

E AND R AMENDMENTS TO LB 820

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. (1) (a) The Title IV-E Demonstration Project  
4 Committee is created. The members of the committee shall be  
5 appointed by the Director of Children and Family Services or  
6 his or her designee and shall include representatives of the  
7 Department of Health and Human Services and representatives of  
8 at least five child welfare stakeholder entities, including two  
9 separate child welfare advocacy organizations, a direct provider  
10 of child welfare services, a lead agency, and an agency that  
11 subcontracts with a lead agency as a collaborative member. Members  
12 of the committee shall have experience or knowledge in the area  
13 of child welfare that involves Title IV-E eligibility criteria  
14 and activities. In addition, there shall be at least one ex  
15 officio member of the committee, appointed by the State Court  
16 Administrator. The ex officio member or members shall not be  
17 involved in decisionmaking, implementation plans, or reporting but  
18 may attend committee meetings, provide information to the committee  
19 about the processes and programs of the Nebraska court system  
20 involving children and juveniles, and inform the State Court  
21 Administrator of the committee's activities. The committee shall  
22 be convened by the director within thirty days after the operative  
23 date of this section.

1           (b) The committee shall review, report, and provide  
2 recommendations regarding the application of the Department of  
3 Health and Human Services for a demonstration project pursuant to  
4 42 U.S.C. 1320a-9 to obtain a waiver as provided in 42 U.S.C.  
5 1320a-9(b) of any requirement of Title IV-E of the federal Social  
6 Security Act, as such section and act existed on January 1, 2012.  
7 The committee may engage a consultant with expertise in Title IV-E  
8 demonstration project applications and requirements.

9           (c) The committee shall (i) review Nebraska's current  
10 status of Title IV-E participation and penetration rates,  
11 (ii) review strategies and solutions for raising Nebraska's  
12 participation rate and reimbursement for Title IV-E in child  
13 placement, case management, replacement, training, adoption, court  
14 findings, and proceedings, and (iii) recommend specific actions for  
15 addressing barriers to participation and reimbursement.

16           (d) The committee shall provide an implementation plan  
17 and a timeline for making application for a Title IV-E waiver.  
18 The implementation plan shall support and align with the goals of  
19 the strategic plan of Nebraska child welfare, including, but not  
20 limited to, maximizing federal funding to be able to utilize state  
21 and federal funding for a broad array of services for children,  
22 including prevention, intervention, and community-based, in-home,  
23 and out-of-home services to attain positive outcomes for the safety  
24 and well-being of and to expedite permanency for children. The  
25 committee shall report on its activities to the Health and Human  
26 Services Committee of the Legislature on or before July 1, 2012,  
27 September 1, 2012, and November 1, 2012, and shall provide a final

1 written report to the department, the Health and Human Services  
2 Committee of the Legislature, and the Governor by December 15,  
3 2012.

4 (e) If the Nebraska Children's Commission is created by  
5 the One Hundred Second Legislature, Second Session, 2012, the Title  
6 IV-E Demonstration Project Committee shall thereupon come under the  
7 commission's jurisdiction. The commission may appoint additional  
8 members of the committee and make any changes it deems necessary to  
9 comply with this subsection.

10 (2) The committee's implementation plan shall address  
11 the demonstration project designed to meet the requirements of 42  
12 U.S.C. 1320a-9, including, but not limited to, the following:

13 (a) Increasing permanency for all infants, children, and  
14 youth by reducing the time in foster care placements when possible  
15 and promoting a successful transition to adulthood for older youth;

16 (b) Increasing positive outcomes for infants, children,  
17 youth, and families in their homes and communities, including  
18 tribal communities, and improving the safety and well-being of  
19 infants, children, and youth;

20 (c) Preventing child abuse and neglect and the reentry of  
21 infants, children, and youth into foster care; and

22 (d) Considering the options of developing a program to  
23 (i) permit foster care maintenance payments to be made under Title  
24 IV-E of the federal Social Security Act, as amended, to a long-term  
25 therapeutic family treatment center on behalf of a child residing  
26 in the center or (ii) identify and address domestic violence that  
27 endangers children and results in the placement of children in

1 foster care.

2 (3) The implementation plan for the demonstration project  
3 shall include information showing:

4 (a) The ability and capacity of the department to  
5 effectively use the authority to conduct a demonstration project  
6 under this section by identifying changes the department has made  
7 or plans to make in policies, procedures, or other elements of  
8 the state's child welfare program that will enable the state to  
9 successfully achieve the goal or goals of the project;

10 (b) That the department has implemented, or plans to  
11 implement within three years after the date of submission of its  
12 application under this section or within two years after the date  
13 on which the United States Secretary of Health and Human Services  
14 approves such application, whichever is later, at least two of the  
15 child welfare program improvement policies described in 42 U.S.C.  
16 1320a-9(a) (7).

17 (4) At least one of the child welfare program improvement  
18 policies to be implemented by the Department of Health and Human  
19 Services under the demonstration project shall be a policy that the  
20 state has not previously implemented as of the date of submission  
21 of its application under this section.

22 (5) For purposes of this section, long-term therapeutic  
23 family treatment center has the definition found in 42 U.S.C.  
24 1320a-9(a) (8).

25 Sec. 2. The Department of Health and Human Services  
26 shall report to the Health and Human Services Committee of the  
27 Legislature by September 15, 2012, on the status of the application

1 for the demonstration project under section 1 of this act.

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

27           (4) The study set a basic foster care payment rate,

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

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

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

22 Sec. 5. (1) The Department of Health and Human Services  
23 shall convene a Foster Care Reimbursement Rate Committee to develop  
24 a statewide standard reimbursement rate structure for children  
25 in foster care in Nebraska. Such structure shall include a  
26 standardized level of care assessment system and shall link  
27 performance with payments to achieve permanency outcomes for

1 children and families.

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

20 (3) The committee shall use the study described in  
21 subdivision (3) of section 4 of this act as a beginning standard  
22 for setting reimbursement rates. The committee shall adjust the  
23 standard to reflect the reasonable cost of achieving measurable  
24 outcomes for all children in foster care in Nebraska. The committee  
25 shall (a) analyze consumer expenditure data reflecting the costs  
26 of caring for a child in Nebraska, (b) identify and account for  
27 additional costs specific to children in foster care, and (c)

1 apply a geographic cost-of-living adjustment for Nebraska. The  
2 reimbursement rate structure shall comply with funding requirements  
3 related to Title IV-E of the federal Social Security Act, as  
4 amended, and federal Temporary Assistance for Needy Families  
5 funding to maximize the utilization of federal funds to support  
6 foster care.

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

23 (5) The committee shall provide written reports to the  
24 Health and Human Services Committee of the Legislature on July  
25 1, 2012, September 1, 2012, and November 1, 2012, and a final  
26 report to the committee and the Governor, with recommendations for  
27 the statewide level of care assessment system and the foster care

1 reimbursement rate structure, on December 15, 2012.

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

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

1 administrative fee shall be paid monthly by the state.

2           Sec. 7. Section 71-1902, Revised Statutes Supplement,  
3 2011, is amended to read:

4           71-1902 (1) Except as otherwise provided in this section,  
5 no person shall furnish or offer to furnish foster care for  
6 ~~two~~ one or more children ~~from different families~~ not related  
7 to such person by blood, marriage, or adoption without having  
8 in full force and effect a written license issued by the  
9 department upon such terms and conditions as may be prescribed  
10 by general rules and regulations adopted and promulgated by the  
11 department. The department may issue a time-limited, nonrenewable  
12 provisional license to an applicant who is unable to comply  
13 with all licensure requirements and standards, is making a good  
14 faith effort to comply, and is capable of compliance within the  
15 time period stated in the license. The department may issue a  
16 time-limited, nonrenewable probationary license to a licensee who  
17 agrees to establish compliance with rules and regulations that,  
18 when violated, do not present an unreasonable risk to the health,  
19 safety, or well-being of the foster children in the care of the  
20 applicant. No license shall be issued pursuant to this section  
21 unless the applicant has completed the required hours of training  
22 in foster care as prescribed by the department.

23           (2) All nonprovisional and nonprobationary licenses  
24 issued under sections 71-1901 to 71-1906.01 shall expire two years  
25 from the date of issuance and shall be subject to renewal under the  
26 same terms and conditions as the original license, except that if  
27 a licensee submits a completed renewal application thirty days or

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

16 (3) For purposes of this section:

17 ~~(1)~~ (a) Foster family home means any home which provides  
18 twenty-four-hour care to children who are not related to the foster  
19 parent by blood, marriage, or adoption;

20 ~~(2)~~ (b) Group home means a home which is operated under  
21 the auspices of an organization which is responsible for providing  
22 social services, administration, direction, and control for the  
23 home and which is designed to provide twenty-four-hour care for  
24 children and youth in a residential setting;

25 ~~(3)~~ (c) Child-caring agency means an organization which  
26 is organized as a corporation or a limited liability company for  
27 the purpose of providing care for children in buildings maintained

1 by the organization for that purpose; and

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

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

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

10 Sec. 10. Since an emergency exists, this act takes effect  
11 when passed and approved according to law.

12 2. On page 1, strike beginning with "provide" in line 1  
13 through line 4 and insert "amend section 71-1902, Revised Statutes  
14 Supplement, 2011; to create committees; to provide powers and  
15 duties; to require an implementation plan, a demonstration project,  
16 and an application for a waiver of federal requirements; to require  
17 reports; to provide for a statewide level of care assessment system  
18 and a foster care reimbursement rate structure; to provide for a  
19 temporary stipend for foster parents; to change requirements for  
20 licensure to furnish foster care; to redefine a term; to provide  
21 operative dates; to repeal the original section; and to declare an  
22 emergency.".