

ONE HUNDRED SIXTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 151

Introduced by Groene, 42.

WHEREAS, in 1999, the United States Supreme Court held, in the case of *Olmstead v. L.C.*, 527 U.S. 581, that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the federal Americans with Disabilities Act of 1990; and

WHEREAS, the court held that public entities must provide community-based services to persons with disabilities when (1) such services are appropriate, (2) the affected persons do not oppose community-based services, and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity; and

WHEREAS, the court stated that institutional placement of persons who can handle and benefit from community-based services perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life and that confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment; and

WHEREAS, many Nebraskans with disabilities continue to live in institutional placements and settings where they are segregated and isolated with diminished opportunities to participate in community life; and

WHEREAS, the United States Supreme Court further stated in the *Olmstead* decision that development of (1) a comprehensive, effective, working plan for providing services to qualified persons with disabilities in the most integrated community-based settings and (2) a waiting list that moves at a reasonable pace could be important ways for a state to demonstrate its

commitment to achieving compliance with the federal Americans with Disabilities Act of 1990; and

WHEREAS, the December 15, 2018, deadline under section 81-6,122 as enacted by Laws 2016, LB1033, for the Department of Health and Human Services to provide the completed strategic plan to the Legislature and the Governor was not met; and

WHEREAS, the comprehensive strategic plans required by the Olmstead decision are expansive and complex documents that affect a variety of aspects of state government, and continued education of the Legislature on the plan will aid in its creation and implementation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Executive Board of the Legislative Council appoint a special committee of the Legislature to be known as the Olmstead Education and Oversight Committee of the Legislature. The committee shall consist of seven members of the Legislature appointed by the Executive Board with the chair of the Appropriations Committee or his or her designee, the chair of the Business and Labor Committee or his or her designee, the chair of the Education Committee or his or her designee, the chair of the Government, Military and Veterans Affairs Committee or his or her designee, the chair of the Health and Human Services Committee or his or her designee, the chair of the Judiciary Committee or his or her designee, the chair of the Urban Affairs Committee or his or her designee, and one member of the Legislature selected by the Executive Board. The members of the Olmstead Education and Oversight Committee shall elect a chairperson and meet at the call of the chairperson. The Executive Board shall provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff, including the Office of Public Counsel.

2. The Olmstead Education and Oversight Committee of the Legislature is hereby authorized to study programs and policies relating to the development and implementation of the comprehensive strategic plan for providing services

to qualified persons with disabilities in the most integrated community-based settings, commonly referred to as the Olmstead Plan, pursuant to section 81-6,122.