

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 570

FINAL READING

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

Read first time January 22, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend section
2 71-7611, Reissue Revised Statutes of Nebraska, and sections 81-6,121
3 and 81-6,122, Revised Statutes Cumulative Supplement, 2018; to
4 change transfers to the Nebraska Health Care Cash Fund; to restate
5 legislative intent; to change provisions regarding the strategic
6 plan for providing services to persons with disabilities as
7 prescribed; to provide powers and duties; to require reports; to
8 eliminate obsolete provisions; to repeal the original sections; and
9 to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

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

3 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State
4 Treasurer shall transfer (a) sixty million three hundred thousand dollars
5 on or before July 15, 2014, (b) sixty million three hundred fifty
6 thousand dollars on or before July 15, 2015, (c) sixty million three
7 hundred fifty thousand dollars on or before July 15, 2016, (d) sixty
8 million seven hundred thousand dollars on or before July 15, 2017, (e)
9 five hundred thousand dollars on or before May 15, 2018, (f) sixty-one
10 million six hundred thousand dollars on or before July 15, 2018, (g)
11 sixty-one million four ~~three~~ hundred fifty thousand dollars on or before
12 July 15, 2019, and (h) sixty million four hundred fifty thousand dollars
13 on or before every July 15 thereafter from the Nebraska Medicaid
14 Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust
15 Fund to the Nebraska Health Care Cash Fund, except that such amount shall
16 be reduced by the amount of the unobligated balance in the Nebraska
17 Health Care Cash Fund at the time the transfer is made. The state
18 investment officer shall advise the State Treasurer on the amounts to be
19 transferred first from the Nebraska Medicaid Intergovernmental Trust Fund
20 until the fund balance is depleted and from the Nebraska Tobacco
21 Settlement Trust Fund thereafter in order to sustain such transfers in
22 perpetuity. The state investment officer shall report electronically to
23 the Legislature on or before October 1 of every even-numbered year on the
24 sustainability of such transfers. The Nebraska Health Care Cash Fund
25 shall also include money received pursuant to section 77-2602. Except as
26 otherwise provided by law, no more than the amounts specified in this
27 subsection may be appropriated or transferred from the Nebraska Health
28 Care Cash Fund in any fiscal year.

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

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

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

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

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

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

24 Sec. 2. Section 81-6,121, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 81-6,121 The Legislature finds and declares that:

27 (1) In 1999 the United States Supreme Court held in the case of
28 *Olmstead v. L.C.*, 527 U.S. 581, that unjustified segregation of persons
29 with disabilities constitutes discrimination in violation of Title II of
30 the federal Americans with Disabilities Act of 1990. The court held that
31 public entities must provide community-based services to persons with

1 disabilities when (a) such services are appropriate, (b) the affected
2 persons do not oppose community-based services, and (c) community-based
3 services can be reasonably accommodated, taking into account the
4 resources available to the public entity and the needs of others who are
5 receiving disability services from the entity. The court stated that
6 institutional placement of persons who can handle and benefit from
7 community-based services perpetuates unwarranted assumptions that persons
8 so isolated are incapable or unworthy of participating in community life,
9 and that confinement in an institution severely diminishes the everyday
10 life activities of individuals, including family relations, social
11 contacts, work options, economic independence, educational advancement,
12 and cultural enrichment;

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

16 (3) The United States Supreme Court further stated in the Olmstead
17 decision that development of (a) a comprehensive, effective working plan
18 for providing services to qualified persons with disabilities in the most
19 integrated community-based settings and (b) a waiting list that moves at
20 a reasonable pace could be important ways for a state to demonstrate its
21 commitment to achieving compliance with the federal Americans with
22 Disabilities Act of 1990.

23 Sec. 3. Section 81-6,122, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 81-6,122 (1) The Department of Health and Human Services shall, in
26 collaboration with the Department of Correctional Services, the
27 Department of Economic Development, the Department of Labor, the
28 Department of Transportation, the Department of Veterans' Affairs, the
29 State Department of Education, the University of Nebraska, and the Equal
30 Opportunity Commission, shall develop a comprehensive strategic plan for
31 providing services to qualified persons with disabilities in the most

1 integrated community-based settings pursuant to the Olmstead decision.

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

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

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

30 (c) Arrange ~~(d) determine the need for~~ consultation with an
31 independent a consultant to assist with the continued analysis and

1 ~~revision development of the strategic plan and determine whether the~~
2 ~~benchmarks, deadlines, and timeframes are in substantial compliance with~~
3 ~~the strategic plan;~~

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

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

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

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

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