

E AND R AMENDMENTS TO LB 204

Introduced by Larson, 40, Chairperson Enrollment and Review

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

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

5 71-7611 (1) The Nebraska Health Care Cash Fund is
6 created. The State Treasurer shall transfer (a) fifty-six million
7 one hundred thousand dollars no later than July 15, 2009, and
8 (b) fifty-nine million one hundred thousand dollars beginning July
9 15, 2010, and annually thereafter no later than July 15 from the
10 Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska
11 Tobacco Settlement Trust Fund to the Nebraska Health Care Cash
12 Fund, except that such amount shall be reduced by the amount of
13 the unobligated balance in the Nebraska Health Care Cash Fund at
14 the time the transfer is made. The state investment officer upon
15 consultation with the Nebraska Investment Council shall advise the
16 State Treasurer on the amounts to be transferred from the Nebraska
17 Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco
18 Settlement Trust Fund under this section in order to sustain such
19 transfers in perpetuity. The state investment officer shall report
20 to the Legislature on or before October 1 of every even-numbered
21 year on the sustainability of such transfers. Except as otherwise
22 provided by law, no more than the amount specified in this
23 subsection may be appropriated or transferred from the Nebraska

1 Health Care Cash Fund in any fiscal year.

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

6 (3) One million dollars in the Nebraska Health Care
7 Cash Fund shall be transferred each year to the Autism Treatment
8 Program Cash Fund for five fiscal years beginning on a date
9 determined by the Department of Health and Human Services but no
10 later than ninety days after a waiver under section 68-966 has
11 been approved and shall be distributed with matching private funds
12 from the Autism Treatment Program Cash Fund and matching funds
13 from Title XIX of the federal Social Security Act in each fiscal
14 year as follows: (a) First, to the Department of Health and Human
15 Services for costs related to application, implementation, and
16 administration of a waiver pursuant to section 68-966; (b) second,
17 to the department for other medical costs for children who would
18 not otherwise qualify for medicaid except for the waiver; and (c)
19 third, the balance to fund services pursuant to the waiver.

20 (4) The University of Nebraska and postsecondary
21 educational institutions having colleges of medicine in Nebraska
22 and their affiliated research hospitals in Nebraska, as a condition
23 of receiving any funds appropriated or transferred from the
24 Nebraska Health Care Cash Fund, shall not discriminate against any
25 person on the basis of sexual orientation.

26 (5) The State Treasurer shall transfer two hundred
27 thousand dollars from the Nebraska Health Care Cash Fund to the

1 University of Nebraska Medical Center Cash Fund for the Nebraska
2 Regional Poison Center within fifteen days after each July 1.

3 (6) Beginning on July 1, 2010, the State Treasurer shall
4 transfer three million dollars annually no later than July 15 of
5 each year from the Nebraska Health Care Cash Fund to the Tobacco
6 Prevention and Control Cash Fund.

7 (7) The State Treasurer shall transfer five hundred
8 thousand dollars annually no later than July 15 of each year from
9 the Nebraska Health Care Cash Fund to the Stem Cell Research Cash
10 Fund.

11 (8) No later than July 15, 2012, and no later than each
12 July 15 thereafter, the State Treasurer shall transfer fifty-one
13 thousand two hundred seventy-three dollars from the Nebraska Health
14 Care Cash Fund to the Health and Human Services Cash Fund to
15 assist the Department of Health and Human Services with the cost
16 of providing the blood-lead testing for recipients of medicaid and
17 CHIP as provided in section 79-217.

18 Sec. 2. Section 79-217, Revised Statutes Cumulative
19 Supplement, 2010, is amended to read:

20 79-217 (1) Except as provided in sections 79-221
21 and 79-222, the school board or board of education of each
22 school district and the governing authority of each private,
23 denominational, or parochial school in this state shall require
24 each student to be protected against measles, mumps, rubella,
25 poliomyelitis, diphtheria, pertussis, and tetanus by immunization
26 prior to enrollment. Any student who does not comply with this
27 section shall not be permitted to continue in school until he or

1 she so complies, except as provided by section 79-222. Each school
2 district shall make diligent efforts to inform families prior to
3 the date of school registration of the immunization requirements
4 of this section.

5 (2) Except as provided in sections 79-221 and 79-222,
6 the school board or board of education of each school district
7 in this state shall require each student entering kindergarten on
8 and after July 1, 2012, to have undergone blood-lead testing after
9 the age of eighteen months and before the age of four years or,
10 in the case of a transfer student four years of age or older
11 enrolling in a Nebraska school district for the first time, within
12 six months prior to enrollment. Any student who does not comply
13 with this section shall not be permitted to continue in school
14 until he or she so complies except as provided by section 79-222.
15 Each school district shall make diligent efforts to inform families
16 prior to the date of school registration of the blood-lead testing
17 requirements of this section.

18 (3) Except as provided in sections 79-221 and 79-222,
19 on and after July 1, 2010, every student entering the seventh
20 grade shall have a booster immunization containing diphtheria and
21 tetanus toxoids and an acellular pertussis vaccine which meets the
22 standards approved by the United States Public Health Service for
23 such biological products, as such standards existed on January 1,
24 2009.

25 ~~(3)~~ (4)(a) Except as provided in the Childhood Vaccine
26 Act, the cost of such immunizations shall be borne by the parent
27 or guardian of each student who is immunized or by the Department

1 of Health and Human Services for those students whose parent or
2 guardian is financially unable to meet such cost.

3 (b) The cost of such blood-lead testing shall be borne
4 by the parent or guardian of each student who is tested or, for
5 those students who are participating in medicaid or CHIP as such
6 terms are defined in section 68-969, by the Department of Health
7 and Human Services.

8 (5) For purposes of this section and sections 79-219 to
9 79-222:

10 (a) Blood-lead testing means taking a capillary sample of
11 blood or venous sample of blood and sending it to a laboratory to
12 determine the level of lead in the blood;

13 (b) Capillary sample of blood means a blood sample taken
14 from the finger or heel;

15 (c) Laboratory means a clinical laboratory certified
16 pursuant to the federal Clinical Laboratories Improvement Act of
17 1967, as such act existed on January 1, 2011; and

18 (d) Venous sample of blood means a blood sample taken
19 from a vein in the arm.

20 Sec. 3. Section 79-219, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-219 The Department of Health and Human Services shall
23 adopt and promulgate rules and regulations relating to the required
24 levels of protection, blood-lead testing, provisional enrollment
25 under the provisions of section 79-222, the evidence necessary
26 to prove that the required examination, blood-lead testing, or
27 immunization has been received, and the reporting of each student's

1 immunization and blood-lead testing status. The department may
2 modify, add to, or delete from the list of required immunizations
3 set out in section 79-217. The department shall furnish local
4 school authorities with copies of such rules and regulations and
5 any other material which will assist in the carrying out of
6 sections 79-214 and 79-217 to 79-223.

7 Sec. 4. Section 79-220, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-220 At the time the parent or guardian of any child
10 is notified that such child must have a physical examination and
11 a visual evaluation pursuant to section 79-214 or immunizations
12 and blood-lead testing pursuant to section 79-217, the parent or
13 guardian shall also be notified in writing of (1) his or her right
14 to submit a written statement refusing a physical examination, a
15 visual evaluation, blood-lead testing, or immunization for his or
16 her child and (2) a telephone number or other contact information
17 to assist the parent or guardian in receiving information regarding
18 free or reduced-cost visual evaluations for low-income families who
19 qualify.

20 Sec. 5. Section 79-221, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-221 (1) Immunization shall not be required for a
23 student's enrollment in any school in this state if he or she
24 submits to the admitting official either of the following:

25 ~~(1)~~ (a) A statement signed by a physician, a physician
26 assistant, or an advanced practice registered nurse practicing
27 under and in accordance with his or her respective certification

1 act, stating that, in the health care provider's opinion, the
2 immunizations required would be injurious to the health and
3 well-being of the student or any member of the student's family or
4 household; or

5 ~~(2)~~ (b) An affidavit signed by the student or, if he
6 or she is a minor, by a legally authorized representative of the
7 student, stating that the immunization conflicts with the tenets
8 and practice of a recognized religious denomination of which the
9 student is an adherent or member or that immunization conflicts
10 with the personal and sincerely followed religious beliefs of the
11 student.

12 (2) Blood-lead testing shall not be required for a
13 student's enrollment in any school district in this state if he or
14 she submits to the admitting official any of the following:

15 (a) A statement signed by a physician, a physician
16 assistant, or an advanced practice registered nurse practicing
17 under and in accordance with his or her respective certification
18 act, stating that, in the health care provider's opinion, the
19 blood-lead testing required would be injurious to the health and
20 well-being of the student or any member of the student's family or
21 household;

22 (b) An affidavit signed by the student or, if he or she
23 is a minor, by a legally authorized representative of the student,
24 stating that the blood-lead testing conflicts with the tenets
25 and practice of a recognized religious denomination of which the
26 student is an adherent or member or that blood-lead testing
27 conflicts with the personal and sincerely followed religious

1 beliefs of the student; or

2 (c) A statement signed by a physician, a physician
3 assistant, or an advanced practice registered nurse practicing
4 under and in accordance with his or her respective certification
5 act, stating that, in such physician's, physician assistant's,
6 or advanced practice registered nurse's opinion, the child is at
7 very low risk for elevated blood-lead levels. For purposes of
8 this subdivision, very low risk means that the child (i) has not
9 lived in or spent significant time in any building built before
10 1960, (ii) has not eaten nonfood items, (iii) has not lived with
11 or frequently come in contact with an adult who works with lead
12 on the job or as part of a hobby, (iv) has not lived near a
13 battery manufacturing plant, battery recycling plant, lead smelter,
14 or other source of significant lead emissions, (v) was not born
15 in or has not spent more than three months in Mexico, Central
16 America, Eastern Europe, or Southeast Asia, (vi) has not ingested
17 food, candy, or remedies containing lead, (vii) has not played
18 with toys, jewelry, or other items recalled by the United States
19 Consumer Product Safety Commission due to lead contamination, or
20 (viii) has not had significant exposure to any other product
21 or substance determined to contain lead by the United States
22 Environmental Protection Agency, the United States Department of
23 Housing and Urban Development, or the Centers for Disease Control
24 and Prevention or the Food and Drug Administration of the United
25 States Department of Health and Human Services.

26 Sec. 6. Section 79-222, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 79-222 (1) A student may be provisionally enrolled in
2 a school in Nebraska if he or she meets either of the following
3 qualifications:

4 (a) (i) The student, if having not received the
5 immunizations required by section 79-217, has begun the
6 immunizations required under such section 79-217 and is receiving
7 the necessary immunizations as rapidly as is medically feasible;
8 and ~~or~~

9 (ii) The student, if having not undergone the blood-lead
10 testing required by section 79-217, is scheduled to undergo
11 blood-lead testing; or

12 (b) The student is the child or legal ward of an officer
13 or enlisted person on active duty in any branch of the military
14 services of the United States or of his or her spouse, enrolling
15 in a Nebraska school following residence in another state or in a
16 foreign country.

17 (2) As a condition for the provisional enrollment of a
18 student qualified for such enrollment under subdivision (1)(b) of
19 this section, a parent or adult legal guardian of the student
20 shall provide the school with a signed written statement certifying
21 (a) that the student has completed the course of immunizations
22 required by section 79-217 and (b) that the student will undergo
23 blood-lead testing within fifteen days or the date and results of
24 the student's blood-lead testing.

25 (3) The provisional enrollment of a student qualified for
26 such enrollment under subdivision (1)(b) of this section shall not
27 continue beyond sixty days from the date of such enrollment. At

1 such time the school shall be provided, with regard to the student,
2 written evidence of compliance with section 79-217. The student
3 shall not be permitted to continue in school until such evidence of
4 compliance is provided.

5 Sec. 7. If a child's blood-lead level is ten micrograms
6 or more of lead per deciliter of blood, the Department of Health
7 and Human Services shall notify such child's parent or guardian
8 of (1) the availability of special education services pursuant to
9 the Special Education Act for children with lead poisoning who
10 are classified as other health impaired as defined in section
11 79-1118.01 and the criteria necessary for a child to be classified
12 as other health impaired and (2) the contact information for and
13 resources available through a program operated by the State of
14 Nebraska that provides information to parents on child development
15 and special education for children from birth or date of diagnosis
16 to age twenty-one and helps parents access information on rights
17 and resources to help them advocate for an appropriate education
18 for their child.

19 Sec. 8. Original sections 71-7611, 79-219, 79-220,
20 79-221, and 79-222, Reissue Revised Statutes of Nebraska, and
21 section 79-217, Revised Statutes Cumulative Supplement, 2010, are
22 repealed.

23 2. On page 1, strike beginning with "students" in
24 line 1 through line 8 and insert "children; to amend sections
25 71-7611, 79-219, 79-220, 79-221, and 79-222, Reissue Revised
26 Statutes of Nebraska, and section 79-217, Revised Statutes
27 Cumulative Supplement, 2010; to provide for transfers of funds

1 from the Nebraska Health Care Cash Fund for blood-lead testing as
2 prescribed; to define terms; to require blood-lead testing prior
3 to public school enrollment; to provide for exceptions; to provide
4 duties for the Department of Health and Human Services regarding
5 blood-lead testing and notification of parents; to harmonize
6 provisions; and to repeal the original sections."