

LEGISLATIVE BILL 108

Passed over the Governor's veto May 26, 2021.

Introduced by McCollister, 20; Blood, 3; Cavanaugh, M., 6; Hunt, 8; Morfeld, 46; Pansing Brooks, 28; Vargas, 7; Walz, 15; Wayne, 13; Wishart, 27; Hansen, M., 26; DeBoer, 10; McKinney, 11; Day, 49; Cavanaugh, J., 9; Bostar, 29; Kolterman, 24; Lathrop, 12.

A BILL FOR AN ACT relating to public assistance; to amend section 68-1017.02, Reissue Revised Statutes of Nebraska; to state intent and change provisions relating to federal Supplemental Nutrition Assistance Program benefits; to repeal the original section; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 68-1017.02, Reissue Revised Statutes of Nebraska, is amended to read:

68-1017.02 (1)(a) The Department of Health and Human Services shall apply for and utilize to the maximum extent possible, within limits established by the Legislature, any and all appropriate options available to the state under the federal Supplemental Nutrition Assistance Program and regulations adopted under such program to maximize the number of Nebraska residents being served under such program within such limits. The department shall seek to maximize federal funding for such program and minimize the utilization of General Funds for such program and shall employ the personnel necessary to determine the options available to the state and issue the report to the Legislature required by subdivision (b) of this subsection.

(b) The department shall submit electronically an annual report to the Health and Human Services Committee of the Legislature by December 1 on efforts by the department to carry out the provisions of this subsection. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such efforts. Such information shall include, but not be limited to, a clear description of various options available to the state under the federal Supplemental Nutrition Assistance Program, the department's evaluation of and any action taken by the department with respect to such options, the number of persons being served under such program, and any and all costs and expenditures associated with such program.

(c) The Health and Human Services Committee of the Legislature, after receipt and evaluation of the report required in subdivision (b) of this subsection, shall issue recommendations to the department on any further action necessary by the department to meet the requirements of this section.

(2)(a) The department shall develop a state outreach plan to promote access by eligible persons to benefits of the Supplemental Nutrition Assistance Program. The plan shall meet the criteria established by the Food and Nutrition Service of the United States Department of Agriculture for approval of state outreach plans. The Department of Health and Human Services may apply for and accept gifts, grants, and donations to develop and implement the state outreach plan.

(b) For purposes of developing and implementing the state outreach plan, the department shall partner with one or more counties or nonprofit organizations. If the department enters into a contract with a nonprofit organization relating to the state outreach plan, the contract may specify that the nonprofit organization is responsible for seeking sufficient gifts, grants, or donations necessary for the development and implementation of the state outreach plan and may additionally specify that any costs to the department associated with the award and management of the contract or the implementation or administration of the state outreach plan shall be paid out of private or federal funds received for development and implementation of the state outreach plan.

(c) The department shall submit the state outreach plan to the Food and Nutrition Service of the United States Department of Agriculture for approval on or before August 1, 2011, and shall request any federal matching funds that may be available upon approval of the state outreach plan. It is the intent of the Legislature that the State of Nebraska and the Department of Health and Human Services use any additional public or private funds to offset costs associated with increased caseload resulting from the implementation of the state outreach plan.

(d) The department shall be exempt from implementing or administering a state outreach plan under this subsection, but not from developing such a plan, if it does not receive private or federal funds sufficient to cover the department's costs associated with the implementation and administration of the plan, including any costs associated with increased caseload resulting from the implementation of the plan.

(3)(a) It is the intent of the Legislature that:

(i) Hard work be rewarded and no disincentives to work exist for Supplemental Nutrition Assistance Program participants;

(ii) Supplemental Nutrition Assistance Program participants be enabled to advance in employment, through greater earnings or new, better-paying

employment;

(iii) Participants in employment and training pilot programs be able to maintain Supplemental Nutrition Assistance Program benefits while seeking employment with higher wages that allow them to reduce or terminate such program benefits; and

(iv) Nebraska better utilize options under the Supplemental Nutrition Assistance Program that other states have implemented to encourage work and employment.

(b)(i) The (3)(a)(i) On or before October 1, 2011, the department shall create a TANF-funded program or policy that, in compliance with federal law, establishes categorical eligibility for federal food assistance benefits pursuant to the Supplemental Nutrition Assistance Program to maximize the number of Nebraska residents being served under such program in a manner that does not increase the current gross income eligibility limit except as otherwise provided in subdivision (3)(b)(ii) of this section.

(ii) Except as otherwise provided in this subdivision, such TANF-funded program or policy shall increase the gross income eligibility limit to one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines as allowed under federal law and under 7 C.F.R. 273.2(j)(2), as such law and regulation existed on April 1, 2021, but shall not increase the net income eligibility limit. It is the intent of the Legislature to fund the administrative costs associated with the benefits under this subdivision beginning on the effective date of this act, with federal funds as allowed under the federal American Rescue Plan Act of 2021, Public Law 117-2, as such act existed on April 1, 2021, and continue to fund such administrative costs with such federal funds through September 30, 2023. Such administrative costs shall not be paid for with General Funds. Beginning October 1, 2023, the gross income eligibility limit shall return to the amount used prior to the increase required by this subdivision. The department shall evaluate the TANF-funded program or policy created pursuant to this subsection and provide a report electronically to the Health and Human Services Committee of the Legislature and the Legislative Fiscal Analyst on or before December 31, 2022, regarding the gross income eligibility limit and whether it maximizes the number of Nebraska residents being served under the program or policy. The evaluation shall include an identification and determination of additional administrative costs resulting from the increase to the gross income eligibility limit, a recommendation regarding the gross income eligibility limit, and a determination of the availability of federal funds for the program or policy.

(iii) To the extent federal funds are available to the Department of Labor for the SNAP Next Step Program, until September 30, 2023, any recipient of Supplemental Nutrition Assistance Program benefits whose household income is between one hundred thirty-one and one hundred sixty-five percent of the federal Office of Management and Budget income poverty guidelines and who is not exempt from work participation requirements shall be encouraged to participate in the SNAP Next Step Program administered by the Department of Labor if the recipient is eligible to participate in the program and the program's services are available in the county in which such household is located. It is the intent of the Legislature that no General Funds be utilized by the Department of Labor for the processes outlined in this subdivision (iii). For purposes of this section, SNAP Next Step Program means a partnership program between the Department of Health and Human Services and the Department of Labor to assist under-employed and unemployed recipients of Supplemental Nutrition Assistance Program benefits in finding self-sufficient employment.

(iv) (ii) Such TANF-funded program or policy shall eliminate all asset limits for eligibility for federal food assistance benefits, except that the total of liquid assets which includes cash on hand and funds in personal checking and savings accounts, money market accounts, and share accounts shall not exceed twenty-five thousand dollars pursuant to the Supplemental Nutrition Assistance Program, as allowed under federal law and under 7 C.F.R. 273.2(j)(2).

(v) (iii) This subsection becomes effective only if the department receives funds pursuant to federal participation that may be used to implement this subsection.

(c) (b) For purposes of this subsection:

(i) Federal law means the federal Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and regulations adopted under the act; and

(ii) TANF means the federal Temporary Assistance for Needy Families program established in 42 U.S.C. 601 et seq.

(4)(a) Within the limits specified in this subsection, the State of Nebraska opts out of the provision of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as such act existed on January 1, 2009, that eliminates eligibility for the Supplemental Nutrition Assistance Program for any person convicted of a felony involving the possession, use, or distribution of a controlled substance.

(b) A person shall be ineligible for Supplemental Nutrition Assistance Program benefits under this subsection if he or she (i) has had three or more felony convictions for the possession or use of a controlled substance or (ii) has been convicted of a felony involving the sale or distribution of a controlled substance or the intent to sell or distribute a controlled substance. A person with one or two felony convictions for the possession or use of a controlled substance shall only be eligible to receive Supplemental Nutrition Assistance Program benefits under this subsection if he or she is

participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the date of conviction. The determination of such participation or completion shall be made by the treatment provider administering the program.

Sec. 2. Original section 68-1017.02, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.