LB 556 amended Neb. Rev. Stat. 71-2454 and the type of information to be submitted to the prescription drug monitoring program. AM 383 makes minor changes to the original green copy.

- A telephone number is only provided "if available";
- Social security numbers were removed as patient identifiers;
- The provision originally inserted in LB 556 to require the submission of the prescription directions is now removed (subsection (k) in the green copy) ;
- The provision originally inserted in LB 556 to require the submission of any other information required by the Dispenser's Implementation Guide is removed (subsection (m) in the green copy);
- Language is inserted requiring veterinarians to include "National Drug Code number as published by the Food and Drug Administration";
- Language is inserted in the confidentiality provision of 71-2454(5) to reference section (9) of 71-2454 as the exception to the confidentiality and privilege provisions;
- Language requiring the statewide health information exchange to work "in collaboration with the department" is inserted in several places.

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#### **LB 557 (Lindstrom) Change provisions relating to prescriptions for controlled substances**

**Status:** Enacted as part of LB 556

**Committee Action:** Amended into LB 556

**Summary:** LB 557 amends certain sections of the Uniform Controlled Substances Act relating to a practitioner's duties when prescribing opiates into the Uniform Credentialing Act. *For complete summary see LB 556.*

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#### **LB 559 (Arch) Change provisions relating to the State Anatomical Board**

**Status:** Enacted

**Committee Action:** Advanced from Committee to General File

**Summary:** LB 559 amends provisions of law related to the State Anatomical Board to incorporate provisions of the Revised Uniform Anatomical Gift Act.

LB 559 changes the authorizing section of law for the use of dead human bodies from Neb. Rev. Stat. 71-1002 to Neb. Rev. Stat. 71-4834 which is part of the Revised Uniform Anatomical Gift Act. Section 71-4834 details who may receive an anatomical gift under a variety of circumstances. The State Anatomical Board is named as an approved recipient for an anatomical gift. (Neb. Rev. Stat. 71-4834(a)(1).)

LB 559 amends section 71-1003 to strike the requirement that the State Anatomical Board must hold any dead human bodies it receives for 30 days from the date of delivery during which time the body may be claimed.

Section 6 of LB 559 repeals several sections of law:

- Section 71-1002 which requires public entities to immediately notify the Anatomical Board of any dead human bodies that have not been claimed within the timeframe and requirements laid out in that section;
- Section 71-1005 which authorizes the State Anatomical Board and its members to examine a dead body to be provided to the Board as necessary and to certify the cause of death;
- Section 71-1006 which creates criminal penalties for persons with possession of a dead human body required to be provided to the State Anatomical Board and who fails to notify the State Anatomical Board, refuses to deliver the body, or mutilates the body in such a way as to make it not valuable for anatomical purposes.

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### **LB 567 (Morfeld) Adopt the Prescription Drug Cost Transparency Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 567 creates the Prescription Drug Cost Transparency Act which requires the notice and reporting of drug price increases in certain circumstances.

LB 567 applies to the manufacturer of prescription drugs that are purchased by or the price of which is reimbursed by:

- A state purchaser, including the Departments of Health and Human Services, Administrative Services, Correctional Services or an entity acting on their behalf;
- A health maintenance organization;
- A health insurer authorized to do business in Nebraska;
- A fraternal benefit society; and
- A pharmacy benefit manager.

Under 567, a manufacturer of a prescription drug with a wholesale acquisition cost of more than \$40 for a course of therapy shall provide notice to certain entities if the increase of such cost is more than 16%, including the proposed increase and any cumulative increase that occurred within the previous two calendar years prior to the year in which the sale is made.

Notice is required to each state purchaser identified in Section 4 of LB 567 and any other entity listed in Section 4 (e.g., health insurers and pharmacy managers listed above), if they have registered with the Department of Administrative Services (DAS) to receive notification.

Notice must occur at least sixty days prior to the planned effective date of the increase.

Under Section 6 of LB 567, if a pharmacy benefits manager receives notice under this Act, the pharmacy benefit manager shall provide notice of the increase to contracting public and private purchasers who provide coverage for more than 500 people.

Under 567, the manufacturers must also provide quarterly reports to the Department of Administrative Service (DAS) regarding each drug for which notice is required under this Act (i.e., for which there was a 16% or greater increase in price).

DAS must publish the report in the website within sixty days of receipt and shall update it quarterly. The information will be published in a way that identifies disclosures for each drug.

LB 567 provides notification requirements for manufacturers who produce a new prescription drug and the wholesale acquisition price exceeds the threshold set for a specialty drug set by the Medicare Prescription Drug, Improvement and Modernization Act. Notice shall include the pricing plans, estimated volume of patients, if the drug was granted breakthrough therapy designation or priority review by the FDA and the date and price of acquisition if not made by the manufacturer.

The effective date of the Act is January 1, 2021.

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**LB 570 (Walz) Change provisions relating to an advisory committee and a strategic plan for services for persons with disabilities**

**Status:** Enacted

**Committee Action:** Advanced with AM 470

**Summary:** LB 570 amends Neb. Rev. Stat. 81-6,122 regarding the creation of a plan by the Department of Health and Human Services (DHHS) to provide services to qualified persons with disabilities in the most integrated community-based settings. This is often referred to as a state’s “Olmstead Plan.”

As amended by AM 470, LB 570 amends the language to require the Departments of Health and Human Services (DHHS), Correctional Services, Economic Development, Labor, Transportation, Education, the Governor’s Policy Research Office (PRO), and the office of the state long-term care ombudsman, to create an Olmstead plan for Nebraska, rather than requiring DHHS to create the plan only in collaboration with those other entities.

A variety of Directors from the Division of Behavioral Health, Children and Family Services, Developmental Disabilities, Medicaid and Long-term care, Public Health, Correctional Services, Economic Development, the Commissioner of Education, the Commissioner of Labor, the Director-State Engineer and the state long-term care ombudsman, are responsible for convening a team to:

- Develop a strategic plan
- Appoint and convene a stakeholder advisory committee that includes the Commission for the Deaf and Hard of Hearing and the Commission for the Blind and Visually Impaired
- Arrange for consultation with an independent consultant
- Provide a report to the Legislature by December 15, 2021 and every three years thereafter
- Provide the completed Olmstead plan by June 30, 2019.

LB 570 also instructs DHHS to hire an independent consultant to assist with the continued analysis and revision of the state’s Olmstead Plan and “determine whether the benchmarks, deadlines, and timeframes are in substantial compliance with the strategic plan.” DHHS is also instructed to provide continuing analysis of the plan and report to the Legislature by December 15, 2021 and every three years thereafter. It also strikes prior reporting requirements from dates past.

Finally, LB 570 amends current law to require the completion of the Olmstead Plan by June 30, 2019.

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**LB 571 (Walz) Provide for a database of grievance procedures from assisted-living facilities**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 609

**Summary:** LB 571 amends the Assisted-Living Facility Act. According to the Assisted-Living Facility Act, each assisted-living facility must give applicants written information about their practices including the “criteria for admission to and continued residence in the assisted-living facility and the process for addressing issues that may prevent admission to or continued residence in the assisted-living facility.” (Neb. Rev. Stat. 71-5905(3)(d).)

As amended by AM 609, LB 571 requires each assisted-living facility (ALF) to provide the Department of Health and Human Services the grievance procedure the ALF provides to individuals when someone is admitted to the ALF. Further, if such grievance procedure is modified, updated, or otherwise changed, the new grievance procedure must be provided to DHHS within seven business days. DHHS is also required to make the grievance procedures available to the deputy public counsel for institutions.

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**LB 590 (Briese) Provide for reporting of staff training for early childhood education**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 330

**Summary:** LB 590 relates to child care programs and the use of the Nebraska Early Childhood Professional Record System.

As amended by AM 330, LB 590 amends Neb. Rev. Stat. 43-2606 to require that the Department of Health and Human Services use the Nebraska Early Childhood Professional Record System (NECPRS) to document training levels of staff in specific child care settings and verify minimum training requirements of employees for any child care program that is already reporting into NECPRS.

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**LB 597 (Walz) Require reporting of incident and development of policies for assisted living facilities**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 597 amends the Assisted-Living Facility Act. It inserts a new section which requires an administrator of an assisted-living facility to report to the Division of Behavioral Health:

- Any incident involving violence between residents of the facility
- Any incident involving violence between a resident and an employee of the facility
- Any incident involving an injury to a resident or employee of the facility which requires urgent and immediate medical treatment and restricts the injured person’s usual activities
- Any incident involving bed bugs

The owner of the facility must implement policies to comply with this section.

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**LB 607 (Kolterman) Change provisions relating to nail technology and body art**

**Status:** Passed by Legislature, vetoed by Governor

**Committee Action:** Advanced from Committee with AM 1462

**Summary:** LB 607 amends the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art (Cosmetology Act) practice act to add provisions relating to nail technology apprentice salons and guest body artists, in addition to other minor changes.

LB 607 would require persons working with natural nails to be included in the licensing requirements for nail technology. LB 607 also defines a nail technology apprentice salon and creates a licensure process for nail technology apprentice salons.

Several other sections of law are updated where appropriate to include nail technology apprentice salons and nail technology apprentices. The definition of nail technology is also amended in Section 6 to include manicuring and pedicuring in addition to some other minor changes.

#### *Guest Body Artist*

Guest body artist is defined in section 4 of LB 607 as a person temporarily registered under the Cosmetology Act to perform body art under the sponsorship of a licensed body art facility or a person licensed under the act to perform body art.

LB 607 creates a registration requirement for guest body artists in Section 18 of LB 607. To register a person must comply with the rules and regulations under the Cosmetology Act, be 18 years of age, be sponsored by a licensed facility, complete a blood-borne pathogen course, be licensed or credentialed in another jurisdiction, and apply 30 days before he or she will perform body art in Nebraska.

Registration as a guest body artist is required under LB 607 before one can engaged in the performance of body art or use the guest body artist title. Both Neb. Rev. Stat. 38-1061 and 38-1069 are amended to reflect this. Guest body artists may be registered for 14 consecutive calendar days which can be renewed twice in a calendar year. A temporary body art facility is defined in section 18 of LB 607 and means a nonmobile room or space with a dedicated licensed physical address where body art is performed for not more than 72 consecutive hours in conjunction with a single event.

LB 607 requires temporary body art facilities to be licensed. Licenses may be granted if all applicable requirements of the Cosmetology Act have been met and the facility has been inspected. Licenses will be valid for no more than 72 hours.

#### *Other Changes*

LB 607 amends the licensing requirements under the Cosmetology Act by eliminating the English language proficiency requirement under the general licensing provision in Neb. Rev. Stat. 38-1062 and the nail technician licensing provisions in 38-10,128.

It moves manicuring under the Cosmetology Act by striking its exemption in Neb. Rev. Stat. 38-1075. It also amends some language in the definition of manicuring and creates a definition for pedicuring. Finally, LB 607 updates the language in the Cosmetology Act to replace “color technology” with “cosmetic tattooing in sections 3, 13, and 19.

#### **Explanation of Amendments:**

AM 1462 amends section 19(3) to strike language that would require registration to perform body art. The registration requirement only applies to the title of guest body artist. To perform body art on an ongoing basis in Nebraska you must be licensed. The amendment clarifies this. Similarly, AM 1462 strikes language requiring registration to perform body art in section 37. Current statutes require licensure.

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#### **LB 629 (Pansing Brooks) Provide criteria for recipients of Title X grant funds**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 629 creates new parameters around the dissemination of Title X grant funding for population research and voluntary family planning programs.



Under LB 629, the Department of Health and Human Services (DHHS) could only grant Title X funds to entities that are:

- Licensed under the Health Care Facility Licensure Act and serve Medicaid patients;
- Compliant with the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Are able to diagnose and treat sexually transmitted diseases and infections; and
- Able to provide gynecological exams.

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**LB 645 (McDonnell) Change provisions of the Medical Assistance Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** At the hearing, LB 645 was replaced with AM 1890 which became the bill. AM 1890 carves Ground Emergency Medical Transport services (GEMT) out of managed care and creates a supplemental reimbursement program that can leverage Medicaid matching dollars from cities and localities to draw down additional federal Medicaid match dollars for those services. Some of the additional federal match dollars are then passed along to the GEMT providers so they might recoup more of the cost of providing the services. The city and local matches come in the form of “certified public expenditures” which mean expenditures that are certified as having been used to fund GEMT services.

AM 1890 inserts language into 68-979 to clarify that, under federal law, the Department of Health and Human Services (DHHS), is not to incur any unreimbursable costs in creating this supplemental reimbursement program. Language is also inserted into 68-983 to require DHHS to create a supplemental reimbursement program, including one that utilizes certified public expenditures as allowed under federal law, and, as a result, to reimburse GEMT on a fee-for-service basis. AM 1890 also requires the participating GEMT providers to certify the expenditures as required under the federal rules and regulations and that section. DHHS is required by the bill to submit a state plan amendment to create a supplemental reimbursement program by December 15, 2020. If approved, DHHS shall implement the program retroactive to the first day of the calendar quarter in which DHHS submitted the state plan amendment. The supplemental reimbursement program will only be implemented to the extent federal financial participation is available.

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**LB 653 (Wayne) Adopt the Healthy Kids Act and require tests for lead-based hazards in housing**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 653 creates the Health Kids Act which establishes requirements for sellers of real property and landlords of rental properties regarding lead-based paint hazards.

Sellers of residential real property in Nebraska who (1) are required to provide a written disclosure of the conditions of the property under section 71-2,120 or (2) who are selling property constructed prior to 1978, to have a lead-dust wipe assessment done of the property within 90 days prior to the sale. The assessment must be done at the seller's expense.

Lead-dust wipe assessment is required to be done for any rental unit (1) subject to the Uniform Residential Landlord and Tenant Act or (2) which is constructed prior to 1978 or is within a premises constructed prior to 1978. The assessment must be done within 90 days prior to entering into the rental agreement and is at the landlord's expense. The landlord must disclose the results to the potential tenant.

These requirements will not apply to the seller or landlord if the Department of Health and Human Services (DHHS) has issued a lead-free certification for the property.

LB 653 creates a legal cause of action for a tenant if a landlord fails to comply with the Health Kids Act and the tenant may recover actual damages, court costs, and reasonable attorney's fees. The action must be brought within one year after the rental agreement is signed.

LB 653 provides tenants with the right to terminate the rental agreement in writing if the landlord does not comply with the Health Kids Act and details related rights regarding rent and fees in the event the rental agreement is terminated. DHHS is required to develop a safe housing registry which contains a list of all the residential real properties that have been issued a lead-free certification. The registry must be publicly available on a website.

LB 653 amends the written disclosure requirements in section 76-2,120 to require that the results of a lead-dust wipe assessment or a copy of the lead-free certification be included in the written disclosure statement by a seller regarding the condition of the real property. That same section also requires the State Real Estate Commission to adopt and promulgate rules and regulations to reflect this addition into the disclosure statement.

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**LB 654 (Wayne) Provide for a type 1 diabetes pilot study**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 654 amends Nebraska's Medical Assistance Act to create a type 1 diabetes pilot study.

LB 654 requires the Department of Health and Human Services (DHHS) to administer a program that awards a competitive grant to a postsecondary institution with a college of medicine in Nebraska to conduct a type 1 diabetes pilot study.

The grant recipient shall:

- Test the hypothesis that the integration of various technologies into the case management protocol will improve health outcomes;
- Use technology-based platforms to deliver type 1 diabetes self-management education, support, and treatment to 1,000 Medicaid patients;
- Conduct the study statewide;
- Compile data on the 1,000 Medicaid patients in the study and other patients receiving standard type 1 diabetes care;
- Make recommendations to the Legislature on policy changes related to health management of Medicaid patients with type 1 diabetes; and
- Maintain patient confidentiality

LB 654 requires DHHS and the Department of Administrative Services to provide necessary data to carry out the study. LB 654 appropriates \$550,000 from the General Fund each year for five years – fiscal years 2020 – 2024 for the study. The pilot program terminates on July 1, 2024.

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**LB 692 (Cavanaugh) Change provisions relating to commemorative certificates for a nonviable birth**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 692 amends Neb. Rev. Stat. 71-607 relating to the provision of commemorative birth certificates for a nonviable birth. LB 692 removes the duty of a health practitioner to advise a patient about the availability of a commemorative birth certificate in the event of a nonviable birth. Rather, a patient may request one. The duty of the health practitioner to provide a letter verifying the nonviable birth should the patient request it remains.

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**LB 701 (Bostelman) Require billing for emergency medical services**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 701 amends the Emergency Medical Services Practice Act. It inserts a new section into the Act which would require an emergency medical service to request payment from the patient, or his or her parents or guardian if the patient is a minor, for transportation to a licensed health care facility.

AM 764 inserts additional language to exempt patients who are wards of the State of Nebraska or participants in Nebraska's Medicaid program from the billing requirement. AM 764 also clarifies that a failure to request payment is not considered a violation of the Uniform Credentialing Act and would not be subject to investigation, regulation, or discipline by the Department of Health and Human Services.

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**LB 716 (Hilkemann) Create the Medicaid Cost and Quality Data and Analysis Center of Nebraska**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 716 would amend the Medical Assistance Act to create the Medicaid Cost and Quality Data Analysis Center of Nebraska. The purpose of the Medicaid Cost and Quality Data Analysis Center of Nebraska ("Cost and Quality Data Center") is to collect, analyze, and manage data to create policy recommendations to decrease the cost of Medicaid and improve access to and quality of care provided by Medicaid. The original version of LB 716 created the Cost and Quality Data Center in partnership with the University of Nebraska Medical Center. Under LB 716, the Divisions of Medicaid, Public Health, Developmental Disabilities, Children and Family Services, and Behavioral Health shall share all health data they collect with the Cost and Quality Data Center. The Cost and Quality Data Center is required to submit a report to the HHS and Appropriations Committees on December 1 of each year, starting in 2020, on the work of the Cost and Quality Center and any policy recommendations for policy changes.

The Department of Health and Human Services is required under LB 716 to file a Medicaid state plan amendment or apply for a waiver for the creation and administration of the Cost and Quality Data Center. State matching funds for the Cost and Quality Data Center would come from the Health Care Cash Fund. If and when the state plan is approved or the waiver granted, the State Treasurer is directed to transfer the state matching funds to the Board of Regents of the University of Nebraska to provide the funds to UNMC to create and operate the Cost and Quality Data Center.

LB 716 also amends Neb. Rev. Stat. 81-666 which is a section of law relating to researchers that are approved by DHHS. This section of law was intended to establish consistency in the release of medical and health records from various registries with the ultimate goal of encouraging research to protect the health and safety of Nebraskans. (Neb. Rev. Stat. 81-663.) Section 81-666 sets out the parameters under which DHHS may approve a researcher. LB 716 creates a new subsection that directs DHHS to approve UNMC as a researcher for the Cost and Quality Data Center.

AM 524 was offered at the hearing to replace the green copy of LB 716 and become the bill. AM 524 creates the Health Information Initiative Act. The stated purpose of the act is to require the CEO of the Department

of Health and Human Services (DHHS) to designate a health information exchange to provide the data infrastructure to assist Nebraska's Medicaid program through health record interoperability, care coordination, and care transition management.

Pursuant to AM 524, the health information exchange, subject to oversight and approval by DHHS, will provide the governance necessary to ensure that any health information provided to the exchange complies with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other applicable laws. All protected information or individually identifying information is confidential and not a public record. It also requires DHHS to provide the designated health information exchange with health care delivery and claims data from Nebraska's Medicaid program and the Division of Public Health. The following facilities are required to participate in and connect with the health information exchange to provide clinical information: each health care facility as defined in 71-413, home health services, laboratories, Medicaid managed care companies, federally qualified health centers, rural health clinics, local public health departments. If a health care entity is not able to connect to the health information exchange the entity may submit a waiver request to DHHS and the health information exchange. The health information exchange will validate the technical inability of an entity to connect and, in that case, the waiver would be granted.

The CEO of DHHS will designate the health information exchange.

AM 715 was also offered and made a few technical changes to the language in AM 524.

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**LB 726 (Walz) Require a protocol for individuals eligible for medical parole to apply for medical assistance**

**Status:** Enacted

**Committee Action:** Advanced

**Summary:** LB 726 directs the Department of Health and Human Services, specifically the Division of Medicaid and Long-Term Care, in consultation with the Department of Correctional Services, to develop a protocol for assisting individuals apply for Medicaid when they are released on medical parole.

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**LB 730 (Walz) Change, transfer, and eliminate provisions relating to advanced practice registered nurses**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 730 combines five Practice Acts under the Uniform Credentialing Act - the Certified Midwifery Practice Act, the Certified Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist Practice Act, the Licensed Practical Nurse Certified Practice Act, and the Nurse Practitioner Practice Act – into the Advanced Practice Registered Nurse Practice Act and combines the jurisdiction of those practice areas under one board. It also makes changes to the practice provisions of certified nurse midwives and advance practice registered nurses. The Act becomes effective on January 1, 2020.

LB 730 pulls from all the practice acts, as well as the existing Advanced Practice Registered Nurse Practice Act, to create the provisions for the Advanced Practice Registered Nurse Practice Act (“APRN Act”).

An advanced practice registered nurse is defined under the Act as a person licensed as a registered nurse and who is also licensed in one of the advance practice areas: certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, or clinical nurse specialist.

*Combined Board of Advanced Practice Registered Nurses*

LB 730 amends Neb. Rev. Stat. 38-205 to create a new Board of Advanced Practice Registered Nurses. The Board would consist of four APRNs, one from each practice area (practitioner, anesthetist, clinical specialist,

and midwife), who are licensed under the APRN Act. It would also include three physicians, one of whom has a professional relationship with a nurse practitioner, one with a certified midwife, and one with a nurse anesthetist. Two members of the public shall also serve on the Board.

#### *Licensure for APRNs*

The initial licensure provisions for APRNs are amended to require “approved” advanced practice nursing education rather than “graduate level” education and strikes the provision for using an alternative method of competency assessment instead of being certified by an approved certifying body. The bill allows for the award of temporary licenses under the APRN Act with the approval of the Board. It also amends the practice hour requirements and the license renewal provisions

#### *Scope of Practice for APRNs*

LB 730 outlines the scope of practice for an APRN. Under this sections APRNs may, within their scope of practice, as approved by the Board:

- Conduct an advanced assessment as defined
- Order and interpret diagnostic procedures
- Establish primary and differential diagnoses
- Prescribe, order, administer, dispense, and furnish therapeutic measures
- Delegate and assign therapeutic measures to assistive personnel
- Consult with other health care professionals and provide referrals to health care agencies, health care providers, and community resources
- Wear identification which clearly identifies the individual as an APRN when providing direct care unless identification would create a safety or health risk for a patient
- Perform any other activities commensurate with the education, training, and certification and professional standards of the APRN.

LB 730 allows APRNs to prescribe drugs, immunizing agents, diagnostic tests, and therapeutic treatments within their scope of practice.

#### *Changes in Midwifery*

LB 730 eliminates practice agreements for certified midwives, details the settings in which a midwife can practice, specifically in a primary office of a licensed practitioner whose practice includes obstetrics, and details the scope of practice for certified midwives.

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### **LB 735 (Chambers) Provide a duty for the Department of Health and Human Services**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 735 would require the Department of Health and Human Services to establish a protocol that specifies when and how a pelvic exam of a female is to be performed by any person licensed by the department.

## 2020 Bill Summaries

### **LB753 (Blood) Adopt the Audiology and Speech-Language Pathology Interstate Compact**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB753 would adopt the Audiology and Speech-Language Pathology Interstate Compact (Interstate Compact). It would also amend the Audiology and Speech-Language Pathology Practice Act, and the Hearing Instrument Specialists Practice Act. (Neb. Rev. Stat. Sections 38-513, 38-515, and 38-1509). Sections 1 and 2 of LB753 would harmonize language to reflect changes incorporated by the Interstate Compact as it relates to the unlicensed provision of services and obtaining a license.

Section 3 of LB753 would harmonize language allowing an Interstate Compact audiologist to practice without needing a hearing instrument specialist license if he or she works where hearing instruments are regularly dispensed.

Section 5 of LB753 would repeal the original Neb. Rev. Stat. Sections 38-513, 38-515, and 38-1509.

Section 4 of LB753 is the intent language of the Interstate Compact, broken down into 14 sections. It would enact and enter into the Audiology and Speech-Language Pathology Interstate Compact with all other states that adopt and enact the Interstate Compact; declare the purpose of the Interstate Compact; establish definitions used throughout the Interstate Compact; recognize a multistate licensure privilege to practice for audiologists and speech-language pathologists; recognize a multistate licensure privilege for audiologists and speech-language pathologists to practice audiology and speech-language pathology via telehealth; allow for active duty military personnel and their spouses to choose a home state; authorize a remote state to take adverse action against an audiologist or speech-language pathologist's privilege to practice within that member state, but not against an audiologist's or speech-language pathologist's home state license; authorize a home state to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state; create the Audiology and Speech-Language Pathology Compact Commission; provide qualified immunity for members, officers, employees, or representatives of the Commission who act in accordance with the provisions of the compact; require the Commission to create a database and reporting system containing licensure, adverse actions, and investigative information on all licensed individuals in member states, with the exception of FBI investigation results regarding federal criminal records; establish procedures for rulemaking; authorize the Commission to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states; require provisions of the Interstate Compact to become effective once enacted by ten member states, and subsequently require provisions of the compact to become effective the day it is enacted into law once a state enters the Interstate Compact; and provide for the severability of any provision in the compact that is contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance.

#### *Comparison between the Interstate Compact and Current Nebraska Law:*

##### *For Audiologists:*

Currently under Nebraska law, to be licensed, audiologists must present proof of a doctoral degree or its equivalent from an academic program approved by the board, present proof of no less than 36 weeks of full-time professional experience or equivalent half-time professional experience, and successfully compete an

examination. Audiologists graduated prior to September 1, 2007 may substitute proof of a master's degree instead of doctoral degree, along with completion of the other requirements. Certification by a nationwide accrediting organization approved by the board may be substituted.

Under the Interstate Compact, for an initial privilege to practice in another state, an audiologist would be required to be fingerprinted and pass an FBI background check. To obtain a privilege to practice in another state, the date for accepting a master's degree in audiology would be changed from September 1, 2007 to December 31, 2007. Any education in the United States would need to be from a program accredited by an accrediting agency recognized by the Council of Higher Education Accreditation, or the United States Department of Education and operated by an accredited college or university approved by the board. It would also explicitly allow for foreign education. It would require supervised clinical practicum experience from an accredited educational institution as required by the licensing board, instead of 36 weeks of professional experience. The national examination would be approved by the Commission, instead of the board. Furthermore, an audiologist would need to hold an unencumbered license, not been convicted of a felony related to speech-pathology, and hold a valid Social Security or National Practitioner Identification Number.

*For Speech-Language Pathologists:*

Currently under Nebraska law, to be licensed, speech-language pathologists must present proof of master's degree, doctoral degree, or their equivalents from an academic program approved by the board; present proof of no less than 36 weeks of full-time professional experience or equivalent half-time professional experience; and successfully compete an examination. Certification by a nationwide accrediting organization approved by the board may be substituted.

Under the Interstate Compact, for an initial privilege to practice in another state, a speech-language pathologist would be required to be fingerprinted and pass an FBI background check. Any education in the United States would need to be from a program accredited by an accrediting agency recognized by the Council of Higher Education Accreditation, or the United States Department of Education and operated by an accredited college or university approved by the board. It would also explicitly allow for foreign education. It would require supervised clinical practicum experience from an accredited educational institution as required by the licensing board. Supervised professional experience would be approved by the Commission. The national examination would be approved by the Commission, instead of the board. Furthermore, a speech-language pathologist would need to hold an unencumbered license, not been convicted of a felony related to speech-pathology, and hold a valid Social Security or National Practitioner Identification Number.

*General Changes:*

Nebraska's examination and education requirements would need to mirror the Interstate Compact in order for a Nebraskan audiologist or speech-language pathologist to be able to obtain a privilege to practice in another member state. The Commission would also gain the ability to levy and collect an annual assessment from member states or impose fees on other parties to cover operating costs. Any rules, regulations, or bylaws adopted by the Commission would become binding on member states.

No changes would become effective until ten states adopt and enact the Interstate Compact.

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**LB754 (Blood) Provide for a new certificate of birth and amendment of a certificate of birth**

**Status:** Withdrawn

**Committee Action:** None

**Summary:** LB 754 would have amended the Vital Statistics Act to allow an individual to apply to change his or her birth certificate after sex reassignment surgery, and would outline the requirements for doing so. It would also allow a parent or guardian to apply on behalf of his or her minor child.

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**LB755 (Blood) Provide for and change home services permits for barbers, cosmetology, and nail technology**

**Status:** Enacted

**Committee Action:** Advanced with AM 2480

**Summary:** LB 755 amends The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and The Barber Act.

The change to The Barber Act allows barbers to cut hair inside someone's home, which were otherwise unauthorized to do. Under the bill, to provide services in a client's home, barber shops would need to obtain a home barber services permit, and may only provide home barber services to an individual with an emergency or persistent circumstance. An emergency or persistent circumstance is one that significantly immobilizes a person, to the extent they are unable to regularly conduct routine daily living activities that involve leaving the home. The persistent circumstances added are "having sole responsibility for the care of a mentally disabled person requiring constant attention;" and "[having a] mental disability that [prevents the person from being able to leave the home with regularity.]" "Persistent circumstances" is also added into the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, which already allows home services for nail technicians and cosmetologists. The bill lists how to obtain a home barber services permit, requirements for maintaining the permit, and when permits may be renewed. An applicant must hold an active license and submit an application to the board.

**Explanation of Amendments:**

AM 2480 included provisions of LB 37, LB 772, LB 811, LB 825, LB 834, and Government, Military, and Veterans Affairs Committee LB 752.

**LB 37 - Change the Podiatry Practice Act to authorize a physician assistant to assist a podiatrist**

LB 37, as amended by committee amendment AM 2480, allows physician assistants (PAs) to practice under the supervision of and collaboration with podiatrists. It amends the Podiatry Practice Act to outline the services a physician assistant can provide. Specifically, a PA may only perform services that are delegated by and provided under the supervision of the podiatrist; services must be within the podiatrist's scope of practice; appropriate to the level of education, experience, and training of the PA; and are not otherwise prohibited by law.

LB 37 also defines a supervising podiatrist, and supervision. To be a supervising podiatrist: the podiatrist must be licensed without any restrictions on his or her ability to supervise a physician assistant; the podiatrist and physician assistant must have a written agreement laying out the terms of supervision, scope of practice, etc. and keep this agreement on file in certain locations; the supervision by the podiatrist would not require the physical presence of the podiatrist when the services are rendered by the physician assistant; and a podiatrist, like other supervising physicians, may not supervise more than four PAs at one time.



### LB 772 – Change the scope of practice for physician assistants

LB 772, as amended by the committee amendment, amends The Medicine and Surgery Practice Act to change the scope of practice for physician assistants (PAs). The bill removes many restrictions that are currently placed on PAs, such as what must be in their collaborative agreement; their ability to work in a hospital; their ability to prescribe medication; and restrictions on PAs with less than two years of experience. It amends language throughout to remove the word "control" when describing the relationship between a PA and supervising physician; and instead adds the language "collaborative" or its derivative. A PA would no longer be considered a legal agent of a supervising physician.

LB 772 also allows a PA, if acting under a collaborative agreement with a supervising physician, to be able to prescribe drugs and devices, including those on the controlled substances list, or distribute drug samples; and be able to plan a therapeutic regimen including various treatments. LB 772 allows a PA to be a nonvoting member of the Board of Medicine and Surgery. The PA is only able to provide medical services if the services are within the supervising physician's scope of practice, and if the PA has the training, education, and experience to provide such services.

LB 772 allows PAs to provide medical services in collaboration with any physician in their supervising physician's physician group, so long as the PA is actually collaborating with the other physician. The PA may only perform those services if they are within the scope of the PA's education, experience, and training. It further mandates a physician assistant have at least one supervising physician for each employer. The PA would need to have a supervising physician for each specialty practice area if the employer is a multispecialty practice.

### LB 811 - Change pharmacist reporting requirements under the Parkinson's Disease Registry Act

LB 811 amends The Parkinson's Disease Registry Act. The Act ensures pharmacists include specific information in their semi-annual report with the department. This bill removes the requirement of including the patient's social security number, and adds the requirement of including the patient's date of birth.

### LB 825 – Change provisions related to infant health screenings

LB825 amends Nebraska's infant disease screening statute to add "spinal muscular atrophy" as a disease screened for in infants. "Spinal muscular atrophy" is also added to diseases for which dietary and therapeutic management shall be the responsibility of the parent(s), guardian(s), or custodian(s) of the infant.

### LB 834 – Change provisions of the Engineers and Architects Regulation Act

LB834 amends the Nebraska Engineers and Architects Regulation Act (Neb. Rev. Stat. Sections 81-3401 through 81-3455). It allows architecture candidates to begin taking their examination in conjunction with completing their education and experience requirements. It also allows engineers to take one of their two examinations prior to completing four years of post-accredited degree experience.

LB834 allows architecture candidates to take their examination without board approval (however, architecture candidates would still need to meet the current education, examination, and experience requirements before being licensed). The bill removes the language regarding minimum requirements for admission to examination for architects; allows for graduation from the Canadian Architectural Certification Board to fulfill the

education requirement for licensure for architects; and adds that for an individual who has a valid architecture license in another jurisdiction, upon payment of a fee and application to the board, the architect may be issued a temporary permit for a definite time period and definite project.

LB834 also adds graduation from the Canadian Engineering Accreditation Board as fulfilling the education requirement for enrollment as an engineer-intern, and also as an acceptable education requirement for taking their examination on the principles and practice of engineering. It removes the requirement of four post-accredited degree experience to take the principles and practice examination. The minimum requirements for licensure remain the same. Temporary engineering permits would be amended to mirror the temporary architecture permits.

LB834 also amends some language regarding the Board of Architects. It would change the requirement for serving on the Board from having had direct supervision of work for five years to being licensed for five years. Board members may be paid up to \$100 for a portion of a day's participation in meetings, traveling to meetings, or participating via telephone or electronic means. The duties would shift from the secretary to the board for receiving and accounting for monies relating to the Engineers and Architects Regulation Fund; the State Treasurer would not have to transfer \$300,000 from the Engineers and Architects Regulation Fund on or before June 15, 2018; the board would not have to file a roster of all architects and engineers with the Secretary of State; and the board could provide notice via means other than mail for license renewal.

The bill inserts and defines ABET, and removes language that states the provisions of the Engineers and Architects Regulation Act do not apply to an individual with a temporary permit.

Senator Hilkeemann's Amendment AM 2829 was adopted and made technical changes to the language.

Senator Blood's Amendment 2991 was adopted and added provisions of LB 752. It adds a requirement for the Department of Health and Human Services and the Department of Veteran's Affairs to encourage providers to ask the question "Have you or a family member ever served in the military?" in certain settings.

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### **LB759 (Kolterman) Require consultation with school districts regarding placement of children**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 759 inserts new language into various sections of law which requires consultation between the courts or the Department of Health and Human Services (DHHS) and school districts before placement and case planning decisions are finalized for children in out-of-home care in Nebraska's child welfare system.

In each instance, the new language requires that:

- The courts or DHHS consult with the school district that would receive a juvenile as a result of an out-of-home placement if the receiving school district is not the juvenile's resident school district;
- At the consultation the parties: (1) must discuss the services necessary for the juvenile to attend school in the receiving school district; (2) must include a determination as to whether necessary educational programming services are or could be made available from the receiving school district; and (3) must identify the juvenile's resident school district which would be responsible for the costs of the educational programming provided in the receiving school district;
- The court must provide the receiving school district with a portfolio of educational information regarding the juvenile at least two days prior to the consultation; and

- The input of the receiving school district shall be considered regarding the best educational placement of the juvenile given the difficulties of providing or hiring necessary personnel for additional educational programming services or the need for placement at a specialized facility, as well as the resulting financial burden for both the resident and receiving school districts.

This language and these requirements are inserted into a variety of sections of law that relate to:

- the placement of a juvenile in the child welfare system
- case planning for a juvenile in the child welfare system
- the requirement that reasonable efforts be made to place siblings together or maintain sibling relationships when children are placed in out-of-home care
- the requirements under the Nebraska Indian Child Welfare Act
- permanency hearings for children in the child welfare system
- adoption and guardianship planning for a child
- the standards for admission of children to school districts and residency determinations for children with regard to school districts

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**LB772 (Williams) Change the scope of practice for physician assistants**

**Status:** Enacted as part of LB 755

**Committee Action:** Amended into AM 2480 to LB 755

**Summary:** Please see the summary for LB 755.

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**LB783 (Lowe) Change the definition of ambulatory surgical center**

**Status:** Enacted

**Committee Action:** Advanced with AM 2775

**Summary:** LB783 amends the Health Care Facility Licensure Act (Neb. Rev. Stat. Section 71-405).

LB 783 defines an ambulatory surgical center as a facility where the patient is discharged within twenty-three hours and fifty nine minutes from the time of the admission of the patient. It removes the requirement that the patient be discharged within the same working day.

**Explanation of Amendments**

Committee Amendment AM 2775 replaced the green copy of the bill and contained the amended provisions of LB 783, the original provisions of LB 1104, and amended provisions of LB 838.

LB 838 - Provide an exception from licensure under the Medicine and Surgery Practice Act

LB 838 amends Neb. Rev. Stat. Section 38-2025 regarding exemptions to the unauthorized practice of medicine and adds a new exemption for specific individuals. These individuals are people who are not licensed, certified, or registered under the Uniform Credentialing Act, to whom are assigned tasks by a licensed physician. Those tasks must be routine care, activities, and procedures that: 1) are part of the routine functions of such person; 2) reoccur frequently in the care of a patient or group of patients; 3) do not require such persons to exercise clinical judgment; 4) do not require performance of a complex task; 5) have predictable results and minimal potential risk; and 6) utilize a standard, unchanging procedure.

LB 1104 - Redefine a term under the Health Care Quality Improvement Act

LB1104 amends the Health Care Quality Improvement Act (Neb. Rev. Stat. Section 71-7910.01) to include entities organized under the Nebraska Nonprofit Corporation Act which render health care services, as a professional health care service entity.

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**LB811 (McCollister) Change pharmacist reporting requirements under the Parkinson’s Disease Registry Act**

**Status:** Enacted as part of LB 755

**Committee Action:** Amended into AM 2480 to LB 755

**Summary:** Please see the summary for LB 755.

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**LB815 (Morfeld) Prohibit certain section 1115 waivers under the Medical Assistance Act**

**Status:** IPP’d sine die

**Committee Action:** None

**Summary:** LB815 would have amended the Medical Assistance Act (Neb. Rev. Stat. Section 68-992) to prohibit the Department of Health and Human Services from pursuing an 1115 waiver to expand Medicaid eligibility.

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**LB817 (Stinner) Adopt the Prescribing Psychologist Practice Act**

**Status:** IPP’d sine die

**Committee Action:** None

**Summary:** LB817 would amend the Uniformed Controlled Substances Act, the Automated Medication Systems Act, the Prescription Drug Safety Act, the Pharmacy Practice Act, and would incorporate the introduced Prescribing Psychologist Practice act into the Psychology Practice Act. LB817 would allow licensed psychologists in Nebraska to obtain a provisional prescribing certificate and subsequently a prescribing certificate. These provisional prescribing certificates and prescribing certificates would allow a practicing psychologist to prescribe psychotropic medications to treat mental, nervous, emotional, behavioral, substance abuse, or cognitive disease and disorders. A prescribing psychologist would not be able to prescribe opiates. A prescribing psychologist would maintain ongoing communication with a patient’s primary health care provider, providing a treatment plan and follow-up reports. The prescribing psychologist would only be able to prescribe medication in consultation and collaboration with, and with concurrence of, the patient’s primary care provider. If the patient has no primary care provider, the prescribing psychologist could not prescribe medication to that patient, unless an emergency existed or unless the prescribing psychologist was serving in an emergency or disaster area, and was that patient’s primary care provider. Furthermore, the prescribing psychologist would be unable to prescribe to treat chronic pain; endocrine, cardiovascular, orthopedic, neurological, or gynecological illness; non-psychiatric illnesses causing mental disorders; or perform medical procedures like spinal taps or intravenous use of psychotropic medicine. A prescribing psychologist also could not prescribe to a patient with certain other independent medical conditions, unless agreed with by the patient’s primary care provider, himself or herself, or members of his or her immediate family or household.

A licensed psychologist must have either a provisional prescription certificate or prescription certificate to prescribe, unless working for the federal government and only practicing within the scope of his or her employment. To obtain a provisional prescription certificate, a licensed psychologist must:

- Possess a doctoral degree in psychology and hold an unrestricted license;

- Complete a postdoctoral degree in clinical psychopharmacology from an accredited university that meets certain requirements;
- Pass a national psychopharmacology exam within the two years immediately prior to application;
- Complete a practicum in clinical assessment within the three years immediately prior to application;
- Complete a practicum focused on treating patients with mental disorders within the three years immediately prior to application;
- Have adequate malpractice insurance;
- Possess certification in Basic Life Support; and
- Submit a proposed supervision plan, which includes information about the supervising physicians, backup supervisors, and supervising sessions which involve a minimum of 4 hours of supervision per month.

There would be numerous requirements an institution must meet for a postdoctoral psychopharmacology degree to be considered valid for prescription certificate purposes, including offering a clinical psychopharmacology program with at least four hundred fifty hours of education in specific instruction areas. The requirements for a practicum in clinical assessment and pathophysiology would include direct observation and hands-on training with a supervising physician, involving over four hundred patient-encounters, after which the applicant must show evidence of competency in various areas. The requirements for a practicum focused on treating patients with mental disorders would include, amongst others, spending four hundred hours focused on treating no fewer than 100 patients with mental disorders, and completing it in six months to three years.

A licensed psychologist must hold a provisional prescription certificate for two years before applying for a prescription certificate. While holding a provisional prescription certificate, a prescribing psychologist would be subject to supervision, which would include documentation from the supervising physician that the prescribing psychologist has safely prescribed medicine and demonstrated competency. A prescribing psychologist with a provisional prescription certificate shall evaluate a minimum of 100 separate patients, and spend at least one year prescribing with a specialized population (if planning to practice with that population), before applying for a regular prescription certificate.

To obtain a prescription certificate, a licensed psychologist would have to:

- Hold an unrestricted license in Nebraska;
- Hold a provisional prescription certificate;
- Successfully complete two years with prescription authority under a supervising physician pursuant to a supervision plan;
- Maintain adequate malpractice insurance; and
- Be certified in Basic Life Support.

Both a provisional prescription certificate and a prescription certificate are valid for two years. A provisional prescription certificate may be renewed for an additional two year period subject to approval, and also would expire upon receipt of a prescription certificate. Forty hours of continued competency are required for each two-year period to renew a prescription certificate. A licensed psychologist holding a provisional prescription certificate must inform the public and his or her patients of the provisional status of his or her license.

It would be violation of the Prescribing Psychologist Practice Act to prescribe medication or represent himself or herself as a prescribing psychologist, and doing so would constitute a Class II misdemeanor and violation of the Act. Falsely filing another's diploma or license as one's own, or forging an affidavit of identification would constitute and Class IV felony.

LB817 also creates the Prescribing Psychologist Advisory Committee, dictates the make-up of the committee, when the committee shall convene, and what topics the committee shall advise the board about.

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**LB825 (Hilkemann) Change provisions relating to infant health screenings**

**Status:** Enacted as part of LB 755

**Committee Action:** Amended into AM 2480 to LB 755

**Summary:** Please see the summary for LB 755.

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**LB828 (Hilkemann) Change provisions relating to the scope of practice of a licensed optometrist**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB828 amends The Optometry Practice Act (Neb. Rev. Stat. Sections 38-2604, 38-2605, 38-2614, and 38-2615) to allow optometrists to use pharmaceutical agents or surgical procedures to treat cysts or infected or inflamed eyelid glands.

Section 3 of LB828 outlines the training and education required for an optometrist to use pharmaceutical agents or perform surgical procedures to treat cysts or infected or inflamed eyelid glands, and officially changes the definition of the practice of optometry. The optometrist would have to be licensed in the state, show satisfactory completion of applicable classroom education, and show satisfactory clinical training. A licensed optometrist may also show a certification from another state.

For an optometrist to become certified to inject pharmaceutical agents, there would be educational and clinical requirements, such as showing evidence of passing the injection exam by the national board or proving a completion of at least eight (8) hours of accredited education on the matter. Educational requirements include, among others, a review of the make-up of medications for diagnosis and treatment of the eye, review of lab testing, techniques for administration of medicine, and reviewing clinical indications of medicines and side effects. Clinical requirements include who will proctor the workshop, techniques for injections and sterilization, competency testing, and federal regulations.

For an optometrist to become certified to perform minor surgical procedures, there would be educational and clinical requirements, along with evidence from an accredited school as to competency, or evidence of completion of sixteen (16) hours of education from a certified or accredited school in the subject matter. Educational requirements would include infection control and sterilization techniques, disposal of biohazardous waste, which instruments to use, reviewing wound healing and clinical anatomy of the eyelid, review of diagnoses, surgical techniques, suturing techniques, specimen preservation, possible complications, and review of legal aspects of minor surgery. Clinical workshop requirements would include who shall proctor the workshop, sterilizing techniques, surgical techniques, biohazard disposal techniques, and competency testing.

Section 4 states that an optometrist licensed in the state prior to April 30, 1987 would be able to practice without meeting the requirements and obtaining certifications required to perform pharmaceutical injections

or minor surgical procedures. After August 1, 2023 all optometrists would have to meet the conditions outlined in Section 3.

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**LB833 (Crawford) Exclude certain elderly care programs from the Health Care Facility Licensure Act**

**Status:** Enacted as part of LB 1053

**Committee Action:** Amended into AM 2806 to LB 1053

**Summary:** Please see summary for LB 1053.

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**LB834 (Arch) Change provisions of the Engineers and Architects Regulation Act**

**Status:** Enacted as part of LB 755

**Committee Action:** Amended into AM 2480 to LB 755

**Summary:** Please see summary for LB 755.

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**LB836 (Arch) Change provisions governing certain contracts and agreements relating to the medical assistance program**

**Status:** Enacted as Part of LB 1158

**Committee Action:** Amended into AM 2851 to LB 1158

**Summary:** Please see summary for LB 1158.

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**LB837 (Arch) Change provisions relating to background checks under the Child Care Licensing Act and the Children’s Residential Facilities and Placing Licensure Act**

**Status:** Passed as part of LB 1185

**Committee Action:** Advanced in AM 2668 to LB 1185

**Summary:** LB 837 amends the Child Care Licensing Act and the Children’s Residential Facilities and Placing Licensure Act to require the Department of Health and Human Services (DHHS) to seek funding to cover the cost of the required fingerprinting and national criminal history record information checks required under both acts. Please see summary in LB 1185.

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**LB 838 (Arch) Provide an exception from licensure under the Medicine and Surgery Practice Act**

**Status:** Enacted as part of LB 783

**Committee Action:** Provisions amended into AM 2775 to LB 783

**Summary:** Please see summary of LB 783.

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**LB 840 (Quick) Prohibit the use of electronic smoking devices as prescribed under the Nebraska Clean Indoor Air Act**

**Status:** Passed & Approved

**Committee Action:** Advanced with AM 2512

**Summary:** LB 840 amends the Nebraska Clean Indoor Air Act to include electronic smoking devices. LB 840 adds a definition of “electronic smoking device” to mean “any product containing or delivering nicotine or any other substance intended for human consumption” that can be inhaled through vapor or aerosol from the product. This would include any device regardless of how it is manufactured, distributed, marketed, or sold and regardless of what it is called - an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen.

LB 840 amends the definition of “smoke or smoking” to include “inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah” or any other lighted or heated product meant for inhalation,

whether natural or synthetic. It also amends the definition to include any electronic smoking device that creates a vapor or aerosol in any form.

It also amends Neb. Rev. Stat. 71-5735 which requires tobacco retail outlets to post a sign stating that cigars and pipes are allowed but cigarettes are not. LB 840 amends this section to require that the prohibition include not just cigarettes but “electronic smoking devices” as well.

### **Explanation of Amendments:**

AM 2512 replaces the green copy and becomes the bill. All provisions of the green copy are included in AM 2512 and new sections are added to exempt electronic smoking device retail outlets from the ban on smoking indoors for purposes of electronic smoking devices only. Section 5 creates a definition of “electronic smoking device retail outlet” to mean a licensed business that only sells electronic smoking devices or products related to electronic smoking devices and that does not allow a person under the age of 21 to enter the store. Products “directly related to electronic smoking devices” do not include alcohol, coffee, soft drinks, candy, groceries, or gasoline.

Section 2 of AM 2512 amends Neb. Rev. Stat. 71-5717 and section 7 amends Neb. Rev. Stat. 71-5730 to include electronic smoking device retail outlets as except entities under these provisions of the Nebraska Indoor Clean Air Act.

FA 103 was offered on the floor and adopted which cross-referenced the definition of electronic nicotine delivery system in section 28-1418.01.

AM 2925 was also offered and adopted on Select File which again revised the definition of electronic smoking device and electronic smoking device retail outlet.

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### **LB 847 (Arch) Change requirement for dispensing drugs in certain health care facilities**

**Status:** Enacted as part of LB 1052

**Committee Action:** Amended into AM 2645 to LB 1052

**Summary:** Please see summary to LB 1052.

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### **LB 849 (Pansing Brooks) Change eligibility requirements under the Young Adult Bridge to Independence Act**

**Status:** Provisions enacted as part of Brewer AM 2723 to Government, Military, and Veteran’s Affairs LB 848

**Committee Action:** Advanced with AM 2149

**Summary:** LB 849 amends the Young Adult Bridge to Independence Act. The Bridge to Independence Program provides extended services and supports to former foster youth once the youth has aged out the foster care system. (Neb. Rev. Stat. § 43-4503.) Currently a youth is required to be at least 19 years of age – the age of majority in Nebraska – to be eligible for the program. (Neb. Rev. Stat. § 43-4504.) LB 849 extends eligibility for the Bridge to Independence Program to native youth aging out of Tribal Court proceedings at the age of 18. It creates a definition of “age of eligibility” which includes either nineteen years of age or “eighteen years of age if the young adult has become ineligible for participation in tribal court due to attaining eighteen years of age.” “Age of eligibility” then replaces “nineteen years of age” throughout LB 849 and the Bridge to Independence Act.

### **Explanation of Amendments:**



AM 2149 inserts language in section 1 to clarify that the Bridge to Independence Program supports former tribal wards as well as state wards and similarly, that the program does not abrogate the rights of former tribal wards or state wards. The language in section 2(1)(b) is also amended to clarify that a youth must attain “the age of a majority under tribal law” to be eligible for the Bridge to Independence Program. The original language in the green copy could have been read to create eligibility for a youth prior to reaching the age of majority under tribal law if a youth was no longer participating in tribal court.

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**LB 851 (McCollister) Change provisions relating to eligibility for services under the Medical Assistance Act**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB851 would have amended the Medical Assistance Act statutes relating to eligibility for medical assistance (Neb. Rev. Stat. Section 68-915). It would require the department to adopt rules and regulations providing for a one-year period of continuous coverage for a child who is Medicaid eligible, without additional review, until he or she reaches the age of nineteen, or the anniversary of the child's Medicaid eligibility, whichever is sooner. It would have also required the department submit a waiver to CMS – prior to October 1, 2020 – to provide a twelve-month continuous eligibility period for the following groups: Subsidized Adoption and Guardianship Assistance, Institution for Mental Disease, Parent-Caretaker Relatives, and Heritage Health Adult. Those groups would be subject to modified adjusted gross income budgeting methodology.

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**LB 875 (Howard) Require a Medicaid state plan amendment for outpatient assisted therapy.**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB875 would have amended the Medical Assistance Act (Neb. Rev. Stat. Section 68-911) to require the Department of Health and Human Services (DHHS) to submit a state plan amendment or waiver – by October 1, 2020 – to provide Medicaid coverage for outpatient assisted therapy for all eligible Medicaid recipients.

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**LB 887 (Arch) Authorize pharmacists to adapt prescriptions**

**Status:** Enacted as part of LB 1052

**Committee Action:** Amended into AM 2645 to LB 1052

**Summary:** Please see summary to LB 1052.

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**LB 893 (Bostelman) Change provisions relating to emergency care providers and provide for community paramedicine and critical care paramedics**

**Status:** Enacted as part of LB 1002

**Committee Action:** Amended into AM 2774 to LB 1002

**Summary:** Please see summary to LB 1002.

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**LB917 (Wayne) Provide for a diabetes pilot study**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 917 amends Nebraska's Medical Assistance Act to create a type 1 diabetes pilot study.

Section 2 of LB 654 requires the Department of Health and Human Services (DHHS) to administer a program that awards a competitive grant to a postsecondary institution in Nebraska with a college of medicine to conduct a type 1 diabetes pilot study.

The grant recipient shall:

- Test the hypothesis that the integration of various technologies into the case management protocol of a patient in the medical assistance program, including the use of remotely monitored glucose sensors, coaching, and telehealth communication, will improve health outcomes;
- Use technology-based platforms to deliver type 1 diabetes self-management education, support, and treatment to 1,000 Medicaid patients;
- Conduct the study statewide;
- Compile data on the 1,000 Medicaid patients in the study and other patients receiving standard type 1 diabetes care;
- Make recommendations to the Legislature on policy changes related to health management of Medicaid patients with type 1 diabetes; and
- Maintain patient confidentiality.

Section 2(3) requires DHHS and the Department of Administrative Services to provide necessary data to carry out the study.

Section 2(4) requires the grant recipient to submit a report electronically to the Appropriations and Health and Human Services Committees on or before December 1 beginning 2021 through 2024 and a final report on or before July 1, 2025.

Section 2(5) appropriates \$2 million from the General Fund each year for five years – fiscal years 2021-2025 for the study.

The pilot program terminates on July 1, 2025.

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### **LB922 (Kolterman) Require electronic issuance of prescriptions for controlled substances as provided**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB922 would have amended the Uniform Controlled Substances Act (Neb. Rev. Stat. Sections 28-414 and 28-414.01), the Uniform Credentialing Act (Neb. Rev. Stat. Section 38-101), and the Pharmacy Practice Act (Neb. Rev. Stat. Sections 38-2870 and 38-2891).

LB922 would mandate that all prescriptions of a Schedule II, III, IV, or V drug be electronically prescribed, from the prescriber to a pharmacy, in accordance with state law. (Section 4, p. 8, lines 5-12). It also enumerates the following exceptions:

- for veterinarians;
- where e-prescribing is temporarily not available;
- prescriptions to out-of-state pharmacies;
- where the prescriber and dispenser are the same;

- drugs including elements not supported by the National Council for the Prescription Drug Program (NCPDP) SCRIPT Standard;
- drugs including elements which the FDA says cannot be e-prescribed;
- a non-patient-specific prescription, with limitations;
- research protocol drugs;
- exceptional circumstances or hardships;
- impracticality or delay;
- or drugs that require compounding;

A pharmacist who receives a written, oral or faxed prescription would not need to verify it fell into one of the above exceptions, and prescriber violations would not be grounds for disciplinary action under the UCA. Furthermore, as of January 1, 2021, LB922 would supersede sections of the Uniform Controlled Substances Act that would conflict with Section 4 of LB922. For example, Neb. Rev. Stat. Section 28-414(4)(a) allows for facsimiles of written prescriptions in non-emergency situations. Section 4 of LB922 would only allow for a facsimile of a written prescription if it fell in one of the enumerated exceptions included in Section 4 of LB922.

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**LB932 (Wishart) Require expansion of the medical assistance program as prescribed**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB932 would have amended the Medical Assistance Act statute relating to timeframes and eligibility. (Neb. Rev. Stat. Section 68-992). It would amend the statute to set October 1, 2020 as the deadline for the Department of Health and Human Services to implement Medicaid expansion.

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**LB955 (Walz) Change provisions relating to eligibility for medical assistance**

**Status:** Enacted as part of LB 956

**Committee Action:** Amended into AM 2827 to LB 956

**Summary:** Please see summary to LB 956.

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**LB956 (Walz) Provide duties for managed care organizations under the Medical Assistance Act**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 2827

**Summary:** LB 956 amends the Medical Assistance Act to define a material change, define provider, establish procedures for changing an existing provider agreement, require managed care organizations to give 60 days' notice to providers of a material change, require the notice to contain certain language, and clarify where the notice shall be sent. A material change to a provider agreement is any change not clearly identified in the agreement that decreases provider payment or compensation, or increases administrative expense, including altering an existing prior authorization, precertification, or notification.

LB 956 adds language stating that notice of a material change may also include real-time communications such as email or teleconferencing, if requested by the provider. If there are three material changes in a twelve-month period, a provider may ask for a copy of the provider contract with changes consolidated in a single document. This document would be for informational purposes only, would have no effect on the terms and conditions of the contract, and would not be construed as the creation of a new contract.

**Explanation of Amendments**

AM 2827 includes the amended provisions of LB 956, LB 955, and LB 1105.

LB955 - Change provisions relating to eligibility for medical assistance

The Department of Health and Human Services (DHHS) is currently required to mail notice to an applicant or recipient of medical assistance services if those services are to be discontinued, denied, or modified. LB 955 amends language stating that, except in the case of an emergency, notice must be sent on the same day or the day after the decision is made which adversely effects the applicant's or recipient's receipt of services. DHHS may contact the applicant or recipient through electronic communication, if agreed upon, in addition to mailing such notice.

The notice of a decision to discontinue or modify eligibility must include an explanation of the action; the reason for the action; the information used to make the decision; contact information for DHHS personnel; information on the right to appeal; and an explanation of the availability of continued benefits pending appeal.

LB 1105 - Change audit provisions under the Medical Assistance Act

LB1105 amends The Medical Assistance Act statutes related to legislative findings regarding Medicaid and recovery audits of Medicaid (Neb. Rev. Stat. Sections 68-973 and 68-974). It changes terminology from "recovery audit contractors" to "program integrity contractors" (throughout). Program integrity contractors would be able to assist with investigating the occurrence of fraud, waste, and abuse. Each investigation or program integrity audit would need to be reviewed within four years of payment, and conclude an audit within 180 days after receipt of all requested material. When conducting a program integrity audit, investigation, or review, a contractor would have to develop and implement a plan with the department for the following: resubmission of claims denied as a result of interpretation of scope of services not previously held by the department; resubmission of documentation when the document is illegible, incomplete, or unclear; and the resubmission of documentation when clerical errors resulted in denial of claims. It also adds language that the program integrity contractor would utilize a health care professional in the specialty area of practice being audited to establish methodology, using established clinical practice guidelines and established standards of care. It inserts language to allow program integrity contractors to be retained by either the department or the federal Center for Medicare and Medicaid Services (CMS), as opposed to simply the department.

LB1105 also amends language to state that claims processed or paid through a capitated Medicaid managed care program would be excluded from audit, and that there shall be no double or simultaneous audits. It disallows extrapolated overpayments, unless evidence of a sustained pattern of error, an excessively high error rate, or provider agreement is provided. A program integrity contractor shall be limited to reviewing 200 records or less for the specific service being reviewed. An extrapolated overpayment is defined as an overpayment amount calculated by looking at denials and reductions based on a statistical sampling of a claims universe. A program integrity audit is defined as an audit conducted by CMS, the department, or both. A program integrity contractor is defined as an entity who contracts with the department or CMS to carry out integrity responsibilities such as recovery, integrity, and unified program integrity audits.

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**LB977 (Bolz) Change provisions relating to the case management lead agency model pilot project**

**Status:** Enacted as part of Judiciary LB 219 through Bolz AM 2812

**Committee Action:** Advanced to General File with AM 2603

**Summary:** LB 977 relates to the state's contract with a lead agency for the provision of child welfare case management in the Eastern Service Area. Currently, Neb. Rev. Stat. 68-1212 lists the requirements a lead agency must meet, including the completion of a readiness assessment, to provide case management for child welfare services in the Eastern Service Area.

LB 977 changes Neb. Rev. Stat. 68-1212(3)(b) to require a lead agency to demonstrate full readiness by the completion of a readiness assessment. It also adds a new subsection (4) which requires the lead agency to meet all the requirements of subsection (3), including the readiness assessment, before the lead agency can begin providing case management services. LB 977 also adds a new subsection (5) which requires the Director of Children and Family Services to notify the HHS Committee when the readiness assessment is complete and "provide assurance that the lead agency has demonstrated full readiness" before the lead agency begins providing services.

### **Explanation of Amendments:**

AM 2603 makes one minor change on page 3 line 15 of the green copy to strike the word "staff" since the provision is meant to apply to the Board of Directors itself. AM 2603 also amends subsection (4) on page 3 of the green copy to clarify that nothing in this section would prohibit the Department of Health and Human Services from phasing in the transition of case management services to a lead agency over a period of time.

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### **LB 1002 (Bostelman) Change provisions relating to wholesale drug distribution for emergency medical reasons**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 2774

**Summary:** LB 1002 amends the Wholesale Drug Distributor Licensing Act (Neb. Rev. Stat. Sections 71-7436 and 71-7444). It adds language to allow emergency transfers of medication between emergency medical services. (Green Copy, Section 1, p. 2). It would also change what "wholesale drug distribution" does not include. It would not include the sale, purchase, or trade of a prescription drug for an emergency medical services to use for the provision of emergency medical care, not to exceed five percent of sales. (Green Copy, Section 2, pp. 2-3).

AM 2774 amends LB 1002 to add that "emergency medical reasons" does not include the regular and systemic sales of prescription drugs to emergency medical services. It also removes the proposed provision that "wholesale drug distribution does not include the sale, purchase, or trade of a prescription drug for an emergency medical services to use for the provision of emergency medical care, not to exceed five percent of sales." Instead, AM 2774 would add that "wholesale drug distribution" does not include the restocking of prescription drugs by a hospital for an emergency medical service if the drug was used in treating a patient prior to or during transportation to the hospital. However, "wholesale drug distribution" would include restocking of prescription drugs if the drugs were not used to treat a patient prior to or during transportation to the hospital.

### **Explanation of Amendments**

AM 2774 includes the amended provisions of LB 1002, and incorporates the amended provisions of LB 893, LB 1184, and the original provisions of LB 1044

LB 893 - Change provisions relating to emergency care providers and provide for community paramedicine and critical care paramedics

LB893 amends various statutes to remove "out of hospital" when referring to emergency medical care services or providers, and further update provisions.

A community paramedic practice of emergency medical care is defined as care from an advanced emergency medical technician (EMT), an EMT, an EMT-intermediate, or paramedic. Community paramedic care would include, but is not limited to, the provision of telephone triage, advice, or assistance to non-urgent 911 calls; providing assistance or education to patients with chronic disease management; and all acts that the respective licensure classification of an emergency care provider is authorized to perform.

Critical care paramedic practice is defined as care provided by a paramedic with the knowledge and skill acquired through completion of a program, including, but not limited to: all acts a paramedic is licensed to perform; advanced clinical patient assessment; intravenous infusions; and complex interventions, treatments, and pharmacological interventions used to treat patients within the critical care environment, including in transport.

It also amends the Emergency Medical Services Practice Act to include an education program for community paramedicine or a critical care paramedic as practice of emergency medical care. It removes the ability to perform acts including identification and intervention prior to or during transportation to a hospital or for the routine transportation between health care facilities or services.

The Board of Emergency Services will have to adopt rules and regulations to provide for licensure requirements for community paramedics and critical care paramedics, and provide for disciplinary or corrective action against training agencies. It no longer has to adopt rules and regulations that establish criteria for approval of organizations issuing CPR certifications, and remove the requirement of establishing criteria for various levels of emergency medical technicians performing activities at a hospital or health clinic.

It also changes provisions related to nurses. A licensed practical nurse is no longer exempt from the licensing requirements of the Emergency Medical Services Practice Act. A registered nurse could direct an emergency service provider in a setting other than an emergency medical service. An emergency medical service means the organization responding to the need for medical care. A licensed practical nurse is no longer considered an emergency care provider for the purposes of transportation requirements. An emergency care provider - prior to December 31, 2025 - includes: advanced EMTs; community paramedics; critical care paramedics; emergency medical responders; EMTs; EMT-intermediates; and paramedics.

#### LB 1044 - Change provisions relating to the practice of medical nutrition therapy

LB1044 amends the Medical Nutrition Therapy Practice Act (Neb. Rev. Stat. Section 38-1801) to allow a licensed medical nutritionist to order patient diets, including therapeutic diets, under the consultation of a physician.

#### LB 1184 - Require standards for certain psychiatric services under the Medical Assistance Act

LB1184 amends the Medical Assistance Act (Neb. Rev. Stat. Section 68-901) to require the Department of Health and Human Services Division of Medicaid and Long-Term Care to set standards for inpatient psychiatric units for juveniles and psychiatric residential treatment facilities for juveniles. Each staff member must be twenty years old or older; be at least two years older than the oldest resident in the facility or unit; have a high school diploma or equivalent; and have appropriate training for basic care of the patients of the facility.

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**LB 1011 (Arch) Require certain hospitals to accept reimbursement from medicare program**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 1011 would have amended the Health Care Facilities Act (Neb. Rev. Stat. Section 71-401) to require certain hospitals to enter into agreements with the U.S. Secretary of Health and Human Services to accept reimbursement for Medicare services. Rehabilitation hospitals, long-term care hospitals, critical access hospitals, and psychiatric or mental hospitals would be excluded from the above requirement. The act would be operative as of January 1, 2021.

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**LB 1037 (Hunt) Change provisions relating to household eligibility for Supplemental Nutrition Assistance Program benefits**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 1037 amends Nebraska's statutes relating to the Supplemental Nutrition Assistance Program (SNAP). LB 1037 inserts new language into Neb. Rev. Stat. 68-1017.02 which states if a member of a household becomes ineligible to receive SNAP due to a violation of the work requirements in the program, only that person, and not the entire household, shall be disqualified from participation in SNAP.

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**LB 1038 (Hunt) Change provisions relating to eligibility for Supplemental Nutrition Assistance Program benefits**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 1038 relates to eligibility for the Supplemental Nutrition Assistance Program (SNAP). It eliminates a lifetime ban on SNAP for drug felons if certain requirements are met. Section (4)(a) amends Neb. Rev. Stat. 68-1017.02 to opt out of the provision in federal law that creates a lifetime ban on SNAP for persons convicted of a drug felony. However, LB 1038 also amends Neb. Rev. Stat. 68-1017.02 in section (4)(b) to limit SNAP participation for drug felons. Under the new language inserted into section (4)(b), a person convicted of a felony involving the possession, use, or distribution of a controlled substance would only qualify for SNAP if they had completed their sentence for a felony or are serving a term of parole, probation, or post-release supervision for such felony.

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**LB 1043 (B. Hansen) Change provisions relating to regulation of health care facilities**

**Status:** Enacted as part of LB 1053

**Committee Action:** Amended into AM 2806 to LB 1053

**Summary:** Please see Summary to LB 1053

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**LB 1044 (B. Hansen) Change provisions relating to the practice of medical nutrition therapy**

**Status:** Enacted as part of LB 1002

**Committee Action:** Amended into AM 2774 to LB 1002

**Summary:** Please see summary to LB 1002.

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**LB 1049 (Bolz) Provide for participation in federal Child Care Subsidy child care assistance as prescribed**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 1049 amends the eligibility provisions for the child care assistance program in Nebraska. The eligibility for child care assistance in Nebraska is 130% of the federal poverty guidelines. Section 1 amends the eligibility for child care assistance from 130% of the federal poverty guidelines to 150% of the federal poverty guidelines for FY 2021-22 through FY 2025-26. In FY 2026-27 and in each fiscal year that follows, the income eligibility would return to 130% of the federal poverty guidelines.

LB 1049 contemplates funding the temporary eligibility increase to 150% during that five year period with the carryover funding from the Temporary Assistance for Needy Families program. LB 1049 also states an intent to measure the effect of the change in eligibility during those five years. The bill requires the Department of Health and Human Services (DHHS) to measure the impact by publishing a variety of data:

- The number of newly eligible adults per year;
- The number of newly eligible children receiving subsidies per year; and
- The need for service for the newly eligible adults, by service type.

The five year increase in eligibility ends by June 30, 2026. The reference to ongoing eligibility in subsection (2) is also changed to 150% of the federal poverty guidelines from 130% of the federal poverty guidelines.

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**LB1051 (Wishart) Create the Intergenerational Care Facility Incentive Cash Fund and provide for grants**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB1051 would introduce new language to provide for the creation of an Intergenerational Care Facility Incentive Cash Fund. The bill would allow for funding from donations and from a \$300,000 transfer from the General Fund. The fund would provide grants to nursing facilities for one-time startup costs to provide child care, including equipment and supplies. The Department of Health and Human Services would need to meet with stakeholders to identify barriers to obtaining those grants, and work to improve them. Priority would be given to rural communities for grants, and the grantee would need to submit a report accounting for funds.

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**LB1052 (Wishart) Change provisions regarding the preferred drug list under the Medical Assistance Act**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 2645

**Summary:** LB1052 amends the Medicaid Prescription Drug Act (Neb. Rev. Stat. Section 68-955). LB 1052 states that neither the department nor a managed care organization shall require prior authorization for coverage for an antidepressant, antipsychotic, or anticonvulsant prescription drug if it is deemed medically necessary by the Medicaid recipient's health care provider, and if the Medicaid recipient has a prescription history of that drug within the immediately previous 90 day period. For clarity and compliance with Federal Law, the bill specifically allows for prospective drug utilization reviews.

**Explanation of Amendments**

AM 2645 amends the introduced copy of LB 1052, incorporates LB 847 and LB 887 as amended, and becomes the bill.



### LB 847 - Change requirement for dispensing drugs in certain health care facilities

LB 847 allows a credentialed individual in an assisted living facility to affix an auxiliary sticker after a drug has been dispensed, without being subject to labeling requirements of the Pharmacy Practice Act or the Prescription Drug Safety Act. If a credentialed prescriber changed the dosage or directions of a medication, a pharmacist in a health care facility could apply an auxiliary sticker with the correct dosage or directions, or reissue the drug or device with the correct label, and make notes in the patient's medical administration record (MAR). It allows a pharmacist to package drugs at the request of a patient if the drugs were originally dispensed from a different pharmacy. It would change language allowing drugs to be "accepted" from a long-term care facility "by" a pharmacy, as opposed to "returned" from a long-term care facility "to" a pharmacy.

LB 847 also allows for electronic or automated emergency boxes, and mandates that the supplying pharmacy have policies and procedures to ensure proper usage. It requires that all non-electronic or automated emergency boxes be inspected by the supplying pharmacy at least once per month; and that any repacked drugs be in a tight, light-resistant container. Conversely, it does not mandate inspection for electronic or automated emergency boxes. It also harmonizes provisions as it relates to electronic or automated emergency boxes, such as allowing for electronic inventory, and equating "accessing" an emergency box to opening it.

LB 847 also defines central fill pharmacy as the preparation, other than compounding, of a drug at a pharmacy other than the dispensing pharmacy, and mandate the central fill pharmacy be listed on the label of a medication.

### LB 887 - Authorize pharmacists to adapt prescriptions

LB887 amends the Uniform Controlled Substances Act (Neb. Rev. Stat. Section 414.01), and the Prescription Drug Safety Act (Neb. Rev. Stat. Section 71-2478). It allows a pharmacist acting with reasonable care and patient consent to do the following:

- Change the quantity of a prescribed drug if the quantity is not commercially available or if it is related to a change in dosage form;
- Change the dosage of a prescription if the change is in the best interest of the patient, and if directions are also modified to equate to the equivalent amount;
- Dispense multiple months' supply of a drug if the prescription has sufficient refills; and
- Substitute any chemically equivalent drug product for a prescribed drug, unless the prescribing practitioner specifies "no substitution," "dispense as written" or "D.A.W." to indicate substitution is not permitted. The pharmacist must notify the prescribing practitioner of the change.

If a pharmacist adapts a prescription, he or she must document the change.

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### **LB1053 (HHS Committee) Require rules and regulations for hospital and nursing facility Medicaid reimbursement rates**

**Status:** Enacted

**Committee Action:** Advanced from Committee with AM 2806

**Summary:** LB 1053 amends the Medical Assistance Act (Neb. Rev. Stat. Section 68-901). It requires DHHS to adopt and promulgate rules and regulations regarding the Medicaid rate methodology for reimbursement for hospital and nursing facility services.

**Explanation of Amendments:**

AM 2806 includes the original provisions of LB 1053, and incorporates the original provisions of LB 1043, and the amended provisions of LB 833.

LB833 – Exclude certain elderly care programs from the Health Care Facility Licensure Act

LB 833 amends statutes in the Health Care Facilities Licensure Act related to Programs of All Inclusive Care for the Elderly (PACE).

It defines "PACE center" as a facility from which a PACE provider offers service within the scope of a PACE program, pursuant to the agreement between the provider, the federal government, and Nebraska DHHS. "PACE program" and "PACE provider" are defined to incorporate federal statutes as they existed on January 1, 2020. A PACE center is included in statute as both a health care facility and a health care service. It is not considered an adult day service, a health clinic, or a home health agency.

Prior to LB 833, PACE centers were required to have multiple licenses for each health care facility or health care service the PACE center operates. LB 833, as amended, carves out an exception allowing PACE centers to operate under a single license. LB 833, as amended, also exempts licensed PACE centers from the applications of the Medication Aide Act.

LB 1043 – Change provisions relating to regulation of health care facilities

LB 1043 amends Nebraska statutes relating to receivership of health care facilities. (Neb. Rev. Stat. Sections 71-2085 through 71-2087; and 71-2092 through 71-2094). It clarifies language to state the department may petition the Lancaster County district court or the court where the health care facility is located for appointment of a receiver. It also mandates no receiver be appointed for more than six health care facilities at the same time, unless approved by the court. It would require the receiver to conduct an analysis of the financials of the health care facility within the first 30 days, perform ongoing accounting, and provide monthly reports to the court and Department of Health and Human Services. Those reports would include plans for continued operation or sale of the facility.

LB 1043 also amends language about termination of the receivership. It changes the time frame from 12 months to 6 months for the court to order the health care facility closed or sold after a hearing. It further mandates the closure or sale date to occur within 60 days after the court order, unless ordered otherwise. It also removes language allowing for the extension of the receivership period. Compensation for the receiver and his or her receivership expenses would need to be approved by the court.

LB 1043 clarifies language relating to the liability of the receiver. It adds personal liability for officers and members of the receiver for intentional wrongdoing or gross negligence. It clarifies the relationship between the receiver and the Attorney General. Specifically:

- The Attorney General would defend the receiver in the receiver's official capacity for acts in the scope of the receiver's duties;
- The Attorney General would investigate and reject defense of the claim if determined to be outside the scope of the receiver's duties, or an act of intentional wrongdoing or gross negligence;
- Cooperation of the receiver with the Attorney General would be mandated, or the Attorney General could reject the defense;
- It would disallow the payment of public monies for defense or judgment if actions are determined to be outside the scope, intentional wrongdoing, or gross negligence; and
- It would mandate payment by the receiver to the state for costs and attorney's fees if it is established the act amounted to intentional wrongdoing or gross negligence.

Section 21 notes that the sections related to LB 833 become operative on January 1, 2021.

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**LB1058 (Howard) Adopt the Population Health Information Act**

**Status:** IPP'd sine die

**Committee Action:** Advanced as part of AM 2607 to LB 1183

**Summary:** Please see summary of LB 1183.

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**LB1059 (Howard) Change provisions relating to health care facility licensure**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** AM 2511 was offered at the hearing and became the bill.

AM 2511 replaces the green copy of LB 1059 and becomes the bill. It amends the Child Protection and Family Safety Act.

Section 1 is amended to add the definition of “alcohol and drug testing” to mean the use of biological sources, such as hair, urine, and saliva, to identify the concentration or presence of “specific substances or their metabolites.”

Section 3(1) adds a new legislative intent language regarding the role of alcohol and drugs in child abuse and neglect cases; the effect of alcohol and drugs on a parent or caretaker’s judgment and ability to provide “consistent care, supervision, and protection”; and the use of alcohol and drug testing as an effective and necessary tool “to provide evidence of or to rule out substance abuse as part of an investigation or assessment of a child’s safety or risk” and to monitor substance use and ensure treatment compliance.

Section (3)(2) would require alcohol and drug testing to be a service available for all court, non-court involved, traditional response, or alternative response cases. Alcohol and drug testing shall be one component of initial assessment and ongoing case management “to identify or eliminate substance abuse as a contributing factor to child abuse and neglect in cases in which drug or alcohol use or exposure is suspected.”

Section (3)(3) requires the Department of Health and Human Services to promulgate rules and regulations consistent with this section and revoke any contrary rules by July 1, 2020.

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**LB1061 (Crawford) Change provisions relating to alternative response to reports of child abuse or neglect**

**Status:** Enacted

**Committee Action:** Advanced with AM 2417

**Summary:** LB 1061 amends the Child Protection and Family Safety Act which delineates the procedures used in response to a report of child abuse or neglect, including alternative response, and the rights and responsibilities of the parties involved in those reports.

LB 1061 amends Neb. Rev. Stat. 28-710 to add several definitions and amends others including child advocacy center; kin caregiver; non-court-involved case; relative caregiver; and report.

*Response to abuse and neglect reports; Advisory Committee; Elimination of Sunset*

LB 1061 amends Neb. Rev. Stat. 28-712 and delineates four responses DHHS may take in response to a report of abuse or neglect. DHHS may (1) accept the report for traditional response and investigation; (2) accept the report for alternative response pursuant to Neb. Rev. Stat. 28-712.01; (3) accept the report for the Review, Evaluate, and Decide team to determine if the case can be sent to alternative response; and (4) classify the report as requiring no further action. That same section also creates an advisory committee within the Nebraska Children's Commission to examine DHHS's use of alternative response and to make recommendations to DHHS, the Legislature, and the Commission.

LB 1061 also removes the sunset for alternative response which is presently December 31, 2020.

*Alternative Response Criteria*

LB 1061 inserts into Neb. Rev. Stat. 28-712.01 exclusionary criteria for alternative response. Reports of child abuse and neglect may *not* be assigned to alternative response and must be immediately forwarded to law enforcement or the county attorney if the report involves the following:

- Murder in the first or second degree or manslaughter;
- Assault in the first, second, or third degree or assault by strangulation or suffocation;
- Sexual abuse or sexual exploitation;
- Abandonment of the child for six months or more immediately prior to the report;
- Labor trafficking of a minor;
- Neglect of a minor that results in serious bodily injury, requires hospitalization of the child or results in an injury that requires ongoing medical care, behavioral health therapy or physical or occupational therapy, including failure to thrive which has been diagnosed by a physician;
- Physical abuse to the head or torso of a child or physical abuse that results in bodily injury;
- An allegation that requires a forensic interview at a child advocacy center;
- Out-of-home child abuse or neglect; or
- An allegation being investigated by a law enforcement agency at the time of the assignment.

Neb. Rev. Stat. 28-712.01 is also amended to require a review by the Review, Evaluate, and Decide Team (RED Team) in the following circumstances: a report that includes allegations of domestic assault or domestic violence in the home; use of alcohol or controlled substances by a caregiver that impairs the caregiver's ability to care and provide safety for the child; or a family member residing in the home or a caregiver have been the subject of a report accepted for traditional response and investigation or assigned to alternative response in

the past six months. In addition, a report assigned to alternative response, must be transferred to traditional response if the concern for the child's safety is the result of a temporary living arrangement.

*Traditional response to reports of abuse and neglect*

Neb. Rev. Stat. 28-713 is amended and outlines the response of law enforcement and DHHS when a report receives a traditional response and investigation, including the requirement that DHHS utilize an "evidence-informed and validated tool" when assessing the report. If the department finds a child is seriously endangered and immediate removal is necessary, the department shall seek an immediate request for the county attorney to institute legal proceedings.

*Rights of parents and caregivers*

LB 1061 also inserts language regarding the rights and responsibilities of parents, kin caregivers, and relative caregivers.

AM 2417 inserts a new section to amend Neb. Rev. Stat. 43-4203 related to the Nebraska Children's Commission. The new section strikes section (1) from 43-4203 to remove the committee of the Children's Commission that examined state policy regarding the prescription of psychotropic drugs for children. The goals of this committee have been accomplished.

AM 2417 also amends section 4 of the green copy to add a parent's history of termination of parental rights as an additional exclusionary criteria for alternative response.

AM 2744 was offered by Sen. Crawford during debate which makes certain agreed upon changes to the exclusionary criteria for alternative response.

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**LB1065 (Halloran) Change provisions regarding pharmacies, pharmacists, and pharmacy personnel**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB1065 would have amended the Pharmacy Practice Act (Neb. Rev. Stat. Sections 38-2866.01; 38-2871; 38-2891; 38-2891.01; and 38-28,106) and the Prescription Drug Safety Act (Neb. Rev. Stat. Section 71-2483).

LB1065 would remove the supervision limit of three pharmacy technicians or pharmacy interns at any time. (Section 1, p. 2, lines 4-5). With regards to transferring Schedule III, IV, and V prescription drugs between pharmacies for a one-time refill, pharmacy technicians would be able to initiate or receive transfers, and would include his or her name on the record of the prescription. (Section 2, pp. 2-3, lines 13-21). If the drug is a controlled substance, the Drug Enforcement Agency number of the transferring pharmacy would be used. (Section 2, p. 3, lines 18-21).

LB1065 would not allow a pharmacy technician to perform any evaluation or necessary clarification of a medical order that would require the clinical judgment of a pharmacist (Section 3, p. 4, line 12). LB1065 would allow pharmacy technicians to validate the acts, tasks, and functions of another pharmacy technician if they are working within a licensed pharmacy under the supervision of a pharmacist (Section 4, p. 5, lines 10-11), or validating medication verified using bar code or radio frequency technology (Section 4, p. 5, lines 15-16).

LB1065 would also allow pharmacist technicians to validate these actions in a pharmacy, instead of only a hospital. (Section 4, p. 5, lines 18-20).

LB1065 would also add language allowing an employee or agent of a prescribing practitioner to communicate a prescription to a pharmacy technician, instead of simply a refill authorization (Section 5, p. 5, line 30; Section 6, p. 6, line 9).

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**LB 1104 (Arch) Redefine a term under the Health Care Quality Improvement Act**

**Status:** Enacted as part of AM 2775 to LB 783

**Committee Action:** Provisions amended into AM 2775 to LB 783

**Summary:** Please see summary to LB 783

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**LB 1105 (B. Hansen) Change audit provisions under the Medical Assistance Act**

**Status:** Enacted as part of LB 956

**Committee Action:** Amended into AM 2827 to LB 956

**Summary:** Please see summary to LB 956.

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**LB 1124 (Howard) Adopt the Opioid Prevention and Treatment Act**

**Status:** Enacted

**Committee Action:** Advanced to General File

**Summary:** LB 1124 creates the Opioid Prevention and Treatment Act to provide for the use of dedicated revenue for opioid-disorder-related treatment and prevention. The Nebraska Opioid Recovery Fund is created for any settlement funds received from the Department of Justice pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act related to the advertising of opioids.

The funds appropriated to the Nebraska Opioid Recovery Fund shall not create ongoing entitlements or an obligation on the State of Nebraska. The funds must be appropriated or distributed in accordance with the terms of any verdict, judgment, compromise, or settlement in any case brought by the Attorney General pursuant to the Consumer Protection Act or the Uniform Deceptive Trade Practices Act.

LB 1124 also requires the Department of Health and Human Services to report annually to the Legislature, the Governor, and the Attorney General regarding how the funds appropriated from the Opioid Recovery Fund have been used and the outcomes from that use.

AM 3127 was offered by Senator Howard and adopted. The amendment revised the language regarding the creation of the Nebraska Opioid Recovery Fund.

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**LB 1138 (Wishart) Establish a Dementia Registry**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 1138 requires the establishment and maintenance of a dementia registry in Nebraska by the Department of Health and Human Services (DHHS).

LB 1138 establishes the dementia registry. The registry must include cases of dementia that occur within the state and shall contain information that DHHS decides is necessary and appropriate for further scientific and medical research to achieve the goals of the registry. The release of information from the registry must follow the confidentiality requirements for of medical records and health information in state law: Class I, Class II, Class III, and Class IV. LB 1158 also enumerates the requirements of DHHS as it relates to the registry.

Under LB 1138, DHHS may request of physicians and osteopathic physicians, and the physicians must provide, data that DHHS deems necessary and appropriate from each medical record of dementia under the physician's custody or control. The information requested may include, but is not limited to: name and contact information, date of birth, race, sex, date of diagnosis, type of dementia, stage of dementia, diagnostic confirmation, any additional information DHHS deems necessary. Hospitals may make available to DHHS a list of names of dementia patients and medical records which document the diagnosis and treatment of dementia at the hospital.

All data obtained by DHHS is for the confidential use of DHHS and the private or public entities DHHS determines may view the records as allowed by law in Neb. Rev. Stat. §§81-663 to §81-675. No patient-identifying information may be disclosed, made public, or released by the department.

Local public health departments, health departments or dementia registries outside Nebraska, and the U.S. Department of Health and Human Services may have access to the data in the dementia registry upon DHHS's approval of the entities written application.

LB 1138 also creates limited civil and criminal immunity for hospitals, physicians, and osteopathic physicians - or the employees of those medical professionals - if those medical professionals provide information in accordance with the act and in accordance with the confidentiality provisions for medical records in §§81-663 to 81-675. Similarly, DHHS and its employees may not be civilly and criminally liable for releasing information from the dementia registry or for the conduct of persons permitted access to the registry if access is permitted in accordance with the confidentiality provisions for medical records in §81-663 to §81-675. The Act shall not be interpreted to compel any individual to submit to any medical exam or supervision by DHHS or its authorized representatives or researchers. No one who seeks information from the registry or obtains registry data may contact a patient on the registry or the patient's family without permission from the patient or family. DHHS will coordinate any contact between the parties.

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#### **LB 1140 (HHS Committee) Provide requirements for youth rehabilitation and treatment centers**

**Status:** Enacted

**Committee Action:** Advanced with AM 2663

**Summary:** LB 1140 creates a definition of youth rehabilitation and treatment centers in Nebraska as "facilities operated to provide programming and services to rehabilitate and treat juveniles." Each YRTC is considered a separate placement.

LB 1140 requires each YRTC to provide: (1) safe and sanitary space for sleeping, hygiene, education, programming, treatment, recreation, and visitation; (2) health care and medical services; (3) appropriate physical separation and segregation of juveniles based on gender; (4) sufficient staffing to comply with law and to protect the safety and security of each juvenile; (5) training that is specific to the population being served at the YRTC; (6) a facility administrator for each YRTC who has the sole responsibility for the administration of a single YRTC; (7) an evaluation process for the development of an individualized treatment plan within 14 days of admission to a YRTC; (8) an age-appropriate and developmentally-appropriate education program for each juvenile that can award relevant and necessary credits toward high school graduation that will be accepted by the juvenile's home district; (9) a case management and coordination process, designed to assure appropriate reintegration of the juvenile to his or her family, school, and community; (10) compliance with federal programs and funding such as Medicaid, child welfare funding, the Special Education Act, and other funding guidelines as appropriate; (11) research-based or evidence-based

programming that includes living skills, vocational training, behavior management and modification, substance abuse awareness, job training and job placement assistance; and (12) research-based or evidence-based treatment services for behavioral and mental health issues, sex offender behaviors, substance abuse, and victims of physical or sexual abuse.

Each YRTC is required to file an annual report with the Clerk of the Legislature on or before July 15 of each year under section 1(2) of LB 1140. The annual report should include: data on the populations served, an overview of programming and services, and an overview of any facility issues or facility improvements.

### **Explanation of Amendments:**

AM 2663 incorporates LB 1141, LB 1142, LB 1143, and LB 1145 into LB 1140.

#### LB 1141 - Require the Department of Health and Human Services to develop operations plans for the youth rehabilitation and treatment centers

The provisions of LB 1141 can be found in section 2 of AM 2663. Section 2 requires the Department of Health and Human Services (DHHS or the department) to develop a five year operations plan for the YRTCs by November 15, 2020 and submit the plan electronically to the Health and Human Services Committee of the Legislature.

Under section 2(2) the operations plan must be developed with input from key stakeholders. The operations plan must include: (1) a description of the population served at each YRTC; (2) an organizational chart of supervisor and staff and a plan that does not allow for administrative staff to have oversight over more than one YRTC or clinical staff to have responsibility for more than one YRTC; (3) a plan for staff who shall be centralized off-site or managed onsite; (4) a facilities plan that considers taxpayer investments already made in the facilities and the community support and acceptance of the juveniles in the community where the YRTC is located; (5) a description of programming offered at the YRTCs; (6) a description of each mental health treatment plan offered at the YRTCs; (7) a description of reentry and discharge planning; (8) staffing plan that ensures adequate staffing; (9) an education plan developed in collaboration with the Nebraska Department of Education; (10) a capital improvements budget; (11) an operating budget; (12) a disaster recovery plan; (13) a plan to segregate the juveniles by gender on separate campuses; (14) a parenting plan for juveniles placed in a YRTC who are parenting; (15) a statement of the rights of juveniles placed at a YRTC including a right to privacy, and the rights of parents or guardians; (16) quality and outcome measurements for tracking outcomes when youth are discharged from a YRTC, including an exit survey; (17) key performance indicators to be included in the annual report required under this section; (18) a requirement for trauma-informed training of staff; (19) methods and procedures for investigations at the YRTCs; and (20) a grievance process for the youth at the YRTCs. (AM 2663, section 2, pgs. 2-4.)

Beginning on December 15, 2021, and each year thereafter on or before December 15, the department shall submit a report electronically to the Clerk of the regarding the operations plan and key performance indicators.

#### LB 1142 – Provide for emergency plans at the Youth Rehabilitation and Treatment Centers

The provisions of LB 1142 are found in sections 3 through 8 of AM 2663. These provisions amend the Health and Human Services, Office of Juvenile Services Act to require the DHHS to develop an emergency plan for the YRTCs and amends the juvenile code to allow for the placement of a juvenile at a detention facility in the event of an emergency.



AM 2663 adds a definition of “emergency” to Neb. Rev. Stat. §43-403. Emergency is defined as “a situation including fire, flood, tornado, natural disaster, or damage to a youth rehabilitation and treatment center that renders such [YRTC] uninhabitable.” Emergency does *not* include inadequate staffing under the definition.

DHHS is required to develop an emergency plan for YRTC-Geneva, YRTC-Kearney, and any other facility being used as a YRTC. The emergency plan must: (1) identify and designate alternative placement facilities for the placement of juveniles in the event a YRTC must be evacuated and the administrator of the proposed alternative placement must agree to be designated as such in the emergency plan; (2) identify barriers to implementation of an effective emergency plan, including necessary administrative or legislative changes; (3) include procedures for providing reliable, effective, and timely notice that an emergency plan is being implemented to various parties including staff, the juveniles, the families and legal guardians of the juveniles, the courts, the HHS Committee, the Ombudsman and the Office of Inspector General for Child Welfare; and (4) detail the plan for transportation of juveniles to a temporary placement facility.

DHHS is required to ensure that the administrator of each temporary placement facility in the emergency plan consents to the temporary placement of the juveniles and that there is an agreement on cost-reimbursement between DHHS and the temporary placement facility.

In the event an emergency plan is implemented, section 7(2) requires the Office of Juvenile Services, to provide notice to the persons listed in the plan 24 hours prior to the plan’s implementation, if practical, or within 24 hours after implementation.

An exception is created to the prohibition in Neb. Rev. Stat. §43-251.01(5)(b)(iii) which states that a juvenile may not be placed into detention: “(E) due to a lack of more appropriate facilities.” Section 8 inserts new language to allow for the placement of a juvenile at a criminal detention facility, if allowed by law, and a juvenile detention facility for no more than seven days in the event of an emergency, as defined in section 4.

#### LB 1143 – Provide duties to the Department of Health and Human Services with respect to the establishment of an inpatient adolescent psychiatric unit

The provisions of LB 1143 are included in section 9 of AM 2663. It inserts new language requiring DHHS to contract for the completion of a needs assessment and cost analysis for the establishment of an inpatient adolescent psychiatric unit at the Lincoln Regional Center. The contract must be with an outside consultant with expertise in cost and needs analysis of health care facilities within 60 days after the effective date of the act.

DHHS is also required to submit a report electronically to the HHS Committee on or before October 15, 2020 which shall include: (1) a needs assessment including the number of adolescents expected to use such an inpatient psychiatric facility; (2) the cost of opening an existing facility at the Lincoln Regional Center for use as an inpatient psychiatric unit; (3) the cost of necessary construction, upgrades, or repairs if a facility at the Lincoln Regional Center was re-opened; (4) the annual operating costs of an inpatient adolescent psychiatric unit including any federal funds available; and (5) the cost savings realized by moving adolescents from out-of-state institutions back to Nebraska for treatment at an inpatient adolescent psychiatric unit. Adolescent is defined as “a juvenile under the jurisdiction of the juvenile court.”

#### LB 1145 - Require the Department of Health and Human Services to develop and implement policies regarding the use of mechanical restraints and transportation of juveniles

The provisions of LB 1145 appear in section 10 of AM 2663. That section inserts new language which requires that DHHS policies and procedures regarding the transportation of juveniles placed at the YRTCs shall apply to any private contractor utilized by the Office of Juvenile Services to transport juveniles placed at the YRTCs.

AM 3121 was offered by Senator Howard after returning the bill to Select File to address certain date changes made necessary by the pandemic, to include a public health emergency in the definition of emergency, and to make the cost study discretionary rather than mandatory. The amendment was adopted.

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**LB 1141 (HHS Committee) Require the Department of Health and Human Services to develop operations plans for the youth rehabilitation and treatment centers**

**Status:** Enacted as part of LB 1140

**Committee Action:** Advanced as part of AM 2663 to LB 1140

**Summary:** Please see summary of LB 1140

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**LB 1142 (HHS Committee) Provide for emergency plans at the youth rehabilitation and treatment centers**

**Status:** Enacted as part of LB 1140

**Committee Action:** Advanced as part of AM 2663 to LB 1140

**Summary:** Please see summary of LB 1140

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**LB 1143 (HHS Committee) Provide duties for the Department of Health and Human Services with respect to establishment of an inpatient adolescent psychiatric unit**

**Status:** Enacted as part of LB 1140

**Committee Action:** Advanced as part of AM 2663 to LB 1140

**Summary:** Please see summary of LB 1140

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**LB 1145 (HHS Committee) Require the Department of Health and Human Services to develop and implement policies regarding use of mechanical restraints and transportation of juveniles**

**Status:** Enacted as part of LB 1140

**Committee Action:** Advanced as part of AM 2663 to LB 1140

**Summary:** Please see summary of LB 1140

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**LB 1147 (Vargas) Provide duties for the Department of Health and Human Services regarding the youth rehabilitation and treatment centers**

**Status:** Enacted as part of LB 1188

**Committee Action:** Advanced as part of AM 2736 to LB 1188

**Summary:** Please see summary of LB 1188

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**LB 1149 (Vargas) Change provisions relating to the Office of Juvenile Services**

**Status:** Enacted as part of LB 1188

**Committee Action:** Advanced as part of AM 2736 to LB 1188

**Summary:** Please see summary of LB 1188

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**LB 1150 (Brandt) Require the youth rehabilitation and treatment centers to be fully operational by July 1, 2021**

**Status:** Enacted as part of LB 1188

**Committee Action:** Advanced to General File with AM 2742; version of LB 1150 was offered as a floor amendment to LB 1188

**Summary:** LB 1150 requires the Youth Rehabilitation and Treatment Centers in Kearney and Geneva to return to their past function with Geneva serving female youth and Kearney serving male youth.

LB 1150 requires the Department of Health and Human Services (DHHS) and the Office of Juvenile Services (OJS) to take all steps necessary to ensure that the Youth Rehabilitation and Treatment Center (YRTC) in Geneva is fully staffed and operational for the supervision, care, treatment, and rehabilitation of female juveniles committed to the YRTC, on or before July 1, 2021. Similarly, LB 1150 requires the DHHS and the OJS to take all steps necessary to ensure that the YRTC in Kearney is fully staffed and operational for the supervision, care, treatment, and rehabilitation of male juveniles committed to the YRTC, on or before July 1, 2021.

Under LB 1150, the supervision, care, treatment, and rehabilitation must be done at the YRTCs in a manner that is safe, abides by state and federal law, and “where practicable” is in accordance with national best practices. Subsection (3) of LB 1150 requires OJS and DHHS to submit reports to the Legislature on their progress towards making the YRTCs fully operational by July 1, 2021 and information on any resources and legislation needed to meet that goal. The reports are due August 1, 2020 and December 1, 2020.

#### **Explanation of Amendments:**

AM 2742 replaced the green copy of LB 1150 and became the bill.

AM 2742 amends 83-107.01. Section 1(2) states that by July 1, 2021, if the DHHS operates a YRTC in Kearney, it shall be used for the treatment of boys only. Similarly, by July 1, 2021, if DHHS operates a YRTC in Geneva it shall be used for the treatment of girls only.

For any other facility that is operated and utilized as a YRTC under state law, DHHS must ensure safe and appropriate gender separation.

In the event of an emergency, DHHS may use YRTC-Kearney or YRTC-Geneva for the treatment of juveniles of both genders for up to seven (7) days and must ensure safe and appropriate gender separation during that time. Emergency is defined as “a situation including fire, flood, tornado, natural disaster, or damage to the institution that renders an institution uninhabitable.” Emergency does not include inadequate staffing.

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#### **LB 1158 (Arch) Provide information on job-skills programs to applicants for medical assistance**

**Status:** Enacted

**Committee Action:** Advanced with AM 2851

**Summary:** LB 1158 amends the Medical Assistance Act (Neb. Rev. Stat. Section 68-901) to require the Department of Health and Human Services (DHHS) to inform each applicant for medical assistance about job-skills programs and connect applicants to such programs, beginning October 1, 2021. It would require a quarterly report for 2022 and 2023 to the Clerk of the Legislature on the total number of referred applicants and services received, beginning February 1, 2022. It would also require the Department of Labor to report statistics regarding those referrals to DHHS quarterly from January 1, 2022 through December 31, 2023. It would also require the Department of Labor and DHHS administer above provisions. LB 1158 states that the job-skills programs may be utilized on a voluntary basis and do not affect the receipt of Medicaid services.

## Explanation of Amendments

Committee Amendment AM 2851 replaces the green copy of the bill and contains the amended provisions of LB 1158 and the amended provisions of LB 836.

### LB836 - Change provisions governing certain contracts and agreements relating to the medical assistance program

LB 836 mandates the return of any remittance if the contractor does not meet the medical loss ratio, any unearned incentive funds, and any other funds in excess of the contractor limitations to the State Treasurer for credit to the Medicaid Managed Care Excess Profit Fund.

It also creates the Managed Care Excess Profit Fund. The Fund is used first to offset any losses that might be incurred by the contracted provider; and then provide for services addressing health needs of adults and children under Medicaid.

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### **LB 1170 (Cavanaugh) Provide for implicit bias training, coverage under the medical assistance program for doula services and postpartum women, instruction to health professionals, and a pilot program**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB1170 would have amended the Uniform Credentialing Act (Neb. Rev. Stat. Sections 38-101 and 38-129), and the Medical Assistance Act (Neb. Rev. Stat. Sections 68-901 and 68-915). It would require that an individual complete implicit bias training before being issued a credential, and annually thereafter for those in the medical field. Implicit bias training is defined as a program designed to expose people to their unconscious prejudices, provide tools to adjust thinking, and eliminate discriminatory behaviors. It would also require the Department of Health and Human Services (DHHS) to develop and provide instruction to health care professionals about health screenings for maternal hypertension, gestational diabetes, and obesity, specific to the health of black women.

LB1170 would also allow postpartum women to be eligible for medical assistance for a period of 12 months. It would require DHHS to use state funds to reimburse a Medicaid recipient for the services of a doula, which is defined as a person who provides guidance and support to pregnant women during childbirth and to mothers of newborns. It would also require DHHS to develop and implement a pilot program that includes housing assistance and home visitation for new and expecting mothers, focusing on racial disparity across socioeconomic groups and social determinants of pregnancy health.

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### **LB 1172 (Cavanaugh) Change provisions relating to juveniles and provide duties for the Department of Health and Human Services**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB 1172 would have amended the Juvenile Code, Neb. Rev. Stat. §43-247.02, to add a new section requiring that court orders specify whether a youth is being committed to the Office of Juvenile Services for placement at the Youth Rehabilitation and Treatment Center (YRTC) in Geneva or the Youth Rehabilitation and Treatment Center in Kearney.

Language is also added in section 1(3)(b) to require that any transportation of a juvenile between the YRTC in Geneva and the YRTC in Kearney be ordered by the court except in the case of an emergency when all juveniles must be moved from a court-ordered location due to safety or security concerns.

LB 1172 also amends §43-408 to require the committing court to place a juvenile specifically at YRTC-Geneva or YRTC-Kearney.

LB 1172 inserts new language which allows the Department of Health and Human Services (DHHS) to use space at the Lincoln Regional Center as a psychiatric residential treatment facility for juveniles. A juvenile may not be discharged from such psychiatric facility without a court order except in the case of an emergency requiring the removal of all juveniles. The section prohibits DHHS from using exclusionary criteria for juveniles in intake administration at such facility. When a juvenile is to be discharged from such psychiatric residential treatment facility, DHHS is required to notify persons required to be served under the Juvenile Code, all interested parties, and the committing court of the pending discharge 60 prior to discharge and again 30 days prior to discharge.

LB 1172 requires each YRTC to provide to the Supreme Court and to the Legislature a description of the services provided to juveniles at the YRTCs and any changes made to the services provided during the year.

Finally, LB 1172 requires DHHS to contract with the University of Nebraska to conduct a needs analysis of the programs and facilities at the YRTCs. The needs analysis must identify areas in which the University could assist DHHS and a plan for assistance must be created. The needs analysis and plan must be submitted to the Health and Human Services Committee by July 1, 2020.

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**LB 1182 (Wayne) Provide for notice of new drug or biologics license applications and for a study of drug costs**

**Status:** IPP'd sine die

**Committee Action:** None

**Summary:** LB1182 would have amended the Nebraska Health Care Funding Act (Neb. Rev. Stat. Section 71-7611). It would require sponsors to submit to the Department of Health and Human Services (DHHS) notification that the sponsor has filed a new drug application for a pipeline drug or biosimilar drug, beginning January 1, 2021. "Sponsor" is defined in federal statute as the entity that assumes responsibility for investigation of a drug; and pipeline drug is defined as a drug containing a new molecular entity for which a sponsor has filed an application with and received an action date from the Federal Drug Administration (FDA).

Beginning January 1, 2021, it would also allow DHHS to conduct a study of manufacturers of pipeline drugs that may have a significant impact on Medicaid expenditures for outpatient drugs. The manufacturer would have to submit the following information:

- The primary issue studied in connection with the drug and whether it is therapeutically indicated for such drug;
- Each route of administration studied;
- Clinical trial comparators;
- The estimated year of market;
- The designation of the FDA for such drug; and

- Whether the FDA has designated the drug for accelerated approval or priority review. (Section 2, p. 5, lines 10-26).

Beginning March 1, 2021, it would require the Director of Medicaid and Long-Term Care and the Director of Public Health of the Division of Public Health of DHHS to prepare a list of 10 or fewer outpatient prescription drugs that are provided at substantial cost to the state or critical to public health. The list cannot include outpatient prescription drugs unless the wholesale acquisition cost of the drug, minus rebates, increased by at least 20% in the previous year, or 50% in the previous three years and was more than \$60 for a 30 day supply or course of treatment. The manufacturer of the drug on the list would then have to provide a narrative description of all factors that caused the increase, and company-level research and development costs the Director of Medicaid and Long-Term Care deems relevant for the most recent audited year. The quality and types of data would be substantially similar to what is submitted to the Securities and Exchange Commission (SEC) on the manufacturer's 10-k. A 10-k is an annual comprehensive report to the SEC by a publicly-traded company about its financial performance.

It would allow DHHS to impose a penalty of \$7,500 or less on a sponsor or manufacturer for each violation the section, which would then be remitted to the Health Care Cash Fund.

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**LB 1183 (Arch) Create the Health Information Technology Board and change prescription drug monitoring provisions**

**Status:** Enacted

**Committee Action:** Advanced with AM 2607 which includes LB 1058

**Summary:** LB 1183 creates the Health Information Technology Board and amends provisions relating to the Prescription Drug Monitoring Program (PDMP).

*Membership of HIT Board*

The Health Information Technology Board (HIT Board) is created with fourteen (14) members. The membership shall consist of: the program director of the PDMP created under §71-2454; two physicians; one pharmacist; one alcohol and drug counselor providing services for a state-licensed alcohol and drug abuse addiction treatment program; one health care provider who is board-certified in pain management; one hospital administrator; one dentist; one nurse practitioner authorized to prescribe medication; one veterinarian; one representative of DHHS; one representative of the statewide health information exchange in §71-2455; and the chairperson of the HHS Committee and the chairperson of the Appropriations Committee who are non-voting, ex officio members. The members who are health providers must have active practices and be in good standing and most will be appointed from a list of candidates provided by a statewide organization in that field.

With the exception of the director of the PDMP and the chairpersons of the HHS and Appropriation Committees, each member of the HIT Board shall be appointed by the Governor and approved by the Legislature.

All members of the HIT Board shall hold a credential under the Uniform Credentialing Act, except the director of the PDMP, hospital administrator, DHHS representative, and the chairpersons of the HHS and Appropriations Committee. The members shall be appointed by October 1, 2020 and the HIT Board will begin meeting by December 1, 2020. Members are appointed to a five-year term. Those members appointed before December 1, 2020 may begin serving before they are approved by the Legislature. Any vacancy in membership that occurs before the members term has expired shall be filled by the Governor within 90 days.

If after being appointed, a member's credential required for appointment has changed or is terminated, the member is permitted to continue to serve as a member of the HIT Board until the end of that member's term, unless the credential was lost due to disciplinary action.

#### *Duties of the HIT Board*

The duties of the HIT Board are to: establish criteria for data collection and disbursement by the statewide health information exchange and the PDMP; evaluate and ensure the statewide health information exchange meets technological standards for reporting data for the PDMP, including what data should be collected and how often it should be collected; provide governance and oversight to ensure that the information in the statewide health information exchange and the PDMP must be accessed, used, or disclosed in accordance with privacy and security protections in law and regulations; and provide recommendations to the statewide health information exchange.

#### *Other Language Changes*

The language in the PDMP statutes is amended so that any prescription drug dispensed in this state is entered in the system daily after such prescription drug is "delivered" rather than "dispensed" and information is added which is to be submitted electronically to the PDMP to include "the date the prescription is delivered to the patient" and any additional information as determined by the HIT Board or as published in the submitter guide for the PDMP.

Similarly, other language is amended to remove the requirement that the statewide health information exchange collaborate with DHHS before deciding to release information in accordance with the act.

### **Explanation of Amendments**

AM 2607 amends the green copy of LB 1183 and also incorporates LB 1058.

#### LB 1183 – Amendments

AM 2607 amends LB 1183 to increase the number of members on the HIT Board to 17. The three additional members added are (1) a delegate under 71-2454; (2) a health care payor defined in 25-21,247; and (3) a credentialed health information management professional.

AM 2607 amends the appointment procedure so that all members of the HIT, except the members of the Legislature, shall be appointed by the Governor with the approval of the Legislature. New language is also inserted to require a minimum of three members to be appointed from each congressional district.

The language in the PDMP statutes is amended so that any prescription drug dispensed in this state is entered in the system daily after such prescription drug is "sold" rather than "dispensed." Several sections regarding the release and use of the data in the PDMP was amended to require compliance with the Health Insurance Portability and Accountability Act (HIPAA) as well as the policies adopted by the HIT Board.

AM 2607 maintains the current statutory language requiring collaboration between the statewide health information exchange and DHHS with respect to the release of information which had been stricken in the green copy.

Finally, the provision regarding the administration of the HIT Board is also moved to 71-2455 and allows DHHS to contract with the statewide health information exchange for the administration of the Board.

## LB 1058 – Create the Population Health Information Act

LB 1058 creates the Population Health Information Act which provides a statutory framework for the operation of a state health information exchange, including the collection and reporting of public health data for registry submissions, immunization reporting, and syndromic surveillance.

LB 1158 provides duties for operating an electronic health records initiative. The designated health information exchange shall aggregate clinical information; act as the designated entity for purposes of access to and analysis of health data; collect and analyze data for purposes of informing the Legislature, DHHS, health care providers, and health care entities as to the cost of, access to, and quality of health care in Nebraska; and be a collector and reporter of public health data. AM 2607 provides that the Department of Health and Human Services shall work collaboratively with the designated health information exchange to access federal funding from the Centers for Medicaid and Medicare and other federal programs related to health information technology. Finally, section 4(2) also states that the Population Health Information Act shall not preclude the Department of Health and Human Services from working with any other entity for the purposes of collecting and analyzing data to inform the Legislature and other health care entities of the cost and value of health care in Nebraska.

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## **LB 1184 (Arch) Require standards for certain psychiatric services under the Medical Assistance Act**

**Status:** Enacted as part of LB 1002

**Committee Action:** Amended into AM 2774 to LB 1002

**Summary:** Please see summary to LB 1002.

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## **LB 1185 (HHS Committee) Change provisions relating to criminal history record information checks for child care staff members**

**Status:** Enacted

**Committee Action:** Advanced with AM 2668 which incorporates LB 837

**Summary:** LB 1185 amends the Child Care Licensing Act to require that persons who are *not* required to be licensed under the Child Care Licensing Act but who seek to be a provider under the federal Child Care Subsidy program, must submit a request for a national criminal history record information check for each child care staff member.

Beginning October 1, 2020, a child care provider who is not required to be licensed but who wants to participate in the child care subsidy program must request a national criminal history record information check for all existing staff members and all prospective child care staff members. The child care provider must request the national criminal history record information check prior to being approved as a provider within the Child Care Subsidy program or prior to residing in a family child care home.

If a child care staff member was a provider in the Child Care Subsidy program or was residing in a family child care home prior to October 1, 2020, such person has until October 1, 2021 to submit a request for a national criminal history record information check. The child care staff member being screened must pay the actual cost of the fingerprinting and national criminal history record information check.

A person who has already undergone a national criminal history record information check to obtain a license under the Child Care Licensing Act or work as a staff member and who remains in good standing with the Department of Health and Human Services (DHHS), does not have to undergo an additional national



criminal history record information check to become a provider in the Child Care Subsidy program, unless that person has not worked for a child care provider in the state for more than 180 days.

Individuals, entities, and providers are ineligible to participate in the Child Care Subsidy program if the individual, entity, or provider: (1) refuses to consent to a national criminal history record information check; (2) knowingly makes a material false statement in connection with the national criminal history record information check; (3) is registered or required to be registered on a state or national sex offender registry; and (4) has been convicted of a crime of violence, a crime of moral turpitude, or a crime of dishonesty.

LB 1185 also inserts language into Neb. Rev. Stat. 68-1206 to require that a child care provider wanting to participate in the Child Care Subsidy program must comply with the criminal history record information check requirements in the Child Care Licensing Act.

### **Explanation of Amendments**

AM 2668 incorporates LB 837 into LB 1185.

#### LB 837 – Change provisions relating to background checks under the Child Care Licensing Act and the Children’s Residential Facilities and Placing Licensure Act.

AM 2668 replaces section 3 of LB 1185 to incorporate LB 837 which amends the same section of law. Section 3 of AM 2668 amends the Child Care Licensing Act, Neb. Rev. Stat. 71-1912, to require the Department of Health and Human Services (DHHS) to seek federal funds if available, to help child care providers and child care staff with the cost of fingerprinting and the national criminal history record information checks. If DHHS does not receive sufficient federal funds to assist child care providers and staff with the costs of the checks then the child care staff member, applicant for a child care license, or a licensee, will pay the actual cost of the fingerprinting and criminal history record information check. However, if funding becomes available, then DHHS may pay all or part of the cost for the child care staff member.

AM 2668 also inserts section 5 which amends the Children’s Residential Facilities and Placing Licensure Act, Neb. Rev. Stat. 71-1928.01. This section also requires DHHS to seek federal funds, if available, to help residential child-caring agencies and their employees with the cost of fingerprinting and the criminal history record information checks. If DHHS does not receive sufficient federal funding to assist with the costs, the individual being screened or the residential child-caring agency must pay the cost of the fingerprinting and background check unless funding becomes available and then DHHS may pay all or part of the cost.

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### **LB 1188 (Howard) Provide duties for the Office of Juvenile Services relating to education and change the definition of interim program school**

**Status:** Enacted

**Committee Action:** Advanced with AM 2736 which included LB 1147 and LB 1149

**Summary:** LB 1188 amends the Health and Human Services, Office of Juvenile Services Act and requires the Office of Juvenile Services to establish the position of superintendent of schools to administer the education programs at the Youth Rehabilitation and Treatment Centers in Geneva and Kearney by August 1, 2020. The superintendent hired must meet the qualifications under Neb. Rev. Stat. 79-801 which requires a superintendent to hold a Nebraska certificate to administer.

Section 2(2) requires that the education services offered to the juveniles committed to the Office of Juvenile Services must be provided through a school or program that meets the requirements for an interim-program school, an approved school, or an accredited school.

The definition of interim-program school in Neb. Rev. Stat. 79-1119.01 is amended in section 3 to include a youth rehabilitation and treatment center.

### **Explanation of Amendments**

AM 2736 amends LB 1188 and incorporates LB 1147 and LB 1149.

#### **LB 1188 – Amendments**

The provisions of LB 1188 are found in section 15 and 16 of AM 2736. AM 2736 amends LB 1188 to require a superintendent of institutional schools to administer the education programs not just at the Youth Rehabilitation and Treatment Centers but at all institutions under the supervision of the Department of Health and Human Services (DHHS) that house juveniles. AM 2736 also requires the superintendent of schools to report to the CEO of DHHS and to report annually to the State Board of Education as a requirement for accreditation pursuant to 79-703.

Section 16 of AM 2736 amends Neb. Rev. Stat. 79-703 to include the provision that an annual report by the superintendent of state institutions under the supervision of DHHS that house juveniles is a part of the accreditation process.

AM 2736 removes the provisions regarding interim-program schools.

#### **LB 1147 - Provide duties for the Department of Health and Human Services regarding the Youth Rehabilitation and Treatment Centers**

The provisions of LB 1147, as amended, are included in sections 13 and 14 of AM 2736.

Under section 13, DHHS is responsible for the administration of any building where a juvenile committed for placement at a YRTC resides, including all daily maintenance, minor repairs, custodial duties, and operations of such properties.

Section 14 details the responsibility of the Department of Administrative Services regarding those same YRTC facilities, including the structural integrity of the buildings, major repairs, capital improvements, the necessary procurement of contractors and materials to carry out such responsibilities, and any other facility maintenance functions which are not the responsibility of DHHS under section 13. (AM 2736, p. 18, lines 13-20.)

#### **LB 1149 - Change provisions related to the Office of Juvenile Services**

The provisions of LB 1149, as amended, are found in sections 1 through 12 and sections 17-19 of AM 2736. These provisions amend the Health and Human Services, Office of Juvenile Services Act to add new requirements and remove obsolete language.

#### ***Requiring evidence-based tools, programs, and services***

In several provisions, AM 2736 inserts new language to require the Office of Juvenile Services (OJS) to utilize “evidence-based” and “validated” tools, programs, and services.

In section 5, 43-406 is amended to require OJS to utilize an “evidence-based and validated” risk and needs assessment to create an “individualized treatment plan” for youth committed to OJS.

In section 6, §43-407 is amended to: (1) require that the programs and treatment services OJS provides at the YRTC be evidence-based and that the evaluation of the individual or family should be done with “evidence-based, validated risk and needs assessments to create an individualized treatment plan”; (2) clarify that OJS may only transition a juvenile to inpatient or subacute residential treatment if the residential facility “is licensed as a treatment facility”; and require OJS to provide evidence-based services and utilize evidence-based policies, practices, and procedures in the operation of the YRTCs. The reporting requirement in that same section is amended to add that OJS shall include in its annual report an update on the evidence-based services, policies, practices, and procedures by which the YRTCs operate and the efforts OJS has taken to “ensure fidelity to evidence-based models.”

#### *DHHS Use of Private Facilities*

Section 18 of AM 2736 strikes subsection (1) of §83-108.04 and amends subsection (2) which relates to DHHS’s ability to use other public facilities or contract for the use of private facilities for the care and treatment of children. The language is amended to apply this section to children in DHHS’s legal custody under 43-247(3)(a).

#### *Other changes*

Section 12 of AM 2736 adds new language that states a juvenile’s in-person visitation, phone calls and electronic communication with relatives cannot be limited or prohibited as a consequence or sanction.

Section 19 amends 83-113 to add the Health and Human Services Committee as a recipient of DHHS’s report regarding the investigation into the fitness, abuses or wrongs alleged to exist in an institution run by DHHS.

#### *Removing Obsolete Provisions*

AM 2663 and the provisions of LB 1149 also amend or strike many sections of statute in the Act that are outdated or obsolete.

AM 3069 was offered by Senator Howard on Select File to change dates which was necessitated by the pandemic and to amend the provisions regarding maintenance to clarify that DHHS may direct the daily maintenance activities but would not be responsible for the maintenance personnel which would remain with DAS.

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### **LB 1204 (Cavanaugh) Require a family support waiver under the Medical Assistance Act and provide for a pilot family support program under the Disabled Persons and Family Support Act**

**Status:** IPP’d sine die

**Committee Action:** None

**Summary:** LB1204 would amend the Disabled Persons and Family Support Act. (Neb. Rev. Stat. Sections 68-1501 through 68-1503; 68-1505 through 68-1506; 68-1508; 68-1510 through 68-1513; 68-1515 through 68-1516; and 68-1518 through 68-1519). It would change the citation for the Disabled Persons and Family Support Act and amend intent language. It would also add definitions clarifying “department”; adding “disabled child” with requirements; define “family unit”; and define “medical assistance program.” A disabled child is defined as a person under the age of 22, who has a medically severe, chronic disability:

- that is mental, physical, or both;
- is likely life-long;
- resulting in substantial functional limitations in an area of major life activity; and
- reflects the need for care.

LB1204 would require the Division of Developmental Disabilities (DDD) of the Department of Health and Human Services (DHHS) to apply for the family support waiver under Medicaid and establish a pilot program. It would require the department, in consultation with the Advisory Committee on Developmental Disability, to adopt and promulgate rules and regulations to implement the pilot program. Those rules and regulations would include:

- Criteria for services provided;
- Methodology for allocating resources within appropriations;
- Eligibility determinations;
- Limits on benefits;
- Coordination of the pilot program around use of other available funds;
- Resolving grievances;
- Quality assurance; and
- Annual evaluation of services.

It would require the DDD to administer the pilot within appropriations, and require contractors with the DDD to report on a quarterly basis. LB1204 would also state the family support waiver would be determined based on the assets of the disabled child, that a family may self-direct services, that the maximum support annually would be \$12,000, and that the DDD would review each family unit annually or upon showing a change in circumstances. (Section 4, p. 6, lines 19-31). It would also require the DDD – from July 1, 2020 to July 1, 2024 – to allocate waiver slots based on appropriations and give priority status to the following:

1. Disabled children and family units in crisis where a child will harm him or herself or others;
2. Disabled children at risk for placement outside the home;
3. Disabled children whose primary caregivers are grandparents;
4. Families with more than one disabled child in the home; and
5. Other family units based on application date.

LB1204 would also require the DDD to file an annual report about the status of the waiver application, and would mandate the Advisory Committee on Developmental Disability assist the department on administering the waiver.

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## Interim Studies for 2019

<b>Resolution No.</b>	<b>Subject</b>
LR 105	(HHS) Interim study to investigate the eligibility requirements applied to children for the home and community-based waiver for aged and disabled persons under the Medical Assistance Act
LR 239	(HHS) Interim study to examine non-court involved cases, including voluntary and alternative response cases, in the child welfare system
LR 170	(Morfeld) Interim study to examine the Dept. of Health and Human Services' plan to submit a demonstration project waiver for the medical assistance program under section 1115 of the Social Security Act
LR 250	(Walz) Interim study to examine programs relating to development and implementation of the plan for providing services to qualified persons with disabilities in the most integrated community-based settings, commonly referred to as the Olmstead Plan
LR 193	(Bolz) Interim study to assess implementation of the federal Family First Prevention Services Act in Nebraska and identify opportunities for children and families
LR 134	(Slama) Interim study to examine the drug testing protocol recently changed by the Division of Children and Family Services for families involved in the child welfare system
LR 103	(Lowe) Interim study to review staffing concerns, including, but not limited to staff retention, at the Beatrice State Developmental Center, the Lincoln Regional Center, the Youth Rehabilitation and Treatment Center-Geneva, and the Youth Rehabilitation and Treatment Center-Kearney
LR 200	(Quick) Interim study to examine programming provided at the Youth Rehabilitation and Treatment Center-Geneva and the Youth Rehabilitation and Treatment Center-Kearney and the needs for additional programming
LR 139	(Lowe) Interim study to examine the feasibility of increasing the presence of the University of Nebraska Medical Center in central and western Nebraska by strengthening collaborations with the University of Nebraska at Kearney
LR 160	(Howard) Interim study to assess the mental and behavioral health needs of Nebraskans and the current shortages of services and resources
LR 216	(Walz) Interim study to examine funding priorities for the Medicaid home and community-based services waivers under the Developmental Disabilities Services Act
LR 233	(Arch) Interim study to examine the operations and processes of the Nebraska State Patrol in fingerprint collection and submission to the Federal Bureau of Investigation for national criminal history record information checks
LR 226	(Howard) Interim study to examine and assess prescribing practices of health care providers related to opioids and the effectiveness of Nebraska's prescription drug monitoring program
LR 135	(Hunt) Interim study to examine issues related to food insecurity in Nebraska communities
LR 177	(Cavanaugh) Interim study to examine issues faced by youth in the child welfare system who are pregnant or parenting

<b>Resolution No.</b>	<b>Subject</b>
LR 172	(Williams) Interim study to analyze state and local policy and initiatives to retain and incentivize health care providers and health-related businesses in the state to remain and expand
LR 182	(Kolterman) Interim study to examine methods for the early screening of melanoma and modernization of reimbursement for telehealth for such screening
LR 162	(Bostelman) Interim study to examine issues impacting volunteer emergency medical personnel
LR 244	(Hansen, B.) Interim study to examine discrepancies in reimbursement under the medical assistance program between the three Heritage Health managed care plans and the impacts of applying a multiple-procedure payment-reduction policy to therapy services
LR 191	(Arch) Interim study to evaluate the potential use of Physicians Orders for Life-Sustaining Treatment and the potential use of out-of-hospital Do Not Resuscitate protocols
LR 198	(Wishart) Interim study to examine the implementation of a statewide registry for Alzheimer's disease and related dementias
LR 173	(Quick) Interim study to examine health concerns related to the public use of and secondhand exposure to electronic nicotine delivery systems and other products
LR 95	(Slama) Interim study to examine the prevalence and economic costs of methamphetamine use in the state
LR 249	(Friesen) Interim study to examine how the state administers federal Older Americans Act funds
LR 88	(McCollister) Interim study to examine issues related to grandparents raising grandchildren and other kinship family relationships
LR 243	(Hunt) Interim study to examine the practice of medical refusal for contraception, sterilization, or abortion services by health care facilities and providers
LR 180	(Cavanaugh) Interim study to examine the practice of mindfulness to reduce the number of children and adults in crisis
LR 163	(Howard) Interim study to examine issues under the jurisdiction of the Health and Human Services Committee

## Interim Studies for 2020

<b>Resolution No.</b>	<b>Subject</b>
LR 420	(Howard) Interim study to examine the racial and ethnic disproportionality that exists in Nebraska's foster care and juvenile justice systems, including specifically, for youth committed to the youth rehabilitation and treatment centers
LR 408	(HHS) Interim study to examine issues associated with the economic stimulus funds that were provided by the CARES Act as a result of the COVID-19 pandemic
LR 409	(HHS) Interim study to examine the drug testing protocol in the Division of Children and Family Services of the Dept. of Health and Human Services for families involved in the child welfare system
LR 404	(Morfeld) Interim study to provide continued oversight of and updates regarding the execution and administration of Medicaid expansion by the Dept. of Health and Human Services
LR 412	(Howard) Interim study to assess the mental and behavioral health needs of Nebraskans and the current shortages of services and resources
LR 414	(Walz) Interim study to examine issues under the jurisdiction of the Health and Human Services Committee related to long-term facilities, assisted living facilities, and nursing facilities
LR 410	(HHS) Interim study to provide continued oversight of and updates regarding the contract between the Dept. of Health and Human Services and St. Francis Ministries for child welfare case management services
LR 413	(Howard) Interim study to continue oversight of the residential facilities for juveniles, including the youth rehabilitation and treatment centers, under the supervision of the Dept. of Health and Human Services
LR 350	(Arch) Interim study to examine the role of telehealth services during the COVID-19 pandemic of 2020
LR 445	(Stinner) Interim study to update data and review the potential impact on the state behavioral health system by expanding access to prescribing psychologists
LR 424	(Vargas) Interim study to conduct a comprehensive review of maternal and child mortality
LR 348	(Lindstrom) Interim study to examine service animal fraud and emotional support animal fraud
LR 428	(Wishart) Interim study to examine issues surrounding staffing ratios and standards of care at assisted living facilities, nursing facilities, and day service providers
LR 382	(Leg. Performance Audit Cmtee) Interim study to examine the oversight of non-court involved child welfare cases
LR 387	(DeBoer) Interim study to examine the processes, by which children who are the victim of a substantiated case of abuse or neglect, are able to access services through Nebraska's Early Development Network under the federal Individuals with Disabilities Education Act, Part C
LR 422	(Arch) Interim study to examine the modifications made to child welfare policies and practices during the COVID-19 pandemic of 2020
LR 456	(Walz) Interim study to examine the proposal by the Dept. of Health and Human Services for changes to Medicaid Section 1915(c) Waiver Appendix K in response to

	the COVID-19 pandemic and how service providers and individuals with developmental disabilities have been impacted
LR 454	(B. Hansen) Interim study to evaluate Nebraska law permitting a faculty or academic license for dentistry
LR 368	(Kolterman) Interim study to analyze underinvestment in primary care in the State of Nebraska
LR 411	(Howard) Interim study to provide continued oversight of and updates regarding the response of the Dept. of Health and Human Services to the COVID-19 pandemic
LR 406	(HHS) Interim study to examine issues within the jurisdiction of the Health and Human Services Committee