

LEGISLATIVE BILL 570

Approved by the Governor May 17, 2019

Introduced by Walz, 15; Howard, 9; Wishart, 27.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-7611, Reissue Revised Statutes of Nebraska, and sections 81-6,121 and 81-6,122, Revised Statutes Cumulative Supplement, 2018; to change transfers to the Nebraska Health Care Cash Fund; to restate legislative intent; to change provisions regarding the strategic plan for providing services to persons with disabilities as prescribed; to provide powers and duties; to require reports; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-7611, Reissue Revised Statutes of Nebraska, is amended to read:

71-7611 (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) sixty million three hundred thousand dollars on or before July 15, 2014, (b) sixty million three hundred fifty thousand dollars on or before July 15, 2015, (c) sixty million three hundred fifty thousand dollars on or before July 15, 2016, (d) sixty million seven hundred thousand dollars on or before July 15, 2017, (e) five hundred thousand dollars on or before May 15, 2018, (f) sixty-one million six hundred thousand dollars on or before July 15, 2018, (g) sixty-one million four ~~three~~ hundred fifty thousand dollars on or before July 15, 2019, and (h) sixty million four hundred fifty thousand dollars on or before every July 15 thereafter from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer shall advise the State Treasurer on the amounts to be transferred first from the Nebraska Medicaid Intergovernmental Trust Fund until the fund balance is depleted and from the Nebraska Tobacco Settlement Trust Fund thereafter in order to sustain such transfers in perpetuity. The state investment officer shall report electronically to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. The Nebraska Health Care Cash Fund shall also include money received pursuant to section 77-2602. Except as otherwise provided by law, no more than the amounts specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

The State Treasurer shall transfer ten million dollars from the Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on June 28, 2018, and June 28, 2019.

It is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

(2) Any money in the Nebraska Health Care Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

(4) The State Treasurer shall transfer fifty thousand dollars on or before July 15, 2016, from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska for the University of Nebraska Medical Center. It is the intent of the Legislature that these funds be used by the College of Public Health for workforce training.

(5) It is the intent of the Legislature that the cost of the staff and operating costs necessary to carry out the changes made by Laws 2018, LB439, and not covered by fees or federal funds shall be funded from the Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

Sec. 2. Section 81-6,121, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-6,121 The Legislature finds and declares that:

(1) 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. The court held that public entities must provide community-based services to persons with disabilities when (a) such services are appropriate, (b) the affected persons do not oppose community-based services, and (c) 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. 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;

(2) Many Nebraskans with disabilities live in institutional placements and settings where they are segregated and isolated with diminished opportunities to participate in community life; and

(3) The United States Supreme Court further stated in the Olmstead decision that development of (a) a comprehensive, effective working plan for providing services to qualified persons with disabilities in the most integrated community-based settings and (b) 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.

Sec. 3. Section 81-6,122, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-6,122 (1) The Department of Health and Human Services shall, in collaboration with the Department of Correctional Services, the Department of Economic Development, the Department of Labor, the Department of Transportation, the Department of Veterans' Affairs, the State Department of Education, the University of Nebraska, and the Equal Opportunity Commission, shall develop a comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision.

(2) The chief executive officer of the Department of Health and Human Services department shall (a) convene a team to:

(a) Develop the strategic plan described in subsection (1) of this section;

(b) Appoint consisting of persons from each of the six divisions of the department to assess components of the strategic plan which may be in development; (b) consult with other state agencies that administer programs serving persons with disabilities; (c) appoint and convene a stakeholder advisory committee to assist in the review and development of the strategic plan, such committee members to include a representative from the State Advisory Committee on Mental Health Services, the Advisory Committee on Developmental Disabilities, the Nebraska Statewide Independent Living Council, the Nebraska Planning Council on Developmental Disabilities, the Division of Rehabilitation Services in the State Department of Education, the Public Service Commission, the Commission for the Deaf and Hard of Hearing, the Commission for the Blind and Visually Impaired, a housing authority in a city of the first or second class and a housing authority in a city of the primary or metropolitan class, the Assistive Technology Partnership, the protection and advocacy system for Nebraska, an assisted-living organization, the behavioral health regions, mental health practitioners, developmental disability service providers, an organization that advocates for persons with developmental disabilities, an organization that advocates for persons with mental illness, an organization that advocates for persons with brain injuries, and an area agency on aging, and including two persons with disabilities representing self-advocacy organizations, and, at the department's discretion, other persons with expertise in programs serving persons with disabilities;

(c) Arrange (d) determine the need for consultation with an independent a consultant to assist with the continued analysis and revision development of the strategic plan and determine whether the benchmarks, deadlines, and timeframes are in substantial compliance with the strategic plan;

(d) Provide continuing analysis of the strategic plan and a report on the progress of the strategic plan and changes or revisions to the Legislature by December 15, 2021, and every three years thereafter; and

(e) Provide provide a preliminary progress report to the Legislature and the Governor by December 15, 2016, which includes, but is not limited to, (i) the components of the strategic plan which may be in development and (ii) the department's recommendation on hiring a consultant; (f) provide a second progress report to the Legislature and the Governor by December 15, 2017; and (g) provide the completed strategic plan to the Legislature and the Governor by December 15, 2019 December 15, 2018.

(3) The reports and completed plan shall be submitted electronically to the Legislature.

Sec. 4. Original section 71-7611, Reissue Revised Statutes of Nebraska, and sections 81-6,121 and 81-6,122, Revised Statutes Cumulative Supplement, 2018, are repealed.

Sec. 5. Since an emergency exists, this act takes effect when passed and approved according to law.