

AMENDMENTS TO LB 23

Introduced by Health and Human Services

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

3 Section 1. Section 68-1801, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-1801 Sections 68-1801 to 68-1809 and section 4 of this
6 act shall be known and may be cited as the ICF/MR Reimbursement
7 Protection Act.

8 Sec. 2. Section 68-1804, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 68-1804 (1) The ICF/MR Reimbursement Protection Fund is
11 created. Any money in the fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska
13 Capital Expansion Act and the Nebraska State Funds Investment Act.
14 Interest and income earned by the fund shall be credited to the
15 fund.

16 ~~(2) For fiscal year 2004-05, proceeds from the tax~~
17 ~~imposed under section 68-1803 shall be allocated as follows:~~

18 ~~(a) First, fifty-five thousand dollars to the department~~
19 ~~for administration of the fund;~~

20 ~~(b) Second, payment to intermediate care facilities for~~
21 ~~the mentally retarded for the cost of the tax;~~

22 ~~(c) Third, three hundred thousand dollars, in addition~~
23 ~~to any federal medicaid matching funds, for increases in payments~~

1 to non-state-operated intermediate care facilities for the mentally
2 retarded which shall be such facilities' only increase in payments
3 for such fiscal year;

4 (d) Fourth, three hundred twelve thousand dollars, in
5 addition to any federal medicaid matching funds, for payment to
6 providers of community-based services for the purpose of reducing
7 the waiting list of persons with developmental disabilities; and

8 (e) Fifth, any money remaining in the fund after the
9 allocations required by subdivisions (2)(a) through (d) of this
10 section have been made shall be transferred to the General Fund.

11 (3) For FY2005-06 through FY2010-11, proceeds from the
12 tax imposed pursuant to section 68-1803 shall be remitted to the
13 State Treasurer for credit as follows:

14 (a) To the ICF/MR Reimbursement Protection Fund for
15 allocation as described in this subdivision: (i) Fifty-five
16 thousand dollars for administration of the fund; (ii) the amount
17 needed to reimburse intermediate care facilities for the mentally
18 retarded for the cost of the tax; (iii) three hundred thousand
19 dollars for payment of rates to non-state-operated intermediate
20 care facilities; and (iv) three hundred twelve thousand dollars
21 for community-based services for persons with developmental
22 disabilities; and

23 (b) To the General Fund: The remainder of the proceeds.

24 (2) Beginning July 1, 2014, the department shall use
25 the ICF/MR Reimbursement Protection Fund, including the matching
26 federal financial participation under Title XIX of the Social
27 Security Act, as amended, for purposes of enhancing rates

1 paid under the medical assistance program to intermediate care
2 facilities for the mentally retarded and for an annual contribution
3 to community-based programs for persons with developmental
4 disabilities as specified in subsection (4) of this section,
5 exclusive of the reimbursement paid under the medical assistance
6 program and any other state appropriations to intermediate care
7 facilities for the mentally retarded.

8 ~~(4)~~ (3) For FY2011-12 and each fiscal year thereafter,
9 through FY2013-14, proceeds from the tax imposed pursuant to
10 section 68-1803 shall be remitted to the State Treasurer for credit
11 to the ICF/MR Reimbursement Protection Fund for allocation as
12 follows:

13 (a) First, fifty-five thousand dollars for administration
14 of the fund;

15 (b) Second, the amount needed to reimburse intermediate
16 care facilities for the mentally retarded for the cost of the tax;

17 (c) Third, three hundred twelve thousand dollars
18 for community-based services for persons with developmental
19 disabilities;

20 (d) Fourth, six hundred thousand dollars or such lesser
21 amount as may be available in the fund for non-state-operated
22 intermediate care facilities for the mentally retarded, in addition
23 to any continuation appropriations percentage increase provided
24 by the Legislature to nongovernmental intermediate care facilities
25 for the mentally retarded under the medical assistance program,
26 subject to approval by the federal Centers for Medicare and
27 Medicaid Services of the department's annual application amending

1 the medicaid state plan reimbursement methodology for intermediate
2 care facilities for the mentally retarded; and

3 (e) Fifth, the remainder of the proceeds to the General
4 Fund.

5 (4) For FY2014-15 and each fiscal year thereafter, the
6 ICF/MR Reimbursement Protection Fund shall be used as follows:

7 (a) First, fifty-five thousand dollars to the department
8 for administration of the fund;

9 (b) Second, payment to the intermediate care facilities
10 for the mentally retarded for the cost of the tax;

11 (c) Third, three hundred twelve thousand dollars, in
12 addition to any federal medicaid matching funds, for payment
13 to providers of community-based services for persons with
14 developmental disabilities; and

15 (d) Fourth, rebase rates under the medical assistance
16 program in accordance with the medicaid state plan as defined
17 in section 68-907. In calculating rates, the proceeds of the tax
18 provided for in section 68-1803 and not utilized under subdivisions

19 (a), (b), and (c) of this subsection shall be used to enhance
20 rates in non-state-operated intermediate care facilities for the
21 mentally retarded by increasing the annual inflation factor to the
22 extent allowed by such proceeds and any funds appropriated by the
23 Legislature.

24 Sec. 3. Section 68-1806, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 68-1806 (1) Until July 1, 2014:

27 ~~(1)~~ (a) Collection of the tax imposed by section 68-1803

1 shall be discontinued if:

2 ~~(a)~~ (i) The amendment to the state medicaid plan
3 described in section 68-1805 is disapproved by the Centers for
4 Medicare and Medicaid Services;

5 ~~(b)~~ (ii) The department reduces rates paid to
6 intermediate care facilities for the mentally retarded to an amount
7 less than the rates effective September 1, 2003; or

8 ~~(c)~~ (iii) The department or any other state agency
9 attempts to utilize the money in the ICF/MR Reimbursement
10 Protection Fund for any use other than uses permitted pursuant to
11 the ICF/MR Reimbursement Protection Act; and-

12 ~~(2)~~ (b) If collection of the tax is discontinued as
13 provided in ~~subsection (1)~~ subdivision (a) of this section,
14 subsection, all money in the fund shall be returned to the
15 intermediate care facilities for the mentally retarded from which
16 the tax was collected on the same basis as the tax was assessed.

17 (2) Beginning on July 1, 2014:

18 (a) The department shall discontinue collection of the
19 tax provided for in section 68-1803:

20 (i) If federal financial participation to match the
21 payments by intermediate care facilities for the mentally retarded
22 pursuant to section 68-1803 becomes unavailable under federal law
23 or the rules and regulations of the Centers for Medicare and
24 Medicaid Services of the United States Department of Health and
25 Human Services; or

26 (ii) If money in the ICF/MR Reimbursement Protection Fund
27 is appropriated, transferred, or otherwise expended for any use

1 other than uses permitted pursuant to the ICF/MR Reimbursement
2 Protection Act; and

3 (b) If collection of the tax provided for in section
4 68-1803 is discontinued as provided in subdivision (a) of this
5 subsection, the money in the ICF/MR Reimbursement Protection Fund
6 shall be returned to the intermediate care facilities for the
7 mentally retarded from which the tax was collected on the same
8 basis as collected.

9 Sec. 4. The department shall collect the tax provided for
10 in section 68-1803 and remit the tax to the State Treasurer for
11 credit to the ICF/MR Reimbursement Protection Fund. Beginning July
12 1, 2014, no proceeds from the tax provided for in section 68-1803,
13 including the federal match, shall be placed in the General Fund
14 unless otherwise provided in the ICF/MR Reimbursement Protection
15 Act.

16 Sec. 5. Original sections 68-1801 and 68-1806, Reissue
17 Revised Statutes of Nebraska, and section 68-1804, Revised Statutes
18 Cumulative Supplement, 2012, are repealed.