

AMENDMENTS TO LB 820

Introduced by Health and Human Services

1 1. Insert the following new sections:

2 Sec. 3. On or before September 30, 2013, the Department  
3 of Health and Human Services shall apply to the United States  
4 Secretary of Health and Human Services for approval of a  
5 demonstration project pursuant to 42 U.S.C. 1320a-9 and to obtain  
6 a waiver as provided in 42 U.S.C. 1320a-9(b) of any requirement  
7 of Title IV-E of the federal Social Security Act, as amended,  
8 which would otherwise prevent the Nebraska Department of Health  
9 and Human Services from carrying out such demonstration project or  
10 from effectively achieving the purposes of such project, except as  
11 provided in such section.

12 Sec. 4. The Legislature finds that:

13 (1) Surveys of foster parents demonstrate that the safety  
14 net provided by foster families is fragile and damaged;

15 (2) Increased focus on recruiting and retaining high  
16 quality, trained, and experienced foster parents should be a  
17 priority under reform of the system of child welfare services in  
18 Nebraska;

19 (3) A 2007 study entitled Foster Care Minimum Adequate  
20 Rates for Children completed by Children's Rights, the National  
21 Foster Parent Association, and the University of Maryland School of  
22 Social Work analyzed foster care maintenance payments under Title  
23 IV-E of the federal Social Security Act, as amended, which are

1 defined as the cost of providing food, clothing, shelter, daily  
2 supervision, school supplies, personal incidentals, insurance, and  
3 travel for visitation with the biological family;

4 (4) The study set a basic foster care payment rate,  
5 calculated by (a) analyzing consumer expenditure data reflecting  
6 the costs of caring for a child, (b) identifying and accounting  
7 for additional costs specific to children in foster care, and (c)  
8 applying a geographic cost-of-living adjustment in order to develop  
9 rates for each of the fifty states and the District of Columbia.  
10 The rate includes adequate funds to meet a foster child's basic  
11 physical needs and the cost of activities such as athletic and  
12 artistic programs which are important for children who have been  
13 traumatized or isolated by abuse, neglect, and placement in foster  
14 care;

15 (5) The study found that Nebraska's foster care payment  
16 rates were the lowest in the country, with an average payment of  
17 two hundred twenty-six dollars per month for a child two years of  
18 age. The next lowest foster care payment rate was Missouri, paying  
19 two hundred seventy-one dollars per month; and

20 (6) Foster care placements with relatives are more stable  
21 and more likely to result in legal guardianship with a relative  
22 of the child. Children in relative placements are less likely  
23 to reenter the system after reunification with their parents and  
24 report that they feel more loved and less stigmatized when living  
25 with family.

26 Sec. 5. (1) The Department of Health and Human Services  
27 shall convene a Foster Care Reimbursement Rate Committee to develop

1 a statewide standard reimbursement rate structure for children  
2 in foster care in Nebraska. Such structure shall include a  
3 standardized level of care assessment system and shall link  
4 performance with payments to achieve permanency outcomes for  
5 children and families.

6 (2) The committee shall include: (a) The chief  
7 executive officer of the department or his or her designee; (b)  
8 representatives from the Division of Children and Family Services  
9 of the department for each service area designated pursuant to  
10 section 81-3116, including at least one division employee with a  
11 thorough understanding of the current foster care payment system  
12 and at least one division employee with a thorough understanding of  
13 the NFOCUS electronic data collection system; (c) representatives  
14 from an agency that contracts directly with foster parents,  
15 from each of such service areas; (d) a representative from a  
16 child welfare advocacy organization; (e) a representative of a  
17 public interest organization with child welfare interests; (f) a  
18 representative from a foster and adoptive parent association; (g)  
19 a representative of a lead agency; (h) a representative of a child  
20 advocacy center; (i) a foster parent who contracts directly with  
21 the department; and (j) a foster parent who contracts with an  
22 agency. The committee shall meet and organize as soon as possible  
23 after the operative date of this section.

24 (3) The committee shall use the study described in  
25 subdivision (3) of section 4 of this act as a beginning standard  
26 for setting reimbursement rates. The committee shall adjust the  
27 standard to reflect the reasonable cost of achieving measurable

1 outcomes for all children in foster care in Nebraska. The committee  
2 shall: (a) Analyze consumer expenditure data reflecting the costs  
3 of caring for a child in Nebraska; (b) identify and account for  
4 additional costs specific to children in foster care; and (c)  
5 apply a geographic cost-of-living adjustment for Nebraska. The  
6 reimbursement rate structure shall comply with funding requirements  
7 related to Title IV-E of the federal Social Security Act, as  
8 amended, and federal Temporary Assistance for Needy Families  
9 funding to maximize the utilization of federal funds to support  
10 foster care.

11 (4) The committee shall develop a statewide level of care  
12 assessment system containing standardized criteria to determine  
13 a foster child's placement needs and to appropriately identify  
14 the foster care reimbursement rate. The committee shall review  
15 other states' assessment models and reimbursement rate structures  
16 in completing the statewide level of care assessment system and  
17 the foster care reimbursement rate structure. The statewide level  
18 of care assessment system shall be research-based, supported by  
19 evidence-based practices, and reflect the commitment to systems  
20 of care and a trauma-informed, child-centered, family-involved,  
21 coordinated process. The committee shall develop the statewide  
22 level of care assessment system and the foster care reimbursement  
23 rate structure in a manner that provides incentives to tie  
24 performance in achieving the goals of safety, maintaining family  
25 connection, permanency, stability, and well-being to reimbursements  
26 received.

27 (5) The committee shall provide written reports to the

1 Health and Human Services Committee of the Legislature on July  
2 1, 2012, September 1, 2012, and November 1, 2012, and a final  
3 report to the committee and the Governor, with recommendations for  
4 the statewide level of care assessment system and the foster care  
5 reimbursement rate structure, on December 15, 2012.

6 (6) If the Nebraska Children's Commission is created  
7 by the One Hundred Second Legislature, Second Session, 2012, the  
8 Foster Care Reimbursement Rate Committee shall immediately come  
9 under the commission's jurisdiction. The commission may change the  
10 appointments of the members and make any changes it deems necessary  
11 to comply with sections 3 to 6 of this act.

12 Sec. 6. In recognition of Nebraska foster parents'  
13 essential contribution to the safety and well being of Nebraska's  
14 foster children and the need for additional compensation for the  
15 services provided by Nebraska foster parents while the Foster Care  
16 Reimbursement Rate Committee completes its duties under section  
17 5 of this act, beginning July 1, 2012, through June 30, 2013,  
18 all foster parents providing foster care in Nebraska, including  
19 traditional, agency-based, licensed, approved, relative placement,  
20 and child-specific foster care, shall receive an additional stipend  
21 of three dollars and ten cents per day per child. The stipend shall  
22 be in addition to the current foster care reimbursement rates for  
23 relatives and foster parents contracting with the department and  
24 in addition to the relative and tiered rate paid to a contractor  
25 for agency-based foster parents. The additional stipend shall be  
26 paid monthly through the agency that is contracting with the foster  
27 parent, or in the case of a foster parent contracting with the

1 department, directly from the department. The contracting agency  
2 shall receive an administrative fee of twenty-five cents per child  
3 per day for processing the payments for the benefit of the foster  
4 parents and the state, which administrative fee shall be paid  
5 monthly by the state.

6           Sec. 7. Section 71-1902, Revised Statutes Supplement,  
7 2011, is amended to read:

8           71-1902 Except as otherwise provided in this section,  
9 no person shall furnish or offer to furnish foster care for  
10 ~~two~~ one or more children ~~from different families~~ not related  
11 to such person by blood, marriage, or adoption without having  
12 in full force and effect a written license issued by the  
13 department upon such terms and conditions as may be prescribed  
14 by general rules and regulations adopted and promulgated by the  
15 department. The department may issue a time-limited, nonrenewable  
16 provisional license to an applicant who is unable to comply  
17 with all licensure requirements and standards, is making a good  
18 faith effort to comply, and is capable of compliance within the  
19 time period stated in the license. The department may issue a  
20 time-limited, nonrenewable probationary license to a licensee who  
21 agrees to establish compliance with rules and regulations that,  
22 when violated, do not present an unreasonable risk to the health,  
23 safety, or well-being of the foster children in the care of the  
24 applicant. No license shall be issued pursuant to this section  
25 unless the applicant has completed the required hours of training  
26 in foster care as prescribed by the department.

27           All nonprovisional and nonprobationary licenses issued

1 under sections 71-1901 to 71-1906.01 shall expire two years from  
2 the date of issuance and shall be subject to renewal under the  
3 same terms and conditions as the original license, except that if  
4 a licensee submits a completed renewal application thirty days or  
5 more before the license's expiration date, the license shall remain  
6 in effect until the department either renews the license or denies  
7 the renewal application. No license issued pursuant to this section  
8 shall be renewed unless the licensee has completed the required  
9 hours of training in foster care in the preceding twelve months as  
10 prescribed by the department. For the issuance or renewal of each  
11 nonprovisional and nonprobationary license, the department shall  
12 charge a fee of fifty dollars for a group home, fifty dollars for a  
13 child-caring agency, and fifty dollars for a child-placing agency.  
14 For the issuance of each provisional license and each probationary  
15 license, the department shall charge a fee of twenty-five dollars  
16 for a group home, twenty-five dollars for a child-caring agency,  
17 and twenty-five dollars for a child-placing agency. A license may  
18 be revoked for cause, after notice and hearing, in accordance with  
19 rules and regulations adopted and promulgated by the department.

20 For purposes of this section:

21 (1) Foster family home means any home which provides  
22 twenty-four-hour care to children who are not related to the foster  
23 parent by blood, marriage, or adoption;

24 (2) Group home means a home which is operated under the  
25 auspices of an organization which is responsible for providing  
26 social services, administration, direction, and control for the  
27 home and which is designed to provide twenty-four-hour care for

1 children and youth in a residential setting;

2 (3) Child-caring agency means an organization which is  
3 organized as a corporation or a limited liability company for the  
4 purpose of providing care for children in buildings maintained by  
5 the organization for that purpose; and

6 (4) Child-placing agency means an organization which is  
7 authorized by its articles of incorporation and by its license to  
8 place children in foster family homes.

9 Sec. 8. Sections 7 and 9 of this act become operative on  
10 July 1, 2012. The other sections of this act become operative on  
11 their effective date.

12 Sec. 9. Original section 71-1902, Revised Statutes  
13 Supplement, 2011, is repealed.

14 2. On page 2, strike beginning with "On" in line 1  
15 through line 10 and insert "(a) The Title IV-E Demonstration  
16 Project Committee is created. The members of the committee shall  
17 be appointed by the Director of Children and Family Services  
18 or his or her designee and shall include representatives of the  
19 Department of Health and Human Services and representatives of  
20 at least five child welfare stakeholder entities, including two  
21 separate child welfare advocacy organizations, a direct provider  
22 of child welfare services, a lead agency, and an agency that  
23 subcontracts with a lead agency as a collaborative member. Members  
24 of the committee shall have experience or knowledge in the area  
25 of child welfare that involves Title IV-E eligibility criteria  
26 and activities. In addition, there shall be at least one ex  
27 officio member of the committee, appointed by the State Court

1 Administrator. The ex officio member or members shall not be  
2 involved in decisionmaking, implementation plans, or reporting but  
3 may attend committee meetings, provide information to the committee  
4 about the processes and programs of the Nebraska court system  
5 involving children and juveniles, and inform the State Court  
6 Administrator of the committee's activities. The committee shall  
7 be convened by the director within thirty days after the effective  
8 date of this section.

9 (b) The committee shall review, report, and provide  
10 recommendations regarding the application of the Department of  
11 Health and Human Services for a demonstration project pursuant to  
12 42 U.S.C. 1320a-9 to obtain a waiver as provided in 42 U.S.C.  
13 1320a-9(b) of any requirement of Title IV-E of the federal Social  
14 Security Act, as such section and act existed on January 1, 2012.  
15 The committee may engage a consultant with expertise in Title IV-E  
16 demonstration project applications and requirements.

17 (c) The committee shall (i) review Nebraska's current  
18 status of Title IV-E participation and penetration rates, (ii)  
19 review strategies and solution for raising Nebraska's participation  
20 rate and reimbursement for Title IV-E in child placement, case  
21 management, replacement, training, adoption, court findings, and  
22 proceedings; and (iii) recommend specific actions for addressing  
23 barriers to participation and reimbursement.

24 (d) The committee shall provide an implementation plan  
25 and a timeline for making application for a Title IV-E waiver.  
26 The implementation plan shall support and align with the goals of  
27 the strategic plan of Nebraska child welfare, including, but not

1 limited to, maximizing federal funding to be able to utilize state  
2 and federal funding for a broad array of services for children,  
3 including prevention, intervention, and community-based, in-home,  
4 and out-of-home services to attain positive outcomes for the safety  
5 and well-being of and to expedite permanency for children. The  
6 committee shall report on its activities to the Health and Human  
7 Services Committee of the Legislature on or before July 1, 2012,  
8 September 1, 2012, and November 1, 2012, and shall provide a final  
9 written report to the department, the Health and Human Services  
10 Committee of the Legislature, and the Governor by December 15,  
11 2012.

12 (e) If the Nebraska Children's Commission is created by  
13 the One Hundred Second Legislature, Second Session, 2012, the Title  
14 IV-E Demonstration Project Committee shall thereupon come under the  
15 commission's jurisdiction. The commission may appoint additional  
16 members of the committee and make any changes it deems necessary  
17 to comply with this subsection."; in line 11 strike "demonstration  
18 project shall be" and insert "committee's implementation plan  
19 shall address the demonstration project"; and in line 23 strike  
20 "Developing" and insert "Consider the options of developing".

21 3. On page 3, line 4, strike "proposal" and insert  
22 "implementation plan".

23 4. Renumber the remaining section accordingly.