

LEGISLATIVE BILL 482

Approved by the Governor May 24, 2007

Introduced by Johnson, 37; Pahls, 31; Dierks, 40; Schimek, 27; Stuthman, 22; Cornett, 45; Friend, 10

FOR AN ACT relating to medical assistance; to amend section 71-7611, Revised Statutes Cumulative Supplement, 2006; to adopt the Autism Treatment Program Act; to change provisions relating to the Nebraska Health Care Cash Fund regarding the transfer and distribution of funds; to provide an operative date; to repeal the original section; and to declare an emergency.

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

Section 1. Sections 1 to 5 of this act shall be known and may be cited as the Autism Treatment Program Act.

Sec. 2. The purposes of the Autism Treatment Program Act are to (1) create the Autism Treatment Program administered by the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center and (2) provide for the development of a waiver or an amendment to an existing waiver under the medical assistance program established in section 68-903.

Sec. 3. The Autism Treatment Program is created. The program shall be administered by the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center. The program shall provide or coordinate the provision of statewide intensive early intervention services based on behavioral principles for children with a medical diagnosis of an autism spectrum disorder or an educational verification of autism. The program shall utilize private funds and funds transferred by the Legislature from the Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund. Transfers from the Nebraska Health Care Cash Fund in any fiscal year shall be contingent upon the receipt of private matching funds for such program, with no less than one dollar of private funds received for every two dollars transferred from the Nebraska Health Care Cash Fund. Transfers from the Nebraska Health Care Cash Fund under this section and section 71-7611 shall be utilized as the state match for the waiver established under section 5 of this act upon the approval of such waiver.

Sec. 4. The Autism Treatment Program Cash Fund is created. The fund shall include revenue transferred from the Nebraska Health Care Cash Fund and revenue received from gifts, grants, bequests, donations, or other contributions from public or private sources. The Autism Treatment Program Cash Fund shall be administered by the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center for purposes of the Autism Treatment Program created in section 3 of this act. Any money in the 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.

Sec. 5. (1) The Department of Health and Human Services shall apply for a waiver or an amendment to an existing waiver under the medical assistance program established in section 68-903 for the purpose of providing medical assistance for intensive early intervention services based on behavioral principles for children with a medical diagnosis of an autism spectrum disorder or an educational verification of autism. Such waiver shall not be construed to create an entitlement to services provided under such waiver.

(2) It is the intent of the Legislature that such waiver (a) require means testing for and cost-sharing by recipient families, (b) limit eligibility only to children for whom such services have been initiated prior to the age of nine years, (c) limit the number of children served according to available funding, (d) require demonstrated progress toward the attainment of treatment goals as a condition for continued receipt of medical assistance benefits for such treatment, (e) be developed in consultation with the Health and Human Services Committee of the Legislature and the federal Centers for Medicare and Medicaid Services and with the input of parents and families of children with autism spectrum disorders and organizations advocating on behalf of such persons, and (f) be submitted to the federal Centers for Medicare and Medicaid Services as soon as practicable, but no later than July 1, 2008.

Sec. 6. Section 71-7611, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7611 (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer ~~fifty-two~~ fifty-five million dollars annually no later than July 15 from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care

Cash Fund. The state investment officer upon consultation with the Nebraska Investment Council shall advise the State Treasurer on the amounts to be transferred from the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco Settlement Trust Fund under this section in order to sustain such transfers in perpetuity. The state investment officer shall report to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers.

(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) One million dollars in the Nebraska Health Care Cash Fund is designated each year for the Autism Treatment Program Act for five fiscal years beginning in fiscal year 2007-08 and shall be distributed in each fiscal year as follows: (a) First, to the Department of Health and Human Services for costs related to application and implementation of the waiver; (b) second, to the department for other medical costs for children who would not otherwise qualify for medicaid except for the waiver; and (c) third, the balance to the Autism Treatment Program Cash Fund. The State Treasurer shall transfer the balance of the funding to the Autism Treatment Program Cash Fund based on the estimated costs of administrative and other medical costs as determined by the Legislature through the appropriation process. The transfers to the Autism Treatment Program Cash Fund in any fiscal year shall be contingent upon the receipt of private matching funds under the Autism Treatment Program Act, with no less than one dollar of private funds received for every two dollars transferred from the Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund.

~~(3) The State Treasurer shall transfer two million dollars from the Nebraska Health Care Cash Fund to the University of Nebraska Medical Center Designated Cash Fund within fifteen days after July 1, 2005.~~

~~(4) The State Treasurer shall transfer two million dollars from the Nebraska Health Care Cash Fund to the University of Nebraska Medical Center Designated Cash Fund within fifteen days after July 1, 2006.~~

~~(5) The State Treasurer shall transfer one million nine hundred thirty-nine thousand eight hundred sixty-three dollars from the Nebraska Health Care Cash Fund to the Nebraska Capital Construction Fund within five days after July 1, 2005.~~

~~(6) The State Treasurer shall transfer seven hundred thousand dollars from the Nebraska Health Care Cash Fund to the Nebraska Capital Construction Fund within five days after July 1, 2005.~~

~~(7) (4) 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.~~

Sec. 7. This act becomes operative on July 1, 2007.

Sec. 8. Original section 71-7611, Revised Statutes Cumulative Supplement, 2006, is repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.