
Nebraska Legislature
One-Hundredth Legislature – Second Session

Health and Human Services Committee

Summary of Legislation 2008

Senator Joel Johnson, Chair (Kearney)
Senator Tim Gay, Vice Chair (Papillion)
Senator Phil Erdman (Bayard)
Senator Tom Hansen (North Platte)
Senator Gwen Howard (Omaha)
Senator Dave Pankonin (Louisville)
Senator Arnie Stuthman (Platte Center)

Committee Staff
Erin Mack, Committee Clerk
Jeff Santema, Legal Counsel

Table of Contents

	<u>Page</u>
1. Index of Bills and Resolutions	3
2. Summaries of Bills and Resolutions	8
3. Bills by Subject Matter	45
4. Disposition Summary	49
5. Interim Studies	53

**Health and Human Services Committee
2008 Bills and Resolutions**

Legislative Bills

<u>Bill</u>	<u>Oneliner</u>	<u>Page</u>
1. 713	(Pahls) Prohibit physicians from administering certain fat-dissolving substances. <i>Indefinitely postponed.</i>	8
2. 730	(Flood) Change emergency medical services classifications and training. <i>Held in committee.</i>	8
3. 738	(Fulton) Change brain injury registry notification and reporting requirements. <i>General File, provisions included in LB 928.</i>	8
4. 742	(Johnson) Change licensure provisions relating to engineers. <i>Held in committee.</i>	9
5. 749	(Stuthman) Provide for electronic application submission and a civil penalty for manufactured homes. <i>General File, provisions included in LB 797.</i>	9
6. 753	(Synowiecki) Provide for nurse practitioners to practice without integrated practice agreements. <i>Held in committee.</i>	9
7. 759	(Hudkins) Change provisions relating to relabeling and redispensing prescription drugs. <i>General File.</i>	10
8. 765	(Gay) Change provisions relating to certificates of need. <i>Enacted.</i>	10
9. 782	(Howard) Allow disclosure of child abuse and neglect information. <i>Enacted.</i>	11
10. 793	(Burling) Change which county pays for costs of emergency protective custody and proceedings. <i>Held in committee.</i>	12
11. 796	(Johnson) Change medical radiography and radiation control provisions. <i>General File, provisions included in LB 928.</i>	12
12. 797	(HHS Committee) Change provisions relating to health and human services. <i>Enacted, contains provisions of LB 749 and LB 892.</i>	13
13. 806	(Wallman) Change provisions relating to dog guides, hearing aid dogs, and service dogs. <i>Enacted.</i>	16

<u>Bill</u>	<u>Oneliner</u>	<u>Page</u>
14. 807	(Aguilar) Require medicaid coverage of tobacco-cessation products and services. <i>Held in committee.</i>	16
15. 809	(Synowiecki) Change provisions relating to metabolic screening. <i>General File.</i>	16
16. 818	(Avery) Change eligibility provisions for medical assistance. <i>Indefinitely postponed.</i>	17
17. 830	(Lathrop) Adopt the Medicaid Prescription Drug Act. <i>Enacted.</i>	17
18. 835	(Preister) Prohibit transfer of certain lead-containing items. <i>Indefinitely postponed.</i>	18
19. 836	(Howard) Prohibit smoking in a vehicle when minors are present. <i>Indefinitely postponed.</i>	19
20. 866	(McDonald) Adopt the Chronic Disease Drug Repository Program Act. <i>Held in committee.</i>	19
21. 877	(Wightman) Change public assistance provisions relating to postsecondary education and related work activities. <i>Held in committee.</i>	21
22. 882	(Johnson) Change provisions relating to prescription medication for indigent persons. <i>Held in committee.</i>	21
23. 883	(Johnson) Exempt certain public recreation facilities, centers, and programs from child-care licensure. <i>General File, provisions included in LB 928.</i>	21
24. 885	(Johnson) Redefine prescription relating to the practice of pharmacy. <i>Indefinitely postponed.</i>	22
25. 892	(Pedersen) Change modular housing and manufactured home provisions relating to the Public Service Commission. <i>General File, provisions included in LB 797.</i>	22
26. 906	(Pankonin) Change provisions relating to laboratories regulated by the Department of Health and Human Services. <i>General File, provisions included in LB 928.</i>	23
27. 928	(Johnson) Change and repeal provisions relating to public health and welfare. <i>Enacted, includes provisions of LB 48, LB 738, LB 796, LB 874, LB 883, LB 906, LB 994, LB 1120, LB 1121, LB 1123, LB 1173, and LB 1176.</i>	23

<u>Bill</u>	<u>Oneliner</u>	<u>Page</u>
28. 951	(Kopplin) Provide for umbilical cord blood banking. <i>Held in committee.</i>	27
29. 954	(Dierks) Change provisions relating to human immunodeficiency virus testing. <i>General File.</i>	27
30. 972	(Gay) Change optometry licensure provisions. <i>Enacted.</i>	28
31. 994	(Johnson) Extend termination date of the Behavioral Health Oversight Commission. <i>Held in committee, provisions included in LB 928.</i>	28
32. 1003	(Pahls) Adopt the Saving the Cure Act and provide for an accredited laboratory. <i>Held in committee.</i>	28
33. 1006	(Aguilar) Provide for a registry and salary study of in-home personal services workers. <i>Held in committee.</i>	29
34. 1022	(Hansen) Adopt the Veterinary Drug Distribution Licensing Act. <i>Enacted.</i>	30
35. 1029	(Fulton) Provide for contract rates for foster care services. <i>Held in committee.</i>	33
36. 1031	(Ashford) Change confidentiality provisions relating to researchers and auditors accessing adult and child protective services records. <i>Held in committee.</i>	33
37. 1048	(Nantkes) Provide for issuance of birth certificates for stillbirths. <i>Enacted.</i>	33
38. 1070	(Dubas) Provide for a child placement resources form for a child placed with the Department of Health and Human Services. <i>Held in committee.</i>	34
39. 1074	(Nantkes) Provide requirements for owners and certified operators of swimming pools. <i>Indefinitely postponed..</i>	34
40. 1104	(Fulton) Provide for unlawful billing practices under the Uniform Credentialing Act. <i>General File.</i>	35
41. 1108	(Erdman) Change licensure requirements for mental health practitioners. <i>Enacted.</i>	35

<u>Bill</u>	<u>Oneliner</u>	<u>Page</u>
42. 1120	(Johnson) Change exemption provisions under the Nebraska Health Care Certificate of Need Act. <i>General File, provisions included in LB 928.</i>	36
43. 1121	(Johnson) Adopt the Medicaid Insurance for Workers with Disabilities Act. <i>General File, provisions included in LB 928.</i>	36
44. 1122	(Johnson) Change dental coverage provisions under the medical assistance program. <i>Held in committee.</i>	37
45. 1123	(Johnson) Change membership on the Children's Behavioral Health Task Force. <i>Held in committee, provisions included in LB 928.</i>	37
46. 1124	(Engel) Provide for mobile home health and safety standards. <i>Held in committee.</i>	37
47. 1163	(Lautenbaugh) Require tanning facilities to post warning signs and obtain and maintain consumers' signatures. <i>Indefinitely postponed.</i>	38
48. 1169	(White) Authorize health care assistance for certain veterans of Operation Enduring Freedom and Operation Iraqi Freedom. <i>Held in committee.</i>	39
49. 1173	(Dierks) Provide for certification of animal therapists. <i>General File, provisions included in LB 928.</i>	40
50. 1176	(Dubas) Change provisions relating to medicaid benefits and departmental reports. <i>General File, provisions included in LB 928.</i>	40

2008 Legislative Resolutions

1. LR 238	(Kruse) Commend the "Divided We Fail" effort to address access to health care and long-term financial security with individuals, businesses, health care providers, nonprofit organizations, and government working together to find solutions. <i>Adopted.</i>	41
------------------	---	----

Carryover Bills

1. 171	(Kopplin) Require Department of Health and Human Services to apply for food stamp options and waivers. <i>Enacted.</i>	41
2. 245	(Johnson) Change provisions relating to fluoridation of drinking water. <i>Enacted.</i>	41

<u>Bill</u>	<u>Oneliner</u>	<u>Page</u>
3. 308	(Stuthman) Adopt the Automated Medication System Act. <i>Enacted.</i>	42
4. 395	(Johnson, Aguilar, Hansen, Howard, Kruse, Pankonin, Preister, Schimek, Stuthman) Adopt a new Nebraska Clean Indoor Air Act. <i>Enacted.</i>	43
5. 469	(Chambers) Change funding restrictions under the Nebraska Health Care Funding Act. <i>Enacted.</i>	44

**Health and Human Services Committee
Summaries of 2008 Bills and Resolutions**

Legislative Bills

1. **LB 713** (Pahls) Prohibit physicians from administering certain fat-dissolving substances. *Indefinitely postponed.*

LB 713 amends section 38-2037 relating to the practice of medicine and surgery and osteopathic medicine and surgery. The bill prohibits a physician or osteopathic physician from administering or authorizing the administration of certain prescribed substances for the purpose of eliminating or reducing localized fat accumulation, and prescribes disciplinary action for violations.

Disciplinary action may not be taken against a physician or osteopathic physician who administers or authorizes the administration of such substances with the approval of the federal Food and Drug Administration in accordance with an application filed pursuant to applicable federal law.

The bill has an operative date of December 1, 2008.

2. **LB 730** (Flood) Change emergency medical services classifications and training. *Held in committee.*

LB 730 amends provisions of the Emergency Medical Services Practice Act (sections 38-1201 to 38-1237). The bill creates new classifications for out-of-hospital emergency care providers and changes provisions relating to the licensing and training of such providers.

Current provider classifications include: (1) first responders, (2) emergency medical technician-intermediate, and (3) emergency medical technician-paramedic. LB 730 creates the following new classifications: (1) emergency medical responder, (2) advanced emergency medical technician, and (3) paramedic.

LB 730 changes provisions relating to the training of out-of-hospital emergency care providers. The bill requires the Board of Emergency Medical Services (board) to annually review and adopt an approved curriculum for such providers, and deletes provisions incorporating United States Department of Transportation curricula by reference.

The bill requires the board to establish a “skills competency test” for the licensure of emergency medical responders and emergency medical technicians. The test is defined as “a hands-on or oral test of the abilities to perform skills and develop a treatment plan within the practices and procedures for the classification being tested for an individual seeking licensure as an emergency medical responder or emergency medical technician.”

The bill has an operative date of December 1, 2008.

3. **LB 738** (Fulton) Change brain injury registry notification and reporting requirements. *General File, provisions included in LB 928.*

LB 738 changes provisions relating to the brain injury registry maintained by the Department of Health and Human Services (department) (sections 81-653 to 81-661). The bill requires the Department of Health and Human Services (department) to maintain information in connection with the registry that is necessary and appropriate “to ensure the provision of information to persons with brain injury regarding appropriate public or private agencies that provide rehabilitative services so that persons with brain or head injury may obtain needed services to alleviate such injury and avoid secondary problems, including but not limited to, mental illness and chemical dependency.”

The bill requires the department, within thirty days after receiving a report of a brain or head injury, to notify the injured person of “resources and services available in Nebraska.” The bill provides immunity from “any action for damages or other relief” for any person or facility reporting such information to a person with a brain or head injury.

The bill requires hospitals or rehabilitation centers to report to the department within thirty days any brain or head injury that results in admission to or treatment at such facility. Current law requires annual reporting.

As amended by the committee and advanced to General File, the bill is primarily a technical redrafting of current brain injury registry statutes and contains substantive changes. The bill requires the department, within thirty days after receiving a report of a brain or head injury, to provide “relevant and timely information to the person with such injury to assist such person in accessing necessary and appropriate services relating to such injury.”

The department may develop the information itself or utilize information developed by other sources and approved by the department. The department may provide the information directly or contract with an appropriate entity to facilitate the provision of the information.

The costs of providing such information must be paid from cash funds, gifts, and grants and no General Funds may be used. The department will not be required to provide the information if sufficient funding is unavailable.

The bill requires hospitals or rehabilitation centers to report to the department within thirty days after discharge of any person with a brain or head injury that results in admission to or treatment at such facility.

4. **LB 742** (Johnson) Change licensure provisions relating to engineers. *Held in committee.*

LB 742 amends the Engineers and Architects Regulation Act (sections 81-3401 to 81-3455) and raises the level of education required for licensure as an engineer from a baccalaureate degree to a baccalaureate degree plus an additional thirty hours, or a masters degree.

Current law (section 81-3451) requires that an applicant for licensure be a graduate of “an Accrediting Board for Engineering and Technology accredited engineering curriculum.”

On and after January 1, 2015, the bill requires that an applicant for licensure as an engineer be “a graduate of an Accrediting Board for Engineering and Technology accredited (i) baccalaureate-level engineering curriculum with an additional thirty credit hours of upper-level undergraduate coursework or graduate-level coursework approved by the Board of Engineers and Architects or (ii) masters-level engineering curriculum.”

5. **LB 749** (Stuthman) Provide for electronic application submission and a civil penalty for manufactured homes. *General File, provisions included in LB 797.*

LB 749 relates to mobile home parks. The bill permits applications for licensure to conduct, operate, and maintain a mobile home park to be submitted electronically. The bill also permits the Department of Health and Human Services to impose a civil penalty of up to \$2,000 per day, in addition to other existing disciplinary actions that may be taken against a license. LB 749 outright repeals section 71-4628.

6. **LB 753** (Synowiecki) Provide for nurse practitioners to practice without integrated practice agreements. *Held in committee.*

LB 753 provides for independent practice by nurse practitioners. The bill permits a nurse practitioner who has practiced in accordance with an integrated practice agreement for five years with no disciplinary actions against his or her license to continue his or her practice without such an agreement.

The bill has an operative date of December 1, 2008.

7. **LB 759** (Hudkins) Change provisions relating to relabeling and redispensing prescription drugs. *General File.*

LB 759 expands provisions of LB 382 (2005) relating to the relabeling and redispensing of prescription drugs or devices delivered to a community health center (section 71-2431). The bill applies similar provisions to prescription drugs or devices delivered to a correctional facility or jail. The bill defines terms.

As amended by the committee and advanced to General File, the bill provides that prescription drugs or devices that have been delivered to a correctional facility or jail for dispensing to an inmate of the correctional facility or jail pursuant to a valid prescription, but that are not dispensed or administered to the inmate, may be delivered to a pharmacist or pharmacy under contract with the correctional facility or jail for relabeling and redispensing to another inmate of the correctional facility or jail pursuant to a valid prescription.

The bill provides exceptions: (1) the decision to accept delivery of the drug or device rests solely with the contracting pharmacist or pharmacy, (2) the drug or device must have been in the control of the correctional facility or jail at all times, (3) the drug or device must be in its original and unopened labeled container with a tamper-evident seal intact, and bear the expiration date or calculated expiration date and lot number, and (4) the relabeling and redispensing is not otherwise prohibited by law.

The bill requires the Jail Standards Board, in consultation with the Board of Pharmacy, to adopt and promulgate rules and regulations.

The bill has an operative date of December 1, 2008.

8. **LB 765** (Gay) Change provisions relating to certificates of need. *Enacted.*

LB 765 changes certificate of need (CON) provisions. Current law (section 71-5829.03) requires a certificate of need for (1) the initial establishment of long-term care beds or rehabilitation beds, (2) increases in the number of long-term care beds or rehabilitation beds, and (3) the relocation of long-term care beds or rehabilitation beds. Current law also imposes a moratorium on rehabilitation beds that require a CON, with exceptions (section 71-5829.06).

The bill changes provisions relating to proposed increases in long-term care beds or rehabilitation beds. A CON is currently required for an increase of more than ten beds or ten percent of the *total bed capacity* of the requesting facility, whichever is less, over a two-year period. LB 765 provides that a proposed increase in long-term care beds for purposes of CON will be measured against the total number of *long-term care beds* of the requesting facility, and a proposed increase in rehabilitation beds will be measured against the total number of *rehabilitation beds* at the facility.

The bill also changes provisions relating to the conversion of hospital beds to long-term care beds or rehabilitation beds. The bill clarifies that a CON will be required for the *initial establishment* of long-term care beds or rehabilitation beds through conversion of any type of existing hospital beds to long-term care beds or rehabilitation beds if the total number of converted beds is more than ten or more than ten percent of the *total bed capacity* of the facility, whichever is less, over a two-year period.

The bill also requires a CON for any relocation of rehabilitation beds in Nebraska from one health care facility to another.

The bill also provides an exception to the current moratorium on rehabilitation beds that require a CON (section 71-5829.06). The bill requires the department to grant an exception to the moratorium and issue a CON for up to three rehabilitation beds if the average occupancy for all

rehabilitation beds within the health planning region exceeds eighty percent occupancy during the most recent three consecutive calendar quarters as reported at the time of the filing of the CON application, and no other comparable services are otherwise available in the health planning region.

9. **LB 782** (Howard) Allow disclosure of child abuse and neglect information. *Enacted.*

LB 782 relates to the disclosure of information regarding child abuse, neglect, and maltreatment, and outright repeals various sections. The bill defines terms.

The bill permits the chief executive officer (CEO) of the Department of Health and Human Services (department) or the Director of the Division of Child and Family Services within the department (director) to disclose information regarding child abuse or neglect and the investigation of and any services related to the child abuse and neglect if:

- (1) the CEO or director determines that the disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, and
- (2) any one of the following factors is present:
 - (a) the alleged perpetrator of the child abuse or neglect has been charged with a crime related to the report of child abuse or neglect maintained by the division;
 - (b) a judge, law enforcement agency official, county attorney, or other state or local investigative agency or official has publicly disclosed the provision of services related to or the investigation of the child abuse or neglect;
 - (c) a person who is the parent, custodian, foster parent, provider, or guardian of the victim or a child victim over fourteen years of age has made a prior knowing, voluntary, public disclosure;
 - (d) the information relates to a child fatality or near fatality;
 - (e) the information is released to confirm, clarify, or correct information concerning an allegation or actual instance of child abuse or neglect which has been made public by sources other than the department; or
 - (f) a child in the custody of the department is missing from his or her placement, in which case the CEO or director may release the name and physical description of the child.

Types of information that may be disclosed include, but are not limited to:

- (1) child placement;
- (2) whether in-home or out-of-home;
- (3) terms of contact;
- (4) hearing dates;
- (5) reason for removal from parents or placement;
- (6) number of placements and type;
- (7) permanency objectives;
- (8) court-ordered services or other services provided by the division; and
- (9) status of the court process.

The following information may only be released with a court order:

- (1) date of birth;
- (2) social security number;
- (3) protected health information;
- (4) name of the person who made the report of child abuse or neglect pursuant to section 28-711; and

(5) names of foster parents, unless the foster parent is the alleged perpetrator.

The bill permits the CEO or director to release the results of criminal history record checks that have been completed by the division as authorized by law. The department is permitted to adopt and promulgate rules and regulations.

The bill outright repeals the following sections relating to child fatalities and near fatalities: 28-734, 28-735, 28-736, 28-737, 28-738, and 28-739. The bill becomes operative with the emergency clause.

10. **LB 793** (Burling) Change which county pays for costs of emergency protective custody and proceedings. *Held in committee.*

LB 793 relates to the payment of emergency protective custody costs under the Nebraska Mental Health Commitment Act (sections 71-901 to 71-962) and the Sex Offender Commitment Act (sections 71-1201 to 71-1226). The bill provides that the cost of emergency protective custody and proceedings under sections 71-919, 71-921, 71-922, and 71-926, and sections 71-1205, 71-1206, and 71-1210 be paid by the county of legal settlement of the person or subject.

“County of legal settlement” is defined as (1) the county in which the person or subject has resided for one year continuously, (2) the county in which the person or subject has resided for six months continuously if he or she has not resided one year continuously in any county, or (3) the county in which the person or subject is found immediately prior to emergency protective custody or proceedings if he or she has not resided in any county continuously for six months.

The bill has an operative date of January 1, 2009.

11. **LB 796** (Johnson) Change medical radiography and radiation control provisions. *General File, provisions included in LB 928.*

LB 796 changes provisions of the Radiation Control Act (sections 71-3501 to 71-3520) and the Medical Radiography Practice Act (section 38-1901 to 38-1920). The bill deletes references to the licensure of radon measurement technicians and radon mitigation technicians but retains provisions relating to the licensure of radon measurement specialists and radon mitigation specialists. Persons licensed as radon measurement technicians will be deemed to be licensed as radon measurement specialists until the next licensure renewal.

The bill permits an application for registration under the Radiation Control Act to be submitted in writing or electronically.

The bill raises registration and inspection fees for radiation generating equipment used to diagnose conditions in humans or animals from \$70 to \$400. The fee charged may not exceed the department’s actual costs.

The bill requires the department to adopt and promulgate rules and regulations for fingerprinting and the conducting of a federal criminal background check of persons with unescorted access to “radionuclides of concern.” The rule and regulation mandate becomes operative with the emergency clause and terminates on December 1, 2008. All other sections of the bill become operative three months after adjournment of the legislative session.

The bill, as amended by the committee and advanced to General File, also provides for the licensure of “limited computed tomography radiographers.” An applicant for such licensure must (1) complete an application in accordance with the Uniform Credentialing Act; (2) be certified by (a) the Nuclear Medicine Technology Certification Board or (b) the American Registry of Radiologic Technologists in nuclear medicine technology; and (3) be certified by the American Registry of Radiologic Technologists in computed tomography. The amended bill permits licensed medical radiographers to utilize computed tomography.

The amended bill permits a nuclear medicine technologist who meets the requirements for training and experience for nuclear medical technology under the Radiation Control Act to perform computed tomography without being licensed under the Medical Radiography Practice Act, if his or her practice is limited to X-rays produced by a combination nuclear medicine-computed tomography system and administered as an integral part of a nuclear medicine procedure that uses a computed tomography protocol for purposes of attenuation correction and anatomical localization, and only if the nuclear medicine technologist has received documented device-specific training on the combination nuclear medicine-computed tomography system as prescribed by rules and regulations adopted and promulgated by the department.

The amended bill permits students enrolled and participating in an educational program in nuclear medicine technology who, as part of such program, apply X-rays to humans using a computed tomography system while under the supervision of “licensed practitioners” as defined in the Radiation Control Act, medical radiographers, or limited computed tomography radiographers associated with the educational program.

The amended bill provides for the issuance of a temporary limited computed tomography radiographer license to persons registered by the Nuclear Medicine Technology Certification Board or the American Registry of Radiologic Technologists. Such licenses expire twenty-four months after issuance and may not be renewed. Persons licensed as temporary limited computed tomography radiographers are permitted to perform medical radiography restricted to computed tomography while under the direct supervision and in the physical presence of “licensed practitioners” as defined in the Radiation Control Act, medical radiographers, or limited computed tomography radiographers.

12. **LB 797** (HHS Committee) Change provisions relating to health and human services. *Enacted, contains provisions of LB 749 and LB 892.*

LB 797 is the annual “cleanup bill” requested by the Department of Health and Human Services. The bill contains the emergency clause for portions of the bill and makes the following changes:

Modular Homes, Manufactured Homes. Mobile Home Parks (sections 1-3, 6-11, 13-18)

LB 797 contains provisions of **LB 749** as advanced by the committee to General File. LB 749 relates to mobile home parks. The bill permits applications for licensure to conduct, operate, and maintain a mobile home park to be submitted electronically. The bill also permits the Department of Health and Human Services to impose a civil penalty of up to \$2,000 per day, in addition to other existing disciplinary actions that may be taken against a license. LB 749 outright repeals section 71-4628.

LB 797 also contains provisions of **LB 892** as advanced by the committee. LB 892 changes various provisions of the Nebraska Uniform Standards for Modular Housing Units Act (Modular Housing Act) (sections 71-1555 to 71-1568.01) and the Uniform Standard Code for Manufactured Homes and Recreational Vehicles (Manufactured Home and RV Act) (sections 71-4601 to 71-4620.01).

The bill increases the range of *seal fees* that may be charged by the Public Service Commission (commission). Under the Modular Housing Act, seal fees are raised from a range of \$80 to \$400 to a range of \$100 to \$1,000 per modular housing unit.

Under the Manufactured Home and RV Act, the bill increases the range of seal fees from a range of \$10 to \$50 to a range of \$10 to \$75 per unit.

The bill permits the commission to assess *administrative fines* pursuant to section 75-156 to any person who violates the Modular Housing Act or the Manufactured Home and RV Act or rules or regulations adopted and promulgated under such acts.

The bill increases the *inspection fee* charged by the commission for each inspection of a new recreational vehicle from \$75 to \$250.

The bill increases the range of fees that may be charged by the commission for the *review of proposed plans and specifications* for modular housing units and manufactured homes. For the review of plans and specifications for modular housing units, the fee range is increased from a range of \$15/hr to \$30/hr to a range of \$15/hr to \$60/hr based on sixty hours of review time, as determined by the commission annually upon published notice and a public hearing (rule and regulation requirement is deleted). For manufactured homes, the fee range is increased from a range of \$15/hr to \$50/hr to a range of \$15/hr to \$75/hr.

The bill deletes provisions relating to multifamily modular housing units. The bill makes various other technical changes in both the Modular Housing Act and the Manufactured Home and RV Act, including date references, where a commission seal must be placed on a modular housing unit, and references to violation of a commission order.

The provisions of LB 749 and LB 892 as included in LB 797 become operative with the emergency clause.

Medical Assistance Act (Medicaid) (section 3)

The bill updates a reference to federal law in section 68-906. This provision becomes operative with the emergency clause.

Critical Access Hospitals (section 5).

LB 797 clarifies that critical access hospitals in Nebraska must be located in a “rural area.” The bill defines rural area as a county with a population of less than 100,000 residents. This provision was previously found in the Managed Care Act which was outright repealed by the Legislature in 2006. This provision becomes operative with the emergency clause.

DHHS Administrative References (sections 12, 29)

The bill changes administrative references relating the Department of Health and Human Services (department). The department was reorganized by the Legislature in 2007 (LB 296). In section 71-1901, the bill places the licensure of child care programs in the Division of Public Health within the department. In section 86-570, the Chief Executive Officer of the department or his or her designee is made a member of the Geographic Information System Steering Committee.

Rural Health Systems and Professional Incentive Act (sections 19-22)

The bill makes technical changes to the Rural Health Systems and Professional Incentive Act (act) (sections 71-5650 to 71-5670.01). The bill makes a technical change to harmonize with the passage of LB 463 (2007) (adopt the Uniform Credentialing Act). The bill changes “advanced practice registered nurse” to “nurse practitioner” in various sections of the act to harmonize with changes made in LB 256 (2005), which expanded the definition of “advanced practice registered nurse” to include more than just nurse practitioners. The change is intended to preserve the status quo as it relates to nurse practitioners under the act.

Screening Mammography Program/Breast and Cervical Cancer (sections 23-26)

The bill deletes provisions relating to the state screening mammography program to comport with changes in federal law. The bill makes technical changes to statutes relating to the Breast and Cervical Cancer Advisory Committee found in sections 71-7010, 71-7012, and 71-7013 and outright repeals sections 71-7001 to 71-7009 and 71-7011.

Release of Case Specific Data to Trauma Quality Assurance Committees (section 27)

The bill permits the department to release case specific, non-identifying trauma information to trauma quality assurance committees to enhance the flow of electronic information and improve the provision of emergency medical services and trauma care.

Cancer Registries (section 28)

The bill permits the Centers for Disease Control and Prevention (CDC) and the North American Association of Central Cancer Registries (NAACCR) to re-release case specific information received from the Nebraska Cancer Registry.

Public Assistance Administrative Disqualification Process (section 30)

The bill reinstates provisions of section 81-3109 which were outright repealed in LB 296 (2007) and originally adopted in LB 234 (2003). The bill requires the Department of Health and Human Services (department) to establish an administrative disqualification process for the Aid to Dependent Children (ADC) and child care subsidy programs. The department may initiate such hearing when there is reason to believe that sufficient documentary evidence exists to establish that a person has committed an intentional program violation. Hearings are subject to the Administrative Procedure Act.

The bill requires that a period of disqualification be imposed for intentional program violations, which may be determined by the department after an administrative disqualification hearing or without a hearing if the person waives his or her right to a hearing. The period of disqualification is up to one year for a first violation, up to two years for a second violation, and permanent disqualification for a third violation. The same penalties will apply if the person is found by a court in violation of section 68-1017.

Under the ADC program, only the person found to have committed the intentional program violation may be disqualified. For the child care subsidy program, the person committing the violation and his or her family are disqualified. The department must notify applicants for ADC or child care subsidy benefits of the penalties for intentional program violations each time an application for benefits is made.

Intentional program violation is defined as any action by a person to intentionally make a false statement, conceal information, or alter one or more documents in order to obtain benefits for which the person is not entitled.

The department may adopt and promulgate rules and regulations. These provisions become operative with the emergency clause.

Operative Dates/Emergency Clause (sections 31, 36)

Sections 1-11, 13-18, and 30 of the bill become operative with the emergency clause. Other sections become operative three calendar months after the Legislature adjourns.

Outright Repealer (section 34)

The bill outright repeals sections 68-1736 and 68-1737 (Governor's Roundtable on welfare reform), which are obsolete.

13. **LB 806** (Wallman) Change provisions relating to dog guides, hearing aid dogs, and service dogs. *Enacted.*

LB 806 relates to civil rights and the use of “service animals” by persons with disabilities. The bill amends section 49-801 to define “service animal” as the term is defined in 28 C.F.R. 36.104, as the regulation existed on January 1, 2008. The referenced regulation defines “service animal” as “any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.”

The bill replaces references to “dog guides,” “hearing aid dogs,” and “service dogs” with the term “service animals.” The bill broadens the scope of current law to include all categories of persons with disabilities who utilize service animals.

The bill amends section 54-603 to exempt service animals from local license fees, whether or not the animal has graduated from a recognized training school.

The bill prohibits the charging or receiving of a deposit from a person with a disability who has or obtains a service animal. Such persons would still be liable for damages caused by the service animal.

14. **LB 807** (Aguilar) Require medicaid coverage of tobacco-cessation products and services. *Held in committee.*

LB 807 adds new provisions to the Medical Assistance Act relating to Medicaid coverage for tobacco use cessation counseling and FDA-approved tobacco use cessation pharmaceuticals. The bill contains legislative findings.

The bill requires the Department of Health and Human Services (department) to submit a state Medicaid plan amendment to the federal Centers for Medicare and Medicaid Services (CMS), within ninety days after the effective date of the bill, to provide Medicaid coverage for tobacco-use cessation counseling and FDA-approved tobacco-use cessation pharmaceuticals, whether such counseling and pharmaceuticals are provided together or separately.

The bill directs the department to revise rules, regulations, manuals, and other regulatory documents and the Medicaid state plan and list of excluded drugs accordingly.

The bill requires the department to report annually to the Legislature on “matters related to payments under the Medical Assistance Act for tobacco-use cessation counseling and tobacco-use cessation pharmaceuticals.”

15. **LB 809** (Synowiecki) Change provisions relating to metabolic screening. *General File.*

LB 809 relates to the mandatory screening of infants for metabolic diseases. The bill amends section 71-519 to require the Department of Health and Human Services (department) to grant an exemption from such requirement upon the filing of a written objection with the department by the child’s parent or guardian based on the parent or guardian’s sincerely held religious beliefs.

Persons responsible for causing the tests to be performed must inform the parent or guardian that they may refuse to have the tests performed upon the filing of such objection. If the parent or guardian of the child objects to testing the child for inheritable and congenital disorders, the objection must be made in writing on a form signed by the parent or guardian, and the form must be made part of the child’s medical record.

As amended by the committee and advanced to General File, the bill provides the following exemption from mandatory newborn screening: “a parent or legal guardian of an infant subject to [the mandatory screening requirement] may request and shall be granted an exemption from such requirements on behalf of the infant based on the sincerely held religious beliefs of such parent or legal guardian. Such request shall be made in writing on a form developed by the department and filed with the attending physician or person registering the infant’s birth under [section 71-519(2)]. Such request shall be reported to the department and shall be made part of the infant’s medical record. The department shall make forms available to request and report such exemption. Such forms shall include a warning and relevant information relating to the risks associated with the failure to receive the screening.”

16. **LB 818** (Avery) Change eligibility provisions for medical assistance. *Indefinitely postponed.*

LB 818 changes provisions of the Medical Assistance Act relating to children. The bill raises the eligibility level for children under the Children’s Health Insurance Program (SCHIP, Title XXI of the federal Social Security Act) from 185% to 200% of the federal poverty level (section 68-915).

The bill also changes Medicaid presumptive eligibility requirements for children. Current law provides for an initial six months of continuous eligibility, followed by monthly eligibility determinations. LB 818 provides for an initial twelve months of continuous eligibility, and strikes provisions relating to subsequent monthly eligibility determinations.

The bill changes legislative intent provisions of the Welfare Reform Act, and raises the intended eligibility level for transitional medical assistance from 185% to 200% of the federal poverty level (section 68-1713). The bill also raises the eligibility level for work-related child care expenses under the Welfare Reform Act from 185% to 200% of the federal poverty level (section 68-1724).

17. **LB 830** (Lathrop) Adopt the Medicaid Prescription Drug Act. *Enacted.*

LB 830 adds new provisions to the Medical Assistance Act (Medicaid) and adopts the Medicaid Prescription Drug Act (act). The bill provides purposes for the act and defines terms.

The purpose of the Medicaid Prescription Drug Act is to “provide appropriate pharmaceutical care to medicaid recipients in a cost-effective manner by requiring the establishment of a preferred drug list and other activities as prescribed.” The preferred drug list and other activities mandated by the act may not be construed to replace, prohibit, or limit other lawful activities of the department not specifically permitted or required by the act. The bill requires the Department of Health and Human Services (department), by July 1, 2010, to establish and maintain a preferred drug list for the Medicaid program.

The bill requires the department to establish a pharmaceutical and therapeutics committee (P&T committee) to advise the department on all matters relating to the establishment and maintenance of the preferred drug list. The P&T committee includes at least fifteen but no more than twenty members; at least (1) eight physicians, (2) four pharmacists, (3) a university professor of pharmacy or a person with a doctoral degree in pharmacology, and (4) two public members. No more than twenty-five percent of the committee may be state employees.

Physician members, so far as practicable, must include physicians practicing in the areas of (1) family medicine, (2) internal medicine, (3) pediatrics, (4) cardiology, (5) psychiatry or neurology, (6) obstetrics or gynecology, (7) endocrinology, and (8) oncology. Members of the committee must submit conflict of interest disclosure statements to the department and have an ongoing duty to disclose conflicts of interest not included in the original disclosure. Members of the committee are reimbursed for their actual and necessary expenses.

The department, in consultation with the P&T committee, must adopt and publish policies and procedures relating to the preferred drug list, including (1) guidelines for the presentation and review of drugs for inclusion on the preferred drug list, (2) the manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost effectiveness, (3) an appeals process for the resolution of disputes, and (4) other policies and procedures that the department deems necessary and appropriate.

The department and the P&T committee must consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except that antidepressant, antipsychotic, and anticonvulsant prescription drugs may not be subject to consideration for inclusion on the list.

The bill requires the department to include a prescription drug on the preferred drug list if the prescription drug is therapeutically equivalent to or superior to a prescription drug on the list and the net cost of the new prescription drug is equal to or less than the net cost of the listed drug, after consideration of applicable rebates or discounts negotiated by the department.

If the department finds that two or more prescription drugs under consideration for inclusion on the preferred drug list are therapeutically equivalent, the department must include the more cost-effective prescription drug or drugs on the preferred drug list, after consideration of applicable rebates or discounts negotiated by the department.

The bill requires the department to maintain an updated preferred drug list in electronic format and to make the list available to the public on the department's Internet web site.

The bill permits a health care provider to prescribe a prescription drug not on the preferred drug list to a Medicaid recipient if (1) the prescription drug is medically necessary, (2)(a) the provider certifies that the preferred drug has not been therapeutically effective, or with reasonable certainty is not expected to be therapeutically effective, in treating the recipient's condition or (b) the preferred drug causes or is reasonably expected to cause adverse or harmful reactions in the recipient, and (3) the department authorizes coverage for the prescription drug prior to the dispensing of the drug. The department is required to respond to a prior authorization request no later than twenty-four hours after receiving such request.

A health care provider may prescribe a prescription drug not on the preferred drug list to a Medicaid recipient without prior authorization by the department if the provider certifies that (1) the recipient is achieving therapeutic success with a course of antidepressant, antipsychotic, or anticonvulsant medication or medication for human immunodeficiency virus, multiple sclerosis, epilepsy, cancer, or immunosuppressant therapy or (2) the recipient has experienced a prior therapeutic failure with a medication.

The bill requires the department to (1) enter into a multistate purchasing pool; (2) negotiate directly with manufacturers or labelers; or (3) contract with a pharmacy benefit manager for negotiated discounts or rebates for all Medicaid prescription drugs in order to achieve the lowest available price for such drugs under such program.

The bill amends provisions of the Nebraska Health Care Funding Act (sections 71-7605 to 71-7611) to permit the allocation of additional funds from the Nebraska Health Care Cash Fund in FY 2008-09 to carry out provisions of the bill.

18. **LB 835** (Preister) Prohibit transfer of certain lead-containing items. *Indefinitely postponed.*

LB 835 relates to toxic substances and children. The bill defines terms. The bill prohibits any person from using or applying a toxic substance in or on any toy or child care article. The bill prohibits the selling, offering for sale, or transferring of any toy or child care article that contains a toxic substance.

“Child care article” is defined as “a product designed or intended by the manufacturer to facilitate the sleep, relaxation, or feeding of children or to help children with sucking or teething.”

“Toxic substance” is defined as “a substance with a lead content of more than six-one-hundredths of one percent of the total weight of the substance. Toxic substance does not include glass or crystal decorative components.”

“Toy” is defined as “an article designed and made for the amusement of children or for children’s use in play.”

Penalties are provided. Any person, other than an individual consumer, who violates prohibitions in the bill will be subject to (1) a civil fine of not more than \$100 per item, not to exceed a total of \$5,000, for a first offense; (2) a civil fine of not more than \$500 per item, not to exceed a total of \$25,000, for a second offense; and (3) a civil fine of not more than \$1,000 per item, not to exceed a total of \$50,000, for a third or subsequent offense. A civil penalty of three times such amounts will be imposed on a person who is not a consumer who knowingly violates prohibitions in the bill.

The bill contains a severability clause.

19. **LB 836** (Howard) Prohibit smoking in a vehicle when minors are present. *Indefinitely postponed.*

LB 836 relates to the Nebraska Rules of the Road. The bill prohibits any person in a motor vehicle from smoking when a person under sixteen years of age is in the vehicle, even if the vehicle’s windows are down.

“Smoking” is defined as “inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.”

Violators are subject to a fine of at least fifty dollars (\$50) but not more than one hundred fifty dollars (\$150). Fines for a first offense will be eliminated for persons who prove that they have entered a smoking cessation program.

Probable cause for a violation is based solely on a peace officer’s clear and unobstructed view of a person smoking as prohibited in the bill. Violations are a primary offense.

A violation is considered a nonmoving violation, and a citation will not be included on the operator’s driving record. Violators, however, will be assessed one point against their operator’s license (section 60-4,182).

A violation may not be considered evidence of negligence, may not limit the liability of an insurer, and may not diminish recovery of any damages arising out of the ownership, maintenance, or operation of a motor vehicle.

20. **LB 866** (McDonald) Adopt the Chronic Disease Drug Repository Program Act. *Held in committee.*

LB 866 adopts the Chronic Disease Drug Repository Program Act (act). The bill is modeled after the Cancer Drug Repository Program Act (LB 756, 2003) and the Immunosuppressant Drug Repository Program Act (LB 994, 2006).

The bill defines terms. “Chronic disease” is defined as “a disease that is long-lasting or recurrent. Chronic disease includes, but is not limited to, Alzheimer’s disease, arthritis, cardiovascular disease, stroke, all cancers, chronic obstructive pulmonary disease, chronic lower respiratory disease, diabetes mellitus, cirrhosis, hepatitis C, and kidney disease.”

The bill requires the Department of Health and Human Services (department) to establish a chronic disease drug repository program for accepting donated chronic disease drugs and dispensing such drugs to Nebraska residents. Participation in the program is voluntary.

Any person or entity may donate drugs to the program. A drug may only be accepted or dispensed under the program if it is in its original, unopened, sealed, and tamper-evident packaging. A chronic disease drug packaged in single unit doses may be accepted and dispensed if the outside packaging is opened but the single-unit-dose packaging is unopened. There is no limit on the number of doses that may be donated to the program, as long as the donated drugs meet the foregoing program requirements. An injectable chronic disease drug may be accepted if it does not have temperature requirements other than controlled room temperature.

A chronic disease drug may not be accepted or dispensed under the program if the drug bears an expiration date prior to the date of donation, the drug is adulterated or misbranded as described in section 71-2401 or section 71-2402, or the drug has expired while in the repository.

Unused chronic disease drugs dispensed under the Medicaid program may also be accepted and dispensed under the program.

A participant in the program (i.e. a physician's office, pharmacy, hospital, or health clinic that has elected to voluntarily participate in the program and that accepts donated chronic disease drugs under the rules and regulations adopted and promulgated by the department for the program) must comply with all applicable provisions of state and federal law relating to the storage, distribution, and dispensing of donated chronic disease drugs. Participants must inspect all drugs prior to dispensing to determine if they are adulterated or misbranded. Drugs may only be dispensed pursuant to a prescription issued by a prescribing practitioner. Drugs may be distributed to another participant for dispensing.

Participants may charge a handling fee for distributing or dispensing chronic disease drugs under the program as established in rules and regulations adopted and promulgated by the department. Chronic disease drugs donated under the program may not be resold.

Any person or entity which exercises reasonable care in donating, accepting, distributing, or dispensing chronic disease drugs under the act or rules and regulations adopted and promulgated under the act will be immune from civil or criminal liability or professional disciplinary action of any kind for any injury, death, or loss to person or property relating to such activities. The donation of a chronic disease drug by a chronic disease drug manufacturer, however, does not absolve the manufacturer of any criminal or civil liability that would have existed but for the donation, nor will the donation increase the liability of the manufacturer that would have existed but for the donation.

The bill requires the department to establish and maintain a participant registry for the program. The registry must include the participant's name, address, and telephone number, and identify whether the participant is a physician's office, a pharmacy, a hospital, or a health clinic. The department must make the participant registry available to any person or entity wishing to donate chronic disease drugs to the program.

The department, upon the recommendation of the Board of Pharmacy, is required to adopt and promulgate rules and regulations to carry out the act. Rules and regulations must include, at a minimum, (1) eligibility criteria and other standards and procedures for participants that accept and distribute or dispense donated chronic disease drugs; (2) necessary forms for administration of the program; (3) the maximum handling fee that may be charged by participants that accept and distribute or dispense donated chronic disease drugs; (4) categories of chronic disease drugs that the program will accept for dispensing and categories of chronic disease drugs that the program will not accept for dispensing and the reason that such drugs will not be accepted; and (5) maintenance and distribution of the participant registry established by the act.

The bill contains an emergency clause.

21. **LB 877** (Wightman) Change public assistance provisions relating to postsecondary education and related work activities. *Held in committee.*

LB 877 relates to public assistance and the Welfare Reform Act (act) (sections 68-1701 to 68-1735). Current law requires the principal wage earner and other nonexempt members of an applicant family for cash assistance under the act to engage in one or more approved work-related activities, including but not limited to, education, job skills training, work experience, job search, or employment.

Current law (section 68-1721) provides that “education” may consist of “general education development program, high school, Adult Basic Education, English as a Second Language, postsecondary education, or other education programs approved in the [applicant’s self-sufficiency] contract.”

LB 877 expands the scope of allowable educational activities under the act beyond currently applicable federal standards and further defines allowable educational activities to include “postsecondary education leading to a baccalaureate degree or an associate degree,” “vocational education,” and “work activities directly related to such education.”

22. **LB 882** (Johnson) Change provisions relating to prescription medication for indigent persons. *Held in committee.*

LB 882 was requested by the Department of Health and Human Services and relates to the so-called “LB 95 drug program” (LB 95, 1981). The program provides necessary prescription mental health drugs to indigent persons upon discharge from mental-health-board-ordered treatment (section 83-380.01).

The bill clarifies that the program applies to persons discharged from both inpatient and outpatient treatment. The bill provides that affidavits requesting LB 95 drugs may only be filed with the department and deletes provisions permitting the filing of such affidavits with a county mental health board.

The bill requires the department to review submitted affidavits to determine if the patient qualifies as an indigent person and that the prescription medicine requested is appropriate for the treatment of mental illness. The patient must supply sufficient financial information to enable the department to make a determination whether the patient is indigent and the patient’s ability to pay.

The department, when necessary, is permitted to contact with a licensed pharmacy to provide requested medication, to insure the patient’s access to such medication.

The department is authorized to adopt and promulgate rules and regulations relating to the definition of indigent person, standards of ability to pay, and types of medication to be dispensed under the program.

23. **LB 883** (Johnson) Exempt certain public recreation facilities, centers, and programs from child-care licensure. *General File, provisions included in LB 928.*

LB 883 relates to the licensure of child care programs. The bill exempts “a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in section 13-304” from licensure requirements under the Child Care Licensing Act (act) (sections 71-1901 to 71-1923).

LB 994 (2006) changed the definition of “program” under the act, and inadvertently resulted in the licensure of municipal recreational programs that were previously not required to be licensed.

24. **LB 885** (Johnson) Redefine prescription relating to the practice of pharmacy. *Indefinitely postponed.*

LB 885 expands the current definition of “prescription” in sections 38-2840 and 71-1,142 to include an order for a “single dose sample of a drug for research purposes.” The bill is intended to assist in the use of blood testing equipment by emergency room physicians and other health care providers. Advancing technology has led to the development of more sophisticated testing devices to identify drugs or other substances in a patient’s blood. A single dose sample of a drug is necessary, however, to calibrate the device. Current law does not allow a prescription to be written for a single-dose sample of a drug for such purpose.

25. **LB 892** (Pedersen) Change modular housing and manufactured home provisions relating to the Public Service Commission. *General File, provisions included in LB 797.*

LB 892 changes various provisions of the Nebraska Uniform Standards for Modular Housing Units Act (Modular Housing Act) (sections 71-1555 to 71-1568.01) and the Uniform Standard Code for Manufactured Homes and Recreational Vehicles (Manufactured Home and RV Act) (sections 71-4601 to 71-4620.01).

Seal Fees

The bill increases the range of seal fees that may be charged by the Public Service Commission (commission). Under the Modular Housing Act, seal fees are raised from a range of \$80 to \$400 to a range of \$100 to \$1,000 per modular housing unit.

Under the Manufactures Home and RV Act, the bill increases the range of seal fees from a range of \$10 to \$50 to a range of \$10 to \$75 per unit

Administrative Fines

The bill permits the commission to assess administrative fines pursuant to section 75-156 to any person who violates the Modular Housing Act or the Manufactured Home and RV Act or rules or regulations adopted and promulgated under such acts.

Inspection Fees

The bill increases the inspection fee charged by the commission for each inspection of a new recreational vehicle from \$75 to \$250.

Plan Reviews

The bill increases the range of fees that may be charged by the commission for the review of proposed plans and specifications for modular housing units and manufactured homes. For the review of plans and specifications for modular housing units, the fee range is increased from a range of \$15/hr to \$30/hr to a range of \$15/hr to \$60/hr based on sixty hours of review time as determined by the commission annually upon published notice and a public hearing (rule and regulation requirement is deleted). For manufactured homes, the fee range is increased from a range of \$15/hr to \$50/hr to a range of \$15/hr to \$75/hr.

Technical

The bill deletes provisions relating to multifamily modular housing units. The bill makes various other technical changes in both the Modular Housing Act and the Manufactured Home and RV Act, including date references, where a commission seal must be placed on a modular housing unit, and references to violation of a commission order.

26. **LB 906** (Pankonin) Change provisions relating to laboratories regulated by the Department of Health and Human Services. *General File, provisions included in LB 928.*

LB 906 changes fees that may be charged by the Department of Health and Human Services (department) for the certification and inspection of laboratories contracting with the department to conduct drinking water analyses.

The department is currently permitted to collect the following maximum annual fees: (1) for bacteriological examination agreements: \$150; (2) for inorganic chemical analyses agreements: \$100; (3) for heavy metal analyses agreements: \$200; (4) for organic chemical analyses agreements: \$200; and (5) for radiochemical analyses agreements: \$200.

LB 906 replaces the foregoing with the following laboratory certification fees: (1) an annual fee of no more than \$1,800 per laboratory, and (2) an inspection fee of no more than \$3,000 per certification period for each laboratory located in Nebraska.

27. **LB 928** (Johnson) Change and repeal provisions relating to public health and welfare. *Enacted, includes provisions of LB 48, LB 738, LB 796, LB 874, LB 883, LB 906, LB 994, LB 1120, LB 1121, LB 1123, LB 1173, and LB 1176.*

LB 928 changes and deletes various public health and welfare provisions and contains provisions of several bills advanced by the committee. The emergency clause applies to portions of the bill.

Medicaid (sections 1, 15-16)

LB 928 contains provisions of **LB 874**, **LB 1121**, and **LB 1176**. LB 874 relates to Medicaid estate recovery and was advanced to General File by the Judiciary Committee. The bill requires district court clerks to notify the Department of Health and Human Services of the appointment of a personal representative of a decedent if the decedent was fifty-five years of age or older or resided in a medical institution as defined in subsection (1) of section 68-919, along with the decedent's social security number and, if available upon reasonable investigation, the name and social security number of the decedent's spouse if the spouse is deceased.

LB 1121, as amended by the committee and advanced to General File, relates to the "Medicaid buy-in program" for persons with disabilities. The bill requires the Department of Health and Human Services to analyze available options under federal law and provide recommendations for enhancing and replacing the current "buy-in" provisions in the Medical Assistance Act (section 68-915(8)). A draft report must be submitted by the department no later than October 1, 2008, and a final report no later than December 1, 2008. The draft report must be reviewed by the Medicaid Reform Council. The council is required to conduct a public hearing on the draft report no later than October 15, 2008.

LB 1176 relates to proposed Medicaid rules and regulations. Prior to the adoption of proposed Medicaid rules and regulations, section 68-909 requires the department to provide a report of such rules and regulations to the Governor, the Legislature, and the Medicaid Reform Council (section 68-909). As amended, LB 1176 requires that such report be made no later than December 1 before the next regular session of the Legislature.

Veterinary Medicine and Surgery (sections 2-3, 13)

LB 928 contains provisions of **LB 1173** as amended by the committee and advanced to General File. The bill permits health care professionals credentialed under the Uniform Credentialing Act to consult with a licensed veterinarian contracted with or employed by an accredited zoological park or garden to perform collaborative animal health care tasks on a zoo animal under the care of a zoo veterinarian if all such tasks are performed under the immediate

supervision of the zoo veterinarian. The bill as amended authorizes such conduct under the Uniform Credentialing Act and provides that such conduct is not a part of nor is it a violation of the credentialed person's scope of practice.

Certified Registered Anesthetists (section 4)

LB 928 contains provisions of **LB 48** (2007). The bill was introduced following a "407 review" under the Nebraska Regulation of Health Professions Act (sections 71-6201 to 71-6229) of the use of fluoroscopy by certified registered nurse anesthetists (CRNAs). The bill permits CRNAs to use fluoroscopy in conjunction with a licensed medical radiographer in connection with the performance of authorized duties and functions upon (1) the successful completion of appropriate education and training as approved jointly by the Department of Health and Human Services and the Board of Advanced Practice Registered Nurses and promulgated by the department in rules and regulations under the Radiation Control Act, and (2) an internal determination regarding the scope and supervision of such use in the particular hospital, office, or clinic where the CRNA practices and the use will occur.

Radiation Control Act (section 5-12, 23-24, 25, 26-28, 29)

LB 928 contains provisions of **LB 796**. LB 796 changes provisions of the Radiation Control Act (sections 71-3501 to 71-3520) and the Medical Radiography Practice Act (section 38-1901 to 38-1920). The bill deletes references to the licensure of radon measurement technicians and radon mitigation technicians but retains provisions relating to the licensure of radon measurement specialists and radon mitigation specialists. Persons licensed as radon measurement technicians will be deemed to be licensed as radon measurement specialists until the next licensure renewal.

The bill permits an application for registration under the Radiation Control Act to be submitted in writing or electronically.

The bill raises registration and inspection fees for radiation generating equipment used to diagnose conditions in humans or animals from \$70 to \$400. The fee charged may not exceed the department's actual costs.

The bill requires the department to adopt and promulgate rules and regulations for fingerprinting and the conducting of a federal criminal background check of persons with unescorted access to "radionuclides of concern." The rule and regulation mandate becomes operative with the emergency clause and terminates on December 1, 2008. All other sections of the bill become operative three months after adjournment of the legislative session.

As amended into LB 928, the bill also provides for the licensure of "limited computed tomography radiographers." An applicant for such licensure must (1) complete an application in accordance with the Uniform Credentialing Act; (2) be certified by (a) the Nuclear Medicine Technology Certification Board or (b) the American Registry of Radiologic Technologists in nuclear medicine technology; and (3) be certified by the American Registry of Radiologic Technologists in computed tomography. The amended bill permits licensed medical radiographers to utilize computed tomography.

The amended bill permits a nuclear medicine technologist who meets the requirements for training and experience for nuclear medical technology under the Radiation Control Act to perform computed tomography without being licensed under the Medical Radiography Practice Act, if his or her practice is limited to X-rays produced by a combination nuclear medicine-computed tomography system and administered as an integral part of a nuclear medicine procedure that uses a computed tomography protocol for purposes of attenuation correction and anatomical localization, and only if the nuclear medicine technologist has received documented

device-specific training on the combination nuclear medicine-computed tomography system as prescribed by rules and regulations adopted and promulgated by the department.

The amended bill permits students enrolled and participating in an educational program in nuclear medicine technology who, as part of such program, apply X-rays to humans using a computed tomography system while under the supervision of “licensed practitioners” as defined in the Radiation Control Act, medical radiographers, or limited computed tomography radiographers associated with the educational program.

The amended bill provides for the issuance of a temporary limited computed tomography radiographer license to persons registered by the Nuclear Medicine Technology Certification Board or the American Registry of Radiologic Technologists. Such licenses expire twenty-four months after issuance and may not be renewed. Persons licensed as temporary limited computed tomography radiographers are permitted to perform medical radiography restricted to computed tomography while under the direct supervision and in the physical presence of “licensed practitioners” as defined in the Radiation Control Act, medical radiographers, or limited computed tomography radiographers.

Behavioral Health (sections 14, 17-18)

LB 928 contains provisions of **LB 994** and **LB 1123**. LB 994, as amended into LB 928, terminates the current Behavioral Health Oversight Commission of the Legislature (section 71-818) on June 30, 2008 and creates a new behavioral health oversight commission on and after July 1, 2008, until June 30, 2009.

Membership of the new commission on and after July 1, 2008 will consist of twelve members appointed by the Governor, as follows: (1) One consumer of behavioral health services, (2) one consumer advocate of behavioral health services, (3) three providers of community-based behavioral health services, including one representative from each congressional district, (4) three regional behavioral health authority administrators, including one from each congressional district, (5) one representative of the Norfolk Regional Center, (6) one representative of the Lincoln Regional Center, (7) one representative of the city of Norfolk, and (8) one representative of the city of Hastings.

The new commission would be responsible to the division and oversee and support implementation of the Nebraska Behavioral Health Services Act. To carry out this duty, the commission is required to (1) conduct regular meetings, (2) provide advice and assistance to the division relating to the implementation of the act, (3) promote the interests of consumers and their families, (4) provide reports as requested by the division, and (5) engage in such other activities as directed or authorized by the division. The division is required to provide quarterly reports to the commission.

LB 1123 changes membership provisions of the Children’s Behavioral Health Task Force (LB 542, 2007). As amended into LB 928, LB 1123 removes the chair of the Behavioral Health Oversight Commission of the Legislature as a member and chair of the task force. The commission terminates on June 30, 2008. On and After July 1, 2008, the chairperson of the Health and Human Services Committee or his or her designee will chair the task force.

Municipal Recreational Programs (section 19)

LB 928 contains provisions of **LB 883**. The bill relates to the licensure of child care programs. The bill exempts “a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in section 13-304” from licensure requirements under the Child Care Licensing Act (act) (sections 71-1901 to 71-1923).

LB 994 (2006) changed the definition of “program” under the act, and inadvertently resulted in the licensure of municipal recreational programs that were previously not required to be licensed.

Laboratory Fees (sections 20-22, 30)

LB 928 contains provisions of **LB 906**. LB 906 changes fees that may be charged by the Department of Health and Human Services (department) for the certification and inspection of laboratories contracting with the department to conduct drinking water analyses.

The department is currently permitted to collect the following maximum annual fees: (1) for bacteriological examination agreements: \$150; (2) for inorganic chemical analyses agreements: \$100; (3) for heavy metal analyses agreements: \$200; (4) for organic chemical analyses agreements: \$200; and (5) for radiochemical analyses agreements: \$200.

LB 906 replaces the foregoing with the following laboratory certification fees: (1) an annual fee of no more than \$1,800 per laboratory, and (2) an inspection fee of no more than \$3,000 per certification period for each laboratory located in Nebraska.

Certificate of Need (section 31)

LB 928 contains provisions of **LB 1120**. The bill was originally introduced to repeal a certificate of need (CON) exemption for facility projects of federally recognized Indian tribes. As amended into LB 928, the bill retains the CON exemption, but only if the tribe has a self-determination agreement in place with the federal Indian Health Service for the proposed facility, so that costs for enrolled members of the tribe who are served at the facility are paid solely with federal funds.

Technical (section 32)

LB 928 makes technical amendments to **LB 606** (adopt the Stem Cell Research Act) and provisions of the Nebraska Health Care Funding Act (used to fund provisions of LB 606).

Brain Injury Registry (section 33-41)

LB 928 contains provisions of **LB 738**. The bill, as amended by the committee, changes provisions relating the brain injury registry maintained by the Department of Health and Human Services (department) (sections 81-653 to 81-661). The bill is primarily a technical redrafting of current brain injury registry statutes and contains substantive changes. The bill requires the department, within thirty days after receiving a report of a brain or head injury, to provide “relevant and timely information to the person with such injury to assist such person in accessing necessary and appropriate services relating to such injury.”

The department may develop the information itself or utilize information developed by other sources and approved by department. The department may provide the information directly or contract with an appropriate entity to facilitate the provision of the information.

The costs of providing such information must be paid from cash funds, gifts, and grants and no General Funds may be used. The department will not be required to provide the information if sufficient funding is unavailable.

The bill requires hospitals or rehabilitation centers to report to the department within thirty days after discharge of any person with a brain or head injury that results in admission to or treatment at such facility.

Operative Dates (section 42)

Sections 1, 15-16, 19-22, 30, and 33-41 become operative three calendar months after the 2008 legislative session. Sections 2-13, 23-24, and 26-28 become operative on December 1, 2008. Section 14 becomes operative on July 1, 2008. Sections 17-18, 25, 29, 31, and 32 become operative with the emergency clause.

Outright Repealer (section 47)

LB 928 outright repeals the Hepatitis C Education and Prevention Act (sections 71-545 to 71-550). The act terminated on December 31, 2007.

28. **LB 951** (Kopplin) Provide for umbilical cord blood banking. *Held in committee.*

LB 951 relates to umbilical cord blood banking. The bill contains legislative findings and defines terms.

The bill requires the Department of Health and Human Services (department), by January 1, 2009, to prepare a pamphlet or brochure containing sufficient objective information about umbilical cord blood banking to allow a pregnant woman to make an informed decision about whether to participate in a public or private cord blood banking program. Information that must be included in the pamphlet or brochure is prescribed.

The department must distribute the pamphlets or brochures free of charge to physicians and hospitals and make them electronically available on the department's Internet web site.

The department must consult with an appropriate organization of Nebraska-licensed physicians in developing the pamphlet or brochure. The department must update the information as appropriate but no later than two years after the original date of publication and every two years thereafter.

Beginning January 1, 2009, a physician with a patient in her second trimester of pregnancy must inform the patient of her options regarding umbilical cord blood. A physician satisfies the requirement by providing the information required in the bill either verbally or in writing, or by providing the patient with the pamphlet or brochure prepared by the department under the bill.

29. **LB 954** (Dierks) Change provisions relating to human immunodeficiency virus testing. *General File.*

LB 954 relates to testing for human immunodeficiency virus infection (HIV testing). The bill provides that an additional consent for HIV testing will not be required if a general consent form for the performance of medical tests or procedures has been signed, and the general consent is effective.

If a person is unable to provide consent, consent may be provided by the person's legal representative. If the person's legal representative cannot be located or is unavailable, a health care provider may authorize HIV testing when the test results are necessary for diagnostic purposes to provide appropriate medical care.

The bill deletes current provisions prescribing the contents of a written informed consent for HIV testing (section 71-531). The bill contains an emergency clause.

As amended by the committee and advanced to General File, the bill retains informed consent provisions for HIV testing stricken in the original bill. The amended bill requires that persons be informed on the general consent that HIV testing may be performed under such consent and that the person may refuse to have such testing performed.

30. **LB 972** (Gay) Change optometry licensure provisions. *Enacted.*

LB 972 relates to the practice of optometry. The bill changes licensure reciprocity provisions for optometrists. The bill provides that applicants for licensure in Nebraska from other jurisdictions must have been actively engaged in the practice of optometry in the other jurisdiction for at least two of the three immediately preceding years.

The bill also requires an applicant for licensure from another jurisdiction to “provide satisfactory evidence of being credentialed in such other jurisdiction at a level with requirements that are at least as stringent as or more stringent than the requirements for the comparable credential being applied for in this state.”

The bill changes continuing competency provisions for optometrists. The bill permits the Department of Health and Human Services to waive continuing competency requirements when (1) a credential holder submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented them from completing the requirements, *or* (2) the credential holder was initially licensed within the twenty-six months immediately preceding the licensure renewal date.

The bill has an operative date of December 1, 2008.

31. **LB 994** (Johnson) Extend termination date of the Behavioral Health Oversight Commission. *Held in committee, amended provisions included in LB 928.*

LB 994 extends the termination date for the Behavioral Health Oversight Commission of the Legislature from June 30, 2008 until June 30, 2009.

The bill contains an emergency clause.

32. **LB 1003** (Pahls) Adopt the Saving the Cure Act and provide for an accredited laboratory. *Held in committee.*

LB 1003 adopts the Saving the Cure Act (act) to “encourage the donation, collection, and storage of stem cells collected from postnatal tissue and fluid and to make such stem cells available for medical research and treatment, to promote principled and ethical stem cell research, and to encourage stem cell research with immediate clinical and medical applications.” The bill defines terms.

The bill establishes the Commission for Saving the Cure (commission), within the Department of Health and Human Services, consisting of fifteen members appointed by the Governor for three-year terms. Appointments must be made no later than December 1, 2008. The commission meets at least quarterly at the call of the chairperson or upon the request of at least seven of its members.

The commission must develop a program to educate pregnant women with respect to the banking of postnatal tissue and fluid. The commission must provide for protection from disclosure of the identity of persons making donations to the Nebraska Newborn Umbilical Cord Blood Network. The commission may request additional funding from any additional source including, but not limited to, federal and private grants. The commission may establish a foundation for purposes of accepting donations of funds to support the Nebraska Newborn Umbilical Cord Blood Network. Other duties and responsibilities of the commission are prescribed.

The commission must establish, no later than June 30, 2009, the Nebraska Newborn Umbilical Cord Blood Network (network) in partnership with public or private hospitals in Nebraska to facilitate the collection and transportation of postnatal tissue and fluid to (1) hospitals for medical treatment or research, (2) private postnatal tissue and fluid banks, or (3) public postnatal tissue and fluid bank established in other states when needed. The network is

required to facilitate making postnatal tissue and fluid available for medical research and treatment pursuant to the act.

Prior to facilitating the collection or transportation of any postnatal tissue or fluid for medical research or to a postnatal tissue and fluid bank in another state, the commission must establish that the hospital or bank has or is subject to an institutional review board which is available on an ongoing basis to review the research procedures and conduct of any person desiring to conduct research with postnatal tissue and fluid. The institutional review board must have established procedures to protect and ensure the privacy rights of postnatal tissue and fluid donors consistent with applicable federal guidelines.

Beginning June 30, 2009, all physicians and hospitals in Nebraska may inform pregnant patients of the full range of options for donation of postnatal tissue and fluids no later than thirty days after the commencement of the patient's third trimester of pregnancy or at the first consultation with the attending physician or the hospital, whichever is later. The bill permits persons to donate postnatal tissue or fluid to a private blood and tissue bank or store postnatal tissue or fluid with a private blood and tissue bank.

The bill creates the Saving the Cure Fund, containing amounts appropriated by the Legislature and revenue received from gifts, grants, bequests, or other contributions from public or private sources, to be used by the commission to develop and operate the Nebraska Newborn Umbilical Cord Blood Network and to carry out its duties.

After July 1, 2009, the bill permits the University of Nebraska Medical Center (UNMC) to develop, staff, and maintain an accredited laboratory to conduct postnatal tissue and fluid research and stem cell research. The bill allocates \$500,000 annually from the Nebraska Health Care Cash Fund to UNMC for the laboratory, if developed.

33. LB 1006 (Aguilar) Provide for a registry and salary study of in-home personal services workers. *Held in committee.*

LB 1006 relates to the provision of in-home personal services. The bill defines terms. "In-home personal services" is defined, in part, as "attendant services, companion services, and homemaker services that do not require the exercise of medical or nursing judgment provided to a person in his or her residence . . ."

The bill requires the Department of Health and Human Services (department) to establish a statewide registry of in-home personal services workers who provide in-home personal services. With respect to such workers, the registry must include (1) personal contact information, (2) the geographical area in which the worker provides services, and (3) experience, education, and training history of the worker related to in-home personal services.

The department is required to make the registry available electronically and by other means on request. The department must request information from in-home personal services workers whose addresses are known to the department, and in-home personal services workers may contact the department to be placed on the registry. Placement on the registry is voluntary. The department is required to adopt and promulgate rules and regulations to create the registry and provide for its operation. The department must submit a report to the Legislature regarding the registry by July 1, 2009.

The bill also requires the department to conduct a study of wages paid to in-home personal services workers in Nebraska as compared with such workers in surrounding states, including a comparison of wages paid to in-home personal services workers with various levels of training and experience.

The bill also requires the department to prepare a plan to increase the wage levels of in-home personal services workers paid by the state, in order to attract and encourage the retention

of in-home personal services workers in Nebraska. The bill requires the department to submit a report to the Legislature regarding the study and plan by July 1, 2009. The report must include the study methodology used and study results.

34. **LB 1022** (Hansen) Adopt the Veterinary Drug Distribution Licensing Act. *Enacted*

LB 1022 adopts the Veterinary Drug Distribution Licensing Act (act). The bill provides purposes for the act and defines terms (sections 1-11).

Licensure (sections 12-19)

The bill requires licensure by the Department of Health and Human Services (department) for the distribution, sale, or offer for sale of veterinary legend drugs in the State of Nebraska. A veterinarian licensed under the Veterinary Medicine and Surgery Practice Act acting within his or her scope of practice will not be required to be licensed under the Veterinary Drug Distribution Act.

Any person, partnership, corporation, business entity, or other entity located in Nebraska or any other location that acts as a veterinary drug distributor is required to obtain a veterinary drug distributor license from the department prior to engaging in the distribution of veterinary legend drugs in or into Nebraska. An application for licensure must be filed with the department and accompanied by a fee established by the department. Information required on the application is prescribed. The department is required to issue or renew a license to any applicant that satisfies the requirements for licensure or license renewal. A veterinary drug distributor license expires on July 1 of each odd-numbered year, may be renewed, and is not transferable.

License fees include (a) a base fee of fifty dollars (\$50) and (b) an additional fee of not more than five hundred dollars (\$500) based on variable costs to the department of inspections and of receiving and investigating complaints, other similar direct and indirect costs, and other costs of administering the act as determined by the department. If an application under the act is denied, the license fee must be returned to the applicant, but the department may retain up to twenty-five dollars (\$25) as an administrative fee and may retain the entire license fee if an inspection has been completed prior to the denial. The department must also collect a fee for reinstatement of a license that has lapsed or has been suspended or revoked, and a fee of ten dollars (\$10) for a duplicate original license.

A licensed veterinary drug distributor may purchase, possess, or otherwise acquire veterinary legend drugs.

A veterinary drug distributor must establish, maintain, and adhere to written policies and procedures for the receipt, storage, security, inventory, and distribution of veterinary legend drugs. The policies must also provide for an annual review, and a record documenting such review must be kept and signed by the licensee.

The department may issue a provisional veterinary drug distributor license to applicants who (1) have not been found to have committed any of the acts or offenses enumerated in the act; (2) have established written policies and procedures as required by the act; and (3) have paid a fee of five hundred dollars (\$500).

The department may waive licensure requirements upon proof satisfactory to the department that the requirements duplicate other requirements of Nebraska laws, rules, or regulations and that the granting of the waiver will not endanger the public safety.

The bill provides for discipline of a veterinary drug distributor license by the Director of Public Health if he or she finds that the applicant or licensee has violated any provisions of the act or rules and regulations adopted under the act.

The department may deny or restrict the application for a veterinary drug distributor license if the applicant has been convicted of a criminal violation of the act, Nebraska statutes governing the practice of pharmacy, or the federal Food, Drug, and Cosmetic Act.

The department may deny or restrict the application for a veterinary drug distributor license if the applicant has been convicted in another state of a criminal violation of the laws of the other state governing veterinary drug distribution or the practice of pharmacy or the federal Food, Drug, and Cosmetic Act.

Inspections (section 20)

The bill requires every veterinary drug distributor transacting commerce in Nebraska to be inspected by the department prior to the issuance of an initial or renewal license. The department may provide for other inspections of licensed veterinary drug distributors in rules and regulations. As part of any such inspection, the department may require an analysis of suspected veterinary legend drugs to determine authenticity. For applicants not located in Nebraska, the department may accept an inspection which was accepted for licensure by another state in which the applicant is licensed or by a nationally-recognized accreditation program in lieu of an inspection by the department. The department may establish and collect fees for inspection activities, which may not exceed the department's actual cost for such activities.

The department may adopt and promulgate rules and regulations to permit the use of alternative methods for assessing a licensee's compliance with the act.

Records (section 21)

A veterinary drug distributor transacting commerce in Nebraska must establish and maintain accurate records of all transactions regarding the receipt and distribution or other disposition of veterinary legend drugs as provided in the act. All records of receipt, distribution, or other disposal of veterinary legend drugs must be available to the department upon request for inspection, copying, verifying, or other proper use. If a veterinary drug distributor is authorized by the department to maintain records at a central location, such records must be made available for authorized inspections within forty-eight hours. Records kept at a central location that can be retrieved by computer or other electronic means must be readily available for authorized inspection during the inspection period.

Distribution of veterinary legend drugs (section 22)

A veterinary drug distributor may distribute veterinary legend drugs to: (1) a licensed veterinarian or to another veterinary drug distributor and (2) a layperson responsible for the control of an animal, under prescribed conditions.

If all federal labeling requirements are met, labeling provisions of Nebraska law governing the practice of pharmacy will not apply to veterinary legend drugs distributed pursuant to the act.

Prohibited acts (sections 23, 25)

A veterinary drug distributor may not: (1) operate from a place of residence; (2) possess, sell, purchase, trade, or otherwise furnish controlled substances; and (3) possess, sell, purchase, trade, or otherwise furnish human legend drugs (section 23).

The bill makes it unlawful for any person to commit or to permit, cause, aid, or abet the commission of any of the following acts (section 25): (1) any violation of the act or rules and regulations adopted and promulgated under the act;

(2) providing the department, any of its representatives, or any federal official with false or fraudulent records or making false or fraudulent statements regarding any matter under the act;

(3) obtaining or attempting to obtain a veterinary legend drug by fraud, deceit, or misrepresentation or engaging in the intentional misrepresentation or fraud in the distribution of a veterinary legend drug;

(4) the manufacture, repackaging, sale, transfer, delivery, holding, or offering for sale of any veterinary legend drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or otherwise rendered unfit for distribution, with exceptions;

(5) the adulteration, misbranding, or counterfeiting of any veterinary legend drug, with exceptions;

(6) the deliberate receipt of any veterinary legend drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit and the delivery or proffered delivery of such drug for pay or otherwise;

(7) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a veterinary legend drug or the commission of any other act with respect to a veterinary legend drug that results in the veterinary legend drug being misbranded;

(8) for the purposes of the act, the manufacture, repackaging, sale, transfer, delivery, holding, possessing or offering for sale, trade, or any other form of dissemination, any controlled substance; and

(9) prohibiting or otherwise impeding access, during normal business hours and with at least forty-eight hours notice, to any paper or electronic records or any premises, facility, area, or location to which access is authorized by the act.

Injunction, fines (sections 24, 26, 27)

The department, the Attorney General, or any county attorney may institute an action in the name of the state for an injunction or other process against any person to restrain or prevent any violation of the act or any rules and regulations adopted and promulgated under the act (section 24).

The department must assess a fine of \$1,000 upon the issuance of a final disciplinary action against a person who knowingly and intentionally violates any of the provisions of section 25 above, except for subsection (9). The department must assess a fine of \$1,000, for each subsequent violation, plus \$1,000 for each previous action for a violation, not to exceed \$10,000.

The department must assess a fine of \$500 upon the issuance of a final disciplinary action against a person who fails to provide an authorized right of entry as provided in subsection (9) of section 25 above. For each subsequent action for such failure, the department must assess a fine equal to \$1,000 times the number of such actions, not to exceed \$10,000 (section 26).

The bill permits the department to issue an order to immediately cease distribution of a drug and provides condition under which such a order may be issued. Notice and an opportunity for hearing must be provided. The department must vacate the order if it determines, after the hearing, that inadequate grounds exist to support the actions required by the order (section 27).

Rules and regulations (section 28)

The department may adopt and promulgate rules and regulations to carry out the act.

Criminal penalties (section 29)

Any person who knowingly and intentionally engages in distribution of veterinary legend drugs in Nebraska in violation of the act is guilty of a Class III felony.

Operative Date (section 30)

The bill becomes operative on December 1, 2008.

35. **LB 1029** (Fulton) Provide for contract rates for foster care services. *Held in committee.*

LB 1029 relates to the privatization of foster care services. The bill requires the Department of Health and Human Services to contract with other social agencies for the provision of foster care services, at rates no greater than costs for which the department could provide such services (section 68-1206).

36. **LB 1031** (Ashford) Change confidentiality provisions relating to researchers and auditors accessing adult and child protective services records. *Held in committee.*

LB 1031 relates to the protection of children and adults. The bill changes provisions relating to confidentiality requirements for persons engaged in bona fide research or auditing.

The bill amends the Adult Protective Services Act (sections 28-348 to 28-387). Current law (section 28-377) permits persons engaged in bona fide research or auditing to have access to records of abuse, except for information identifying the subjects of the abuse report.

LB 1031 permits such persons to have access to identifying information if they provide the Department of Health and Human Services (department) with (1) a certificate of confidentiality, on a form provided by the department, obligating the researcher or auditor to not disclose the identities of the subjects, and proof of approval by an accredited postsecondary educational or governmental institutional review board issued to the researcher or auditor by the agency or institution sponsoring or funding the research or audit. The legal effect of the certificate and proof of approval is to obligate the researcher or auditor and all persons assisting in the research or audit to maintain as confidential all information identifying the subjects of the report.

The researcher or auditor must also provide the department with (2) a written statement describing the nature and purpose of the proposed research or audit, including an explanation of the need for the researcher or auditor to have access to identifying information and the safeguards employed to protect confidentiality.

With the required documents, the identities of the subjects of the report must be disclosed to the researcher or auditor. A researcher or auditor providing the required documents may not be subpoenaed or forced to testify with respect to identities of the subjects. The researcher or auditor will be charged for any costs incurred by the department at a rate established by rules and regulations adopted and promulgated by the department.

The bill also adds similar provisions in section 28-726 relating to information in the tracking system of child protection cases maintained under section 28-715 or in the records of the child abuse central registry maintained under section 28-718.

37. **LB 1048** (Nantkes) Provide for issuance of birth certificates for stillbirths. *Enacted.*

LB 1048 adds new provisions to the Vital Statistics Act (act) relating to stillbirths. The bill amends section 71-606 to permit the parent of a stillborn child, for whom a fetal death certificate is required, to also request a certificate of birth resulting in stillbirth for such child, regardless of when the corresponding fetal death certificate was filed.

The person responsible for filing the fetal death certificate must notify the parent or parents that they may request a certificate of birth resulting in stillbirth, and provide the necessary information for making such request.

The parent requesting a certificate of birth resulting in stillbirth may provide a name for the still born child. If a name is not provided, the Department of Health and Human Services must enter the name baby boy or baby girl and the last name of the requesting parent. The names on the original or amended certificate of birth resulting stillbirth must be the same as that on the original or amended fetal death certificate, and must include the state file number of the corresponding fetal death certificate.

38. **LB 1070** (Dubas) Provide for a child placement resources form for a child placed with the Department of Health and Human Services. *Held in committee.*

LB 1070 changes provisions of the Nebraska Juvenile Code (section 43-245 to 43-2,129) relating to temporary custody of juveniles by the Department of Health and Human Services (department).

The bill requires the department, within five working days after placement of a juvenile with the department after he or she has been taken into custody, to provide the custodial parent of the juvenile with a child placement resources form.

The form must instruct the parent to provide (1) the names and contact information for any relatives of the juvenile who may be suitable for out-of-home placement of the juvenile and (2) the name and contact information of any noncustodial parent of the juvenile.

Within thirty days after taking custody of the juvenile, the department must conduct a diligent search to locate the persons named on the child placement resources form and investigate whether placement of the juvenile with persons named on the form would be a safe and appropriate placement.

The department must develop written procedures for additional efforts to identify and locate relatives with whom the juvenile could be placed for out-of-home placement, including but not limited to, locating and interviewing other known relatives, friends, teachers, and other identified community members who may have knowledge of the juvenile's extended family.

The department must document results of investigations and outreach efforts and file such documentation with the juvenile court at the juvenile's initial review hearing.

39. **LB 1074** (Nantkes) Provide requirements for owners and certified operators of swimming pools. *Indefinitely postponed.*

LB 1074 relates to swimming pools and certification of swimming pool operators.

The bill requires all swimming pool owners, on and after July 1, 2009, to employ at least one certified operator. The owner must replace a vacancy in the certified operator position within ninety days of the vacancy if the owner employs only one certified operator. A current certificate of a certified operator employed by a swimming pool owner must be posted conspicuously and maintained at the swimming pool for the duration of the operator's employment.

The bill defines "certified operator" as "an individual who has successfully completed the Certified Pool-Spa Operator course approved by the National Swimming Pool Foundation, the Aquatic Facility Operator course approved by the National Recreation and Park Association, or an equivalent course provided by a nonprofit organization approved by the Department of Health and Human Services."

The certification course must provide at least fourteen hours of training on pool operation, safety, and maintenance, at least six hours of which must be in a classroom environment along with a proctored exam. The remainder of the required training may be completed on the Internet, subject to approval by the department.

The bill requires that a copy of the certification be forwarded to the department. A certified operator must maintain his or her certification as required by the "applicable

organization.” A certified operator must remit a fee for a certificate of competency from the department pursuant to section 71-4305.

The bill has an operative date of July 1, 2009.

40. **LB 1104** (Fulton) Provide for unlawful billing practices under the Uniform Credentialing Act. *General File.*

LB 1104 provides additional grounds for discipline under the Medicine and Surgery Practice Act (act) (sections 38-2001 to 38-2061).

The bill prohibits a licensee or an applicant for a license to practice medicine and surgery or osteopathic medicine and surgery under the act from charging a markup, commission, or profit for an anatomic pathology service or directly or indirectly increasing the actual amount to be paid for such service if the applicant or licensee was a referring physician who ordered but did not supervise or perform the anatomic pathology service.

The bill does not prohibit a referring physician from charging a specimen acquisition or processing charge if: (1) the charge is limited to actual costs incurred for specimen collection and transportation; (2) the charge is coded or denoted as a service distinct from the performance of the anatomic pathology service; and (3) the patient is notified in advance of the charge.

The bill requires a referring physician who ordered but did not supervise or perform an anatomic pathology service to disclose in a bill for such service performed by another physician or laboratory: (1) the name and address of the physician or laboratory that provided the anatomic pathology service; and (2) the actual amount paid or to be paid for each anatomic pathology service provided to the patient by the physician or laboratory that performed the service.

The bill has an operative date of December 1, 2008.

As amended by the committee and advanced to General File, the bill prohibits a licensee or an applicant for a license to practice medicine and surgery or osteopathic medicine and surgery from (1) adding a markup, commission, or profit on a professional service or other service rendered by another physician; or (2) directly or indirectly increasing the actual amount to be paid for a professional service or other service if the applicant or licensee was a referring physician who ordered but did not supervise or perform the service.

The amended bill permits a licensee or applicant who is a referring physician, who ordered but did not supervise or perform a professional service, to add a reasonable handling, conveyance, acquisition, or processing charge if (1) the patient is made aware of the added charge; (2) the added charge is commensurate with the handling, conveyance, acquisition, or processing service rendered by the licensee or applicant or his or her practice; and (3) the charge is appended with the appropriate American Medical Association (AMA) current procedural terminology (CPT) code for handling, conveyance, acquisition, and processing of the specimen or the appropriate AMA CPT code modifier indicating that a professional service or laboratory service was performed by another party.

41. **LB 1108** (Erdman) Change licensure requirements for mental health practitioners. *Enacted.*

LB 1108 relates to licensed independent mental health practitioners and the Mental Health Practice Act (sections 38-2101 to 38-2139). The bill revises the definition of “consultation” (section 38-2112) to include consultation between a licensed mental health practitioner and an independent licensed mental health practitioner.

In addition to existing licensure qualifications (section 38-2124), the bill also requires applicants for licensure as an independent mental health practitioner to pass an examination approved by the Board of Mental Health Practice pursuant to section 38-2122(3).

The bill also makes additional harmonizing references to independent licensed mental health practitioners in sections 38-2115 and 38-2116. The bill has an operative date of December 1, 2008.

42. **LB 1120** (Johnson) Change exemption provisions under the Nebraska Health Care Certificate of Need Act. *General File, provisions included in LB 928.*

LB 1120 removes an exemption from certificate of need (CON) requirements for projects of a federally recognized Indian tribe on tribal land. The current exemption (section 71-5830.01) provides that “a certificate of need is not required for: . . . (3) A project of a federally recognized Indian tribe to be located on tribal lands within the exterior boundaries of the State of Nebraska where a determination has been made by the tribe’s governing body that the cultural needs of the tribe’s members cannot be adequately met by existing facilities if such project has been approved by the tribe’s governing body.”

As amended by the committee and advanced to General File, the bill retains the CON exemption, but only if the tribe has a self-determination agreement in place with the federal Indian Health Service for the proposed facility, so that costs for enrolled members of the tribe who are served at the facility are paid solely with federal funds.

43. **LB 1121** (Johnson) Adopt the Medicaid Insurance for Workers with Disabilities Act. *General File, provisions included in LB 928.*

LB 1121 is a reintroduction of LB 625 (2005). The bill adopts the Medicaid Insurance for Workers with Disabilities Act (act). The bill defines terms. The bill defines “employed individual with a medically improved condition” as “a person who (a) is at least sixteen but less than sixty-five years of age, (b) ceases to be eligible for medical assistance under the medical assistance program established in section 68-903 because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be eligible for benefits, (c) continues to have a severe medically determinable impairment, and (d)(i) is earning at least the applicable minimum wage and working at least forty hours per month or (ii) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures.”

The bill defines “person with a disability who is employed” as “a person who is at least sixteen years of age but less than sixty-five years of age and who (a) is disabled under Title II or Title XVI of the federal Social Security Act, as such act existed on January 1, 2008, or (b) has been determined to be disabled by the department.”

The bill requires the payment of medical assistance on behalf of a person with a disability who is employed, including an employed individual with a medically improved condition, whose family income is less than 450% of federal poverty level. Allowable assets for participation in the program are (a) \$20,000 for a family of one, (b) \$30,000 for a family of two, and (c) \$40,000 for a family of three or more.

Recipients whose family income is 100% of the federal poverty level may be required to pay a premium in an amount established by the department in rules and regulations using a sliding-fee or tiered-fee approach, but the premium may not exceed 7% of the recipient family’s unearned income plus 3% of the recipient family’s earned income.

In order to increase the utilization and effectiveness of the program, the department must (1) provide education and training about the program to all appropriate staff; (2) conduct outreach and education about the availability and benefits of the program focused on the populations that can benefit from the program; (3) submit an annual report to the Legislature and Governor to show the effectiveness of the program in achieving the purpose for which it was

established; and (4) establish a Medicaid Insurance for Workers with Disabilities Program Advisory Committee to advise the department regarding implementation of the act. Membership of the committee is prescribed.

The department is required to adopt and promulgate rules and regulations to carry out the act.

As amended by the committee and advanced to General File, the bill requires the Department of Health and Human Services to analyze available options under federal law and provide recommendations for enhancing and replacing the current “buy-in” provisions in the Medical Assistance Act (section 68-915(8)). A draft report must be submitted by the department no later than October 1, 2008, and a final report no later than December 1, 2008. The draft report must be reviewed by the Medicaid Reform Council. The council is required to conduct a public hearing on the draft report no later than October 15, 2008.

44. **LB 1122** (Johnson) Change dental coverage provisions under the medical assistance program. *Held in committee.*

LB 1122 relates to Medicaid coverage for adult dental services. The bill changes provisions of the Medical Assistance Act (sections 68-901 to 68-949) to make dental services a state-mandated service under the state medical assistance (Medicaid) program (section 68-911).

45. **LB 1123** (Johnson) Change membership on the Children's Behavioral Health Task Force. *Held in committee, amended provisions included in LB 928.*

LB 1123 changes membership provisions for the Children’s Behavioral Health Task Force (LB 542, 2007). The bill provides that representatives of the Department of Health and Human Services and the Administrator of the Office of Juvenile Services will be nonvoting, ex-officio members of the task force.

The bill contains an emergency clause.

46. **LB 1124** (Engel) Provide for mobile home health and safety standards. *Held in committee.*

LB 1124 relates to mobile home parks and the Uniform Standard Code for Mobile Home Parks (code) (sections 71-4621 to 71-4635). The bill requires the Department of Health and Human Services (department), with the advice of the Public Service Commission (commission), to adopt and promulgate rules and regulations regarding minimum health and safety requirements for individual mobile homes in a mobile home park. New provisions are added relating to inspections and violations of such standards.

Inspections, violations (section 4)

The bill permits the department, or any city, village, or county that has a certificate of exemption from the department under section 71-4630, to contract with the commission to inspect and reinspect, if necessary, any mobile home in a mobile home park for compliance with minimum health and safety standards adopted and promulgated under the code.

The department or political subdivision requesting the inspection must establish and assess a fee for the inspection or reinspection to cover its actual costs. The fee must be paid by the licensee of the mobile home park. The licensee may recover the fee from the owner of the mobile home that is being inspected.

A mobile home will be subject to a condemnation order if the owner or tenant of the mobile home refuses to allow the commission to inspect the home within thirty days after being notified by the department of the request for an inspection.

If a mobile home fails to meet minimum health and safety standards, the commission is required to supply a notice of deficiencies to the owner of the mobile home, the licensee of the mobile home park, and the department. The department must notify the owner of the mobile home that he or she has ninety days to correct the deficiencies or remove the mobile home from the mobile home park, or be subject to a condemnation order.

Condemnation orders (section 5)

The bill permits the department to condemn and order the destruction, repair, or alteration of any mobile home that fails to meet minimum health and safety standards adopted and promulgated under the code or any mobile home that was not allowed to be inspected. If considered necessary by the department for the protection of life or property, the department may order that a mobile home be closed and not used or occupied until repairs are made.

Any person who willfully disobeys an order directing the closing of a mobile home will be guilty of a Class III misdemeanor. Each day the person neglects or refuses to obey the order is a separate violation.

An order must be in writing and filed in the office of the clerk of the district court of the county in which the mobile home is situated. The bill provides for service of the order.

The owner may file a written objection and answer to the order within twenty (20) days after being served. If no answer is filed and served, the owner and all other persons in interest will be deemed to be in default, and the court will then affirm the order and direct the department to proceed with enforcement of the order. If an answer is filed and served, the court will hear and determine the issues raised and render a judgment.

The court, upon application of the department, must order a time and place for the hearing at any convenient point within the judicial district and within ten days after the filing of the answer. If the order is sustained, judgment will be given, fixing a time for the mobile home to be altered, destroyed, or repaired, pursuant to the order. Otherwise, the court will annul and set aside the order.

If the owner or other party in interest fails to comply with the order within the time fixed in the order or by the court, then the department must proceed to sell the mobile home and its contents at public auction in accordance with directions contained in the order. The purchaser will be required to comply with the order. If the department is unable to sell the mobile home and its contents, then the mobile home and its contents will become the property of the mobile home park owner and the mobile home park owner will be required to comply with the order. All expenses incurred by the mobile home park owner in the demolition or repair of the mobile home and its contents may be assessed as a special charge against the owner of the mobile home.

The county attorney of any county, upon request by the department, will act as attorney for the department in all court proceedings in connection with the enforcement of an order, if the county attorney determines that the evidence is sufficient to justify the bringing of such court proceedings.

47. **LB 1163** (Lautenbaugh) Require tanning facilities to post warning signs and obtain and maintain consumers' signatures. *Indefinitely postponed.*

LB 1163 relates to tanning facilities. The bill defines terms.

The bill does not apply to (1) a person who (a) uses equipment which emits ultraviolet radiation incidental to its normal operation and (b) does not use such equipment to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of tanning or other treatment; (2) a licensed physician who uses, in the practice of medicine, medical diagnostic and

therapeutic equipment that emits ultraviolet radiation; or (3) a person who owns tanning equipment exclusively for personal, noncommercial use.

The bill requires a tanning facility owner or tanning equipment lessee to conspicuously post a warning sign within three feet of each piece of tanning equipment. Contents of the warning are prescribed.

A tanning facility owner or tanning equipment lessee must require the operator to provide each consumer, before initial exposure to the tanning equipment at such facility, with a copy of a warning, which must be signed, witnessed, and dated as indicated on the warning. Contents and required signatures on the warning are prescribed.

The bill requires the owner or lessee of a tanning facility to make the original copies of signed warning forms available for inspection by the Department of Health and Human Services or any person designated by the department at any time during the normal business hours of the facility.

The bill provides criminal penalties for any person who leases tanning equipment or who owns a tanning facility and who operates or permits the equipment or facility to be operated in violation of the requirements of the bill and any operator who violates the requirements of the bill. Violations are a Class III misdemeanor.

48. LB 1169 (White) Authorize health care assistance for certain veterans of Operation Enduring Freedom and Operation Iraqi Freedom. *Held in committee.*

LB 1169 relates to veterans. The bill establishes an assistance program for Nebraska veterans of Operation Enduring Freedom and Operation Iraqi Freedom who are in need of comprehensive post-acute brain injury services that are determined to be not reimbursable under the federal TRICARE program. The bill requires the Department of Health and Human Services to administer the program, and the department is required to adopt and promulgate rules and regulations.

To qualify for the program, a person must (1) be a bona fide resident of the State of Nebraska; (2) be a veteran of Operation Enduring Freedom or Operation Iraqi Freedom; and (3) have had coverage for comprehensive post-acute brain injury services or a portion of such services denied under the federal TRICARE program.

Upon receiving an application for the program, the department is required to investigate the circumstances of the case and notify the applicant in writing of approval or disapproval of the application, services to be provided, any change in the services to be provided, and the discontinuance of services. The department must provide an opportunity for a fair hearing to anyone whose claim for assistance is denied, not granted in full, or not acted upon with reasonable promptness.

Aggrieved applicants may appeal by filing a written notice of appeal with the department setting forth the facts on which the appeal is based. The department must set the appeal hearing and notify the appellant in writing of the time and place for the appeal hearing, which must be no less than one week or more than six weeks from the date of the notice.

Services under the program must be provided and reimbursed in the same manner as under the Medical Assistance Act (sections 68-901 to 68-949). Currently contracted Medicaid providers may provide comprehensive post-acute brain injury services under the program and must be reimbursed at the same contract rates as under the medical assistance program for such services.

49. **LB 1173** (Dierks) Provide for certification of animal therapists. *General File, provisions included in LB 928.*

LB 1173 requires and provides for the certification of animal therapists.

The bill defines terms. The bill changes the definition of “unlicensed assistant” under the Veterinary Medicine and Surgery Practice Act to include “a certified animal therapist . . . who is performing particular animal health care tasks delegated and supervised by a licensed veterinarian or a licensed veterinary technician.”

An applicant for certification as an animal therapist must provide: (1) satisfactory evidence that the applicant is eighteen years of age; (2) proof that the applicant has a current, valid credential under the Uniform Credentialing Act other than a license under the Veterinary Medicine and Surgery Practice Act; (3) proof that the applicant has completed additional training approved by the board; and (4) any other information and proof that the department, with the recommendation of the Board of Veterinary Medicine and Surgery (board), may require by rule and regulation.

The bill requires the department, with the recommendation of the board, to adopt and promulgate rules and regulations providing for (1) certification of animal therapists meeting the requirements for certification and (2) standards for practice as a certified animal therapist.

Grounds are provided for the denial, refusal to renew, limitation, revocation, or suspension of a certificate as an animal therapist.

The bill prohibits persons from performing animal therapy unless he or she is a certified animal therapist. The bill does not prohibit (1) a licensed veterinarian or a licensed veterinary technician from engaging in veterinary medicine and surgery, (2) an unlicensed assistant from performing delegated animal health care tasks as provided in section 38-3326, or (3) the owner of an animal from performing animal therapy on his or her own animal.

The bill permits a certified animal therapist to perform therapy on an animal only if (1) the therapy is consistent with the therapist’s training required for the credential presented to the department, (2) the owner of the animal presents to the animal therapist a letter of referral for therapy that includes a veterinary medical diagnosis and evaluation completed by a licensed veterinarian who has a veterinarian-client-patient relationship with the owner and animal and has made the diagnosis and evaluation within ninety days immediately preceding the date of the initiation of therapy, and (3) the animal therapist provides treatment reports to the referring veterinarian.

The bill provides immunity from liability for a referring veterinarian for any damages caused to the animal as a result of the therapy performed by the animal therapist.

The bill has an operative date of December 1, 2008.

As amended by the committee and advanced to General File, the bill permits health care professionals credentialed under the Uniform Credentialing Act to consult with a licensed veterinarian contracted with or employed by an accredited zoological park or garden to perform collaborative animal health care tasks on a zoo animal under the care of a zoo veterinarian if all such tasks are performed under the immediate supervision of the zoo veterinarian. The bill as amended authorizes such conduct under the Uniform Credentialing Act and provides that such conduct is not a part of nor is it a violation of the credentialed person’s scope of practice.

50. **LB 1176** (Dubas) Change provisions relating to medicaid benefits and departmental reports. *General File, provisions included in LB 928.*

LB 1176 relates to the medical assistance program (Medicaid). The bill requires that reports relating to the adoption and promulgation of rules and regulations relating to the

implementation of Medicaid state plan amendments or waivers be provided by the department at least sixty (60) days prior to the beginning of a regular session of the Legislature.

The bill also permits the department by rule and regulation to implement the following limits under the Medicaid program: (1) a limit of one pair of eyeglasses every two years; (2) a limit of one hearing aid every four years; (3) a one-thousand-dollar annual limit for dental services; (4) an annual limit of twelve chiropractic visits; and (5) an annual limit of sixty outpatient medical rehabilitation visits, defined as physical therapy, occupational therapy, and speech therapy.

The bill as amended by the committee and advanced to General File replaces the bill as introduced and requires the department to report proposed Medicaid rules and regulations to the Governor and the Legislature no later than December 15 in each calendar year.

Legislative Resolutions

1. **LR 238** (Kruse) Commend the "Divided We Fail" effort to address access to health care and long-term financial security with individuals, businesses, health care providers, nonprofit organizations, and government working together to find solutions. *Adopted.*

LB 238 commends the "Divided We Fail" effort engaged in by the American Association of Retired Persons, the Business Roundtable, the National Federation of Independent Business, and the Service Employees International Union to call on elected leaders to work together across party lines "to provide answers, action, and accountability" on the issues of access to health care and long-term financial security for all Nebraskans.

The resolution "commends the 'Divided We Fail' effort and urges our state and federal elected officials and candidates to consider ways we can be united."

Carryover Bills

1. **LB 171** (Kopplin) Require Department of Health and Human Services to apply for food stamp options and waivers. *Enacted.*

LB 171 is a reintroduction of LB 586 (2005) relating to food stamps. The bill amends section 68-1017.02 and requires the department, within limits established by the Legislature, to apply for and utilize any and all appropriate food stamp options to the maximum extent possible, in order to maximize the number of Nebraska residents being served under the program. The bill also directs the department to maximize federal funding under the program and to minimize the use of General Funds.

The bill requires the department to report annually to the Health and Human Services Committee by December 1 on its implementation efforts with necessary information to enable the committee to conduct a meaningful evaluation of such implementation.

2. **LB 245** (Johnson) Change provisions relating to fluoridation of drinking water. *Enacted.*

LB 245 mandates the fluoridation of public drinking water supplies. The bill requires cities or villages of one thousand or more inhabitants, no later than June 1, 2010, to add fluoride to their public drinking water supply in amounts prescribed in rules and regulations of the Department of Health and Human Services (department), unless there are sufficient amounts of naturally occurring fluoride in the water supply.

In any city or village required to fluoridate its water supply, which has not fluoridated as of January 1, 2008, the voters of the city or village may adopt an ordinance before June 1, 2010,

to prohibit such fluoridation. The ordinance may be placed on the ballot by a majority vote of the governing body of the city or village or by initiative pursuant to sections 18-2501 to 18-2538.

Any rural water district (sections 46-1001 to 46-1020) that supplies water for human consumption to any city or village required to fluoridate its water supply will not be responsible for any costs, equipment, testing, or maintenance related to such fluoridation unless the district has agreed with the city or village to assume such responsibilities.

The bill becomes operative with the emergency clause.

3. **LB 308** (Stuthman) Adopt the Automated Medication System Act. *Enacted.*

The bill adopts the Automated Medication Systems Act (act) and defines terms.

The bill prohibits “any automated machine that dispenses, delivers, or makes available, other than by administration, prescription medication directly to a patient or caregiver.”

The bill requires a hospital or pharmacy that uses an automated medication system to develop, maintain, and comply with policies and procedures developed in consultation with the pharmacist responsible for pharmacist care for that hospital or pharmacy. At a minimum, the policies and procedures must address (1) The description and location within the hospital or pharmacy of the automated medication system or equipment being used; (2) The name of the individual or individuals responsible for implementation of and compliance with the policies and procedures; (3) Medication access and information access procedures; (4) Security of inventory and confidentiality of records in compliance with state and federal laws, rules, and regulations; (5) A description of how and by whom the automated medication system is being utilized, including processes for filling, verifying, dispensing, and distributing medications; (6) Staff education and training; (7) Quality assurance and quality improvement programs and processes; (8) Inoperability or emergency downtime procedures; (9) Periodic system maintenance; and (10) Medication security and controls.

The bill provides that a prescription medication distribution machine may be operated only in a licensed pharmacy where a pharmacist dispenses medications to patients for self-administration pursuant to a prescription.

The bill provides that an automated medication distribution machine may be operated only in a hospital for medication administration pursuant to a chart order by a licensed health care professional. Drugs placed in an automated medication distribution machine must be in the manufacturer’s original packaging or in containers repackaged in compliance with state and federal laws, rules, and regulations relating to repackaging, labeling, and record keeping. Inventory transferred to an automated medication distribution machine in a hospital must be excluded from the percent of total prescription drug sales revenue described in section 71-7454.

The bill requires that a pharmacist providing pharmacist remote order entry (1) be located within the United States; (2) maintain adequate security and privacy in accordance with state and federal laws, rules, and regulations; (3) be linked to one or more hospitals or pharmacies for which services are provided via computer link, video link, audio link, or facsimile transmission; (4) have access to each patient’s medical information necessary to perform via computer link, video link, or facsimile transmission a prospective drug utilization review as specified before December 1, 2008, in section 71-1,147.35 and on or after December 1, 2008, in section 38-2869; and (5) be employed by or have a contractual agreement to provide such services with the hospital or pharmacy where the patient is located.

Violators of the Automated Medication Systems Act are made subject to disciplinary action by the Division of Public Health of the Department of Health and Human Services under the Health Care Facility Licensure Act, the Uniform Licensing Law, or the Uniform Credentialing Act.

The bill permits a pharmacist to engage in telepharmacy, unless specifically limited by the Board of Pharmacy or the Department of Health and Human Services.

The bill outright repeals section 38-28,102, and contains an emergency clause.

4. **LB 395** (Johnson, Aguilar, Hansen, Howard, Kruse, Pankonin, Preister, Schimek, Stuthman) Adopt a new Nebraska Clean Indoor Air Act. *Enacted.*

LB 395 adopts a new Nebraska Clean Indoor Air Act and outright repeals the current act. The purpose of the act is to prohibit smoking in public places and places of employment. The act may not be construed to prohibit or otherwise restrict smoking in outdoor areas. The act may not be construed to permit smoking where it is prohibited or otherwise restricted by other applicable law, ordinance, or resolution. The act must be liberally construed to further its purpose. The bill defines terms.

The bill provides that it is unlawful for any person to smoke in a place of employment or a public place, with the following exceptions: (1) guestrooms and suites that are rented to guests and are designated as smoking rooms, except that not more than twenty percent of rooms rented to guests in an establishment may be designated as smoking rooms; (2) indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education; and (3) tobacco retail outlets.

A proprietor of a place of employment or public place where smoking is prohibited under the Nebraska Clean Indoor Air Act is required to take necessary and appropriate steps to ensure compliance with the act at such place.

The bill permits the Department of Health and Human Services or a local public health department to institute an action in any court with jurisdiction to enjoin a violation of the Nebraska Clean Indoor Air Act. Any interested party may report possible violations of the act to such departments.

The bill prohibits any person or employer from discharging, refusing to hire, or in any manner retaliating against an employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to report a violation of the act.

The bill permits the Department of Health and Human Services to waive provisions of the Nebraska Clean Indoor Air Act upon good cause shown. The department must provide for appropriate protection of the public health and safety in the granting of such waivers.

The bill provides criminal penalties for violations of the act. A person who smokes in a place of employment or a public place in violation of the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses. A person charged with such offense may voluntarily participate, at his or her own expense, in a smoking cessation program approved by the Department of Health and Human Services, and such charge shall be dismissed upon successful completion of the program.

A proprietor who fails, neglects, or refuses to perform a duty under the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses.

Every act or omission constituting a violation of the Nebraska Clean Indoor Air Act by an employee or agent of a proprietor is deemed to be the act or omission of such proprietor, and such proprietor shall be subject to the same penalty as if the act or omission had been committed by such proprietor.

The bill permits the Department of Health and Human Services to adopt and promulgate rules and regulations necessary to implement the Nebraska Clean Indoor Air Act. The

department is required to consult with interested persons and professional organizations before adopting such rules and regulations.

The bill becomes operative on June 1, 2009. The bill contains a severability clause.

5. **LB 469** (Chambers) Change funding restrictions under the Nebraska Health Care Funding Act. *Enacted.*

LB 469 amends provisions of the Nebraska Health Care Funding Act (sections 71-7605 to 71-7611). The bill removes “school-based health clinics” from the list of entities or activities for which funds appropriated or distributed under the act may not be used. The bill would no longer prohibit funds under the act from being utilized by school-based health clinics.

Current law prohibits the appropriation or distribution of funds under the act for “abortion, abortion counseling, referral for abortion, or research or activity of any kind involving the use of human fetal tissue obtained in connection with the performance of an induced abortion or involving the use of human embryonic stem cells or for the purpose of obtaining other funding for such use.”

Health and Human Services Committee
2008 Bills by Subject Matter

Behavioral Health

1. **793** (Burling) Change which county pays for costs of emergency protective custody and proceedings. *Held in committee.*
2. **882** (Johnson) Change provisions relating to prescription medication for indigent persons. *Held in committee.*
3. **994** (Johnson) Extend termination date of the Behavioral Health Oversight Commission. *Held in committee, amended provisions included in LB 928.*
4. **1123** (Johnson) Change membership on the Children's Behavioral Health Task Force. *Held in committee, amended provisions included in LB 928.*

Certificate of Need

1. **765** (Gay) Change provisions relating to certificates of need. *Enacted.*
2. **1120** (Johnson) Change exemption provisions under the Nebraska Health Care Certificate of Need Act. *General File, provisions included in LB 928.*

Children

1. **782** (Howard) Allow disclosure of child abuse and neglect information. *Enacted.*
2. **809** (Synowiecki) Change provisions relating to metabolic screening. *General File.*
3. **836** (Howard) Prohibit smoking in a vehicle when minors are present. *Indefinitely postponed.*
4. **1029** (Fulton) Provide for contract rates for foster care services. *Held in committee.*
5. **1048** (Nantkes) Provide for issuance of birth certificates for stillbirths. *Enacted.*
6. **1070** (Dubas) Provide for a child placement resources form for a child placed with the Department of Health and Human Services. *Held in committee.*

Disabilities

1. **738** (Fulton) Change brain injury registry notification and reporting requirements. *General File, provisions included in LB 928.*
2. **806** (Wallman) Change provisions relating to dog guides, hearing aid dogs, and service dogs. *Enacted.*

Medicaid/Public Assistance

1. **171** (Kopplin, Howard, Nantkes, Synowiecki) Require Department of Health and Human Services to apply for food stamp options and waivers. *Select File.*

2. **807** (Aguilar) Require medicaid coverage of tobacco-cessation products and services. *Held in committee.*
3. **818** (Avery) Change eligibility provisions for medical assistance. *Indefinitely postponed.*
4. **830** (Lathrop) Adopt the Medicaid Prescription Drug Act. *Enacted.*
5. **877** (Wightman) Change public assistance provisions relating to postsecondary education and related work activities. *Held in committee.*
6. **1121** (Johnson) Adopt the Medicaid Insurance for Workers with Disabilities Act. *General File, provisions included in LB 928.*
7. **1122** (Johnson) Change dental coverage provisions under the medical assistance program. *Held in committee.*
8. **1169** (White) Authorize health care assistance for certain veterans of Operation Enduring Freedom and Operation Iraqi Freedom. *Held in committee.*
9. **1176** (Dubas) Change provisions relating to medicaid benefits and departmental reports. *General File, provisions included in LB 928.*

Miscellaneous

1. **469** (Chambers) Change funding restrictions under the Nebraska Health Care Funding Act. *Select File.*
2. **797** (HHS Committee) Change provisions relating to health and human services. *Enacted, contains provisions of LB 749 and LB 892.*
3. **928** (Johnson) Change and repeal provisions relating to public health and welfare. *Enacted, includes provisions of LB 48, LB 738, LB 796, LB 874, LB 883, LB 906, LB 994, LB 1120, LB 1121, LB 1123, LB 1173, and LB 1176.*
4. **1031** (Ashford) Change confidentiality provisions relating to researchers and auditors accessing adult and child protective services records. *Held in committee.*

Pharmacy

1. **308** (Stuthman) Adopt the Automated Medication System Act. *Enacted.*
2. **759** (Hudkins) Change provisions relating to relabeling and redispensing prescription drugs. *General File.*
3. **830** (Lathrop) Adopt the Medicaid Prescription Drug Act. *Enacted.*
4. **866** (McDonald) Adopt the Chronic Disease Drug Repository Program Act. *Held in committee.*
5. **882** (Johnson) Change provisions relating to prescription medication for indigent persons. *Held in committee.*

6. **885** (Johnson) Redefine prescription relating to the practice of pharmacy. *Indefinitely postponed.*
7. **1022** (Hansen) Adopt the Veterinary Drug Distribution Licensing Act. *Enacted.*

Public Health

1. **245** (Johnson) Change provisions relating to fluoridation of drinking water. *Enacted.*
2. **395** (Johnson, Aguilar, Hansen, Howard, Kruse, Pankonin, Preister, Schimek, Stuthman) Adopt a new Nebraska Clean Indoor Air Act. *Enacted.*
3. **835** (Preister) Prohibit transfer of certain lead-containing items. *Indefinitely postponed.*
4. **836** (Howard) Prohibit smoking in a vehicle when minors are present. *Indefinitely postponed.*
5. **954** (Dierks) Change provisions relating to human immunodeficiency virus testing. *General File.*

Regulation and Licensure

1. **713** (Pahls) Prohibit physicians from administering certain fat-dissolving substances *Indefinitely postponed.*
2. **730** (Flood) Change emergency medical services classifications and training. *Held in committee.*
3. **742** (Johnson) Change licensure provisions relating to engineers. *Held in committee.*
4. **749** (Stuthman) Provide for electronic application submission and a civil penalty for manufactured homes. *General File, provisions included in LB 797.*
5. **753** (Synowiecki) Provide for nurse practitioners to practice without integrated practice agreements. *Held in committee.*
6. **796** (Johnson) Change medical radiography and radiation control provisions. *General File, provisions included in LB 928.*
7. **883** (Johnson) Exempt certain public recreation facilities, centers, and programs from child-care licensure. *General File, provisions included in LB 928.*
8. **892** (Pedersen) Change modular housing and manufactured home provisions relating to the Public Service Commission. *General File, provisions included in LB 797.*
9. **906** (Pankonin) Change provisions relating to laboratories regulated by the Department of Health and Human Services. *General File, provisions included in LB 928.*

10. **972** (Gay) Change optometry licensure provisions. *Enacted.*
11. **1006** (Aguilar) Provide for a registry and salary study of in-home personal services workers. *Held in committee.*
12. **1074** (Nantkes) Provide requirements for owners and certified operators of swimming pools. *Indefinitely postponed.*
13. **1104** (Fulton) Provide for unlawful billing practices under the Uniform Credentialing Act. *General File.*
14. **1108** (Erdman) Change licensure requirements for mental health practitioners. *Enacted.*
15. **1124** (Engel) Provide for mobile home health and safety standards. *Held in committee.*
16. **1163** (Lautenbaugh) Require tanning facilities to post warning signs and obtain and maintain consumers' signatures. *Indefinitely postponed.*
17. **1173** (Dierks) Provide for certification of animal therapists. *General File, provisions included in LB 928.*

Umbilical Cord Blood Banking

1. **951** (Kopplin) Provide for umbilical cord blood banking. *Held in committee.*
2. **1003** (Pahls) Adopt the Saving the Cure Act and provide for an accredited laboratory. *Held in committee.*

Health and Human Services Committee
2007-2008 Bills
(Includes Carryover Bills)
Disposition Summary

Held in Committee (20 bills)

1. **194** (Pahls) Change disciplinary provisions of the Uniform Licensing Law.
2. **244** (Flood) Change provisions relating to transportation of patients in ambulances.
3. **584** (Preister) Adopt the Reduced Cigarette Ignition Propensity Act.
4. **730** (Flood) Change emergency medical services classifications and training.
5. **742** (Johnson) Change licensure provisions relating to engineers.
6. **753** (Synowiecki) Provide for nurse practitioners to practice without integrated practice agreements.
7. **793** (Burling) Change which county pays for costs of emergency protective custody and proceedings.
8. **807** (Aguilar) Require medicaid coverage of tobacco-cessation products and services.
9. **866** (McDonald) Adopt the Chronic Disease Drug Repository Program Act.
10. **877** (Wightman) Change public assistance provisions relating to postsecondary education and related work activities.
11. **882** (Johnson) Change provisions relating to prescription medication for indigent persons.
12. **951** (Kopplin) Provide for umbilical cord blood banking.
13. **1003** (Pahls) Adopt the Saving the Cure Act and provide for an accredited laboratory.
14. **1006** (Aguilar) Provide for a registry and salary study of in-home personal services workers.
15. **1029** (Fulton) Provide for contract rates for foster care services.
16. **1031** (Ashford) Change confidentiality provisions relating to researchers and auditors accessing adult and child protective services records.
17. **1070** (Dubas) Provide for a child placement resources form for a child placed with the Department of Health and Human Services.
18. **1122** (Johnson) Change dental coverage provisions under the medical assistance program.
19. **1124** (Engel) Provide for mobile home health and safety standards.

20. **1169** (White) Authorize health care assistance for certain veterans of Operation Enduring Freedom and Operation Iraqi Freedom.

Held in Committee, Amended Into Other Bills (2 bills)

1. **994** (Johnson) Extend termination date of the Behavioral Health Oversight Commission.
2. **1123** (Johnson) Change membership on the Children's Behavioral Task Force.

Indefinitely Postponed (7 bills)

1. **713** (Pahls) Prohibit physicians from administering certain fat-dissolving substances.
2. **818** (Avery) Change eligibility provisions for medical assistance.
3. **835** (Preister) Prohibit transfer of certain lead-containing items.
4. **836** (Howard) Prohibit smoking in a vehicle when minors are present.
5. **885** (Johnson) Redefine prescription relating to the practice of pharmacy.
6. **1074** (Nantkes) Provide requirements for owners and certified operators of swimming pools.
7. **1163** (Lautenbaugh) Require tanning facilities to post warning signs and obtain and maintain consumers' signatures.

General File (4 bills)

1. **759** (Hudkins) Change provisions relating to relabeling and redispensing prescription drugs.
2. **809** (Synowiecki) Change provisions relating to metabolic screening.
3. **954** (Dierks) Change provisions relating to human immunodeficiency virus testing.
4. **1104** (Fulton) Provide for unlawful billing practices under the Uniform Credentialing Act.

General File, Amended Into Other Bills (11 bills)

1. **48** (Dierks) Exempt certified registered nurse anesthetists from certain radiation-use qualifications.
2. **738** (Fulton) Change brain injury registry notification and reporting requirements.
3. **749** (Stuthman) Provide for electronic application submission and a civil penalty for manufactured homes.
4. **796** (Johnson) Change medical radiography and radiation control provisions.
5. **883** (Johnson) Exempt certain public recreation facilities, centers, and programs from child-care licensure.

6. **892** (Pedersen) Change modular housing and manufactured home provisions relating to the Public Service Commission.
7. **906** (Pankonin) Change provisions relating to laboratories regulated by the Department of Health and Human Services.
8. **1120** (Johnson) Change exemption provisions under the Nebraska Health Care Certificate of Need Act.
9. **1121** (Johnson) Adopt the Medicaid Insurance for Workers with Disabilities Act.
10. **1176** (Dubas) Change provisions relating to medicaid benefits and departmental reports.
11. **1173** (Dierks) Provide for certification of animal therapists.

Enacted (15 bills)

1. **171** (Kopplin) Require Department of Health and Human Services to apply for food stamp options and waivers
2. **245** (Johnson) Change provisions relating to fluoridation of drinking water.
3. **308** (Stuthman) Adopt the Automated Medication System Act.
4. **395** (Johnson, Aguilar, Hansen, Howard, Kruse, Pankonin, Preister, Schimek, Stuthman) Adopt a new Nebraska Clean Indoor Air Act.
5. **469** (Chambers) Change funding restrictions under the Nebraska Health Care Funding Act.
6. **765** (Gay) Change provisions relating to certificates of need.
7. **782** (Howard) Allow disclosure of child abuse and neglect information.
8. **797** (HHS Committee) Change provisions relating to health and human services.
9. **806** (Wallman) Change provisions relating to dog guides, hearing aid dogs, and service dogs.
10. **830** (Lathrop) Adopt the Prescription Drug Cost Savings Act.
11. **928** (Johnson) Repeal the Hepatitis C Education and Prevention Act.
12. **972** (Gay) Change optometry licensure provisions.
13. **1022** (Hansen) Adopt the Veterinary Drug Distribution Licensing Act.
14. **1048** (Nantkes) Provide for issuance of birth certificates for stillbirths.
15. **1108** (Erdman) Change licensure requirements for mental health practitioners.

Resolutions adopted (1)

1. **238** (Kruse) Commend the "Divided We Fail" effort to address access to health care and long-term financial security with individuals, businesses, health care providers, nonprofit organizations, and government working together to find solutions

Health and Human Services Committee
2008
Interim Study Resolutions
Priority Order

1. **363** (Erdman) Interim study to identify powers and duties of the Dept. of Health and Human Services, to prioritize programs and services, and to examine funding of programs and services.
2. **340** (Gay) Interim study to examine transparency in health care pricing and billing.
3. **307** (Wightman) Interim study to examine Nebraska's aid to dependent children program. (w/ Appropriations Committee)
4. **337** (Johnson) Interim study to examine the needs of the state for development of a plan to provide behavioral health workers support personnel necessary to support community-based behavioral health services and funding of the plan.
5. **338** (Johnson) Interim study to conduct research and develop recommendations relating to the implementation of the Nebraska Behavioral Health Services Act. (w/ Appropriations Committee).
6. **355** (Fulton) Interim study to examine the feasibility of the Dept. of Health and Human Services contracting with other social services agencies for the provision of foster care Services.
7. **318** (Kopplin) Interim study to examine the participation rate of the food stamp program in Nebraska.
8. **303** (Pahls) Interim study to examine issues relating to establishment of a laboratory at the University of Nebraska Medical Center to conduct medical research on umbilical cord blood and tissue.
9. **370** (Cornett) Interim study to examine issues relating to the effect of mandatory overtime at twenty-four-hour care facilities. (w/ Business and Labor Committee)
10. **342** (Johnson) Interim study to examine the transfer of administration and enforcement of construction standards for onsite wastewater treatment systems from the Department of Environmental Quality to the Department of Health and Human Services. (w/ Natural Resources Committee)
11. **348** (Dubas) Interim study to examine the issue of language access in Nebraska's health care and human services systems.

12. **306** (Janssen) Interim study to examine issues relating to the use of latex in public places and efforts to restrict or eliminate the use of latex.
13. **336** (Hansen) Interim study to examine how to better educate parents, school officials, day care providers, and the public regarding the administration of the influenza vaccine.
14. **221** (Fulton) Interim study to examine implementation of a statewide stroke registry.
15. **297** (Nantkes) Interim study to examine issues relating to the inspection requirements for Class B swimming pools and certified swimming pool operators.
16. **339** (Johnson) Interim study to examine issues raised by LB 742 (2008) relating to educational requirements for licensure as an engineer.