

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 438**

Introduced by Howard, 9.

Read first time January 17, 2017

Committee: Revenue

1 A BILL FOR AN ACT relating to health program funding; to amend section  
2 77-4008, Reissue Revised Statutes of Nebraska, and sections 71-801,  
3 71-7611, and 77-2602, Revised Statutes Cumulative Supplement, 2016;  
4 to increase the cigarette and tobacco taxes as prescribed and  
5 provide for the distribution of funds; to create a fund and provide  
6 for its use; to harmonize provisions; to provide an operative date;  
7 to repeal the original sections; and to declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-801, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 71-801 Sections 71-801 to 71-831 and section 2 of this act shall be  
4 known and may be cited as the Nebraska Behavioral Health Services Act.

5 Sec. 2. The Behavioral Health Provider Rate Stabilization Fund is  
6 created. The fund shall consist of money credited to the fund pursuant to  
7 section 77-2602, any gifts, grants, or donations from any source, and any  
8 other funds appropriated by the Legislature. The fund shall be used to  
9 support reimbursement of behavioral health services providers through  
10 provider rates within, but not limited to, the Children's Health  
11 Insurance Program, the Medical Assistance Act, the Nebraska Behavioral  
12 Health Services Act, and the Nebraska Community Aging Services Act. The  
13 money credited to the fund pursuant to section 77-2602 shall be used to  
14 the greatest extent possible to leverage federal funds for behavioral  
15 health services provider rate reimbursement under such program and acts.  
16 The Legislature finds that, in order to provide Nebraska residents with  
17 appropriate access to behavioral health services and providers, provider  
18 rates need to be adequate and stable in order to attract and maintain the  
19 number and variety of behavioral health services providers necessary to  
20 maintain an adequate behavioral health services provider network. Any  
21 money in the fund available for investment shall be invested by the state  
22 investment officer pursuant to the Nebraska Capital Expansion Act and the  
23 Nebraska State Funds Investment Act.

24 Sec. 3. Section 71-7611, Revised Statutes Cumulative Supplement,  
25 2016, is amended to read:

26 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State  
27 Treasurer shall transfer (a) sixty million three hundred thousand dollars  
28 on or before July 15, 2014, (b) sixty million three hundred fifty  
29 thousand dollars on or before July 15, 2015, (c) sixty million three  
30 hundred fifty thousand dollars on or before July 15, 2016, (d) sixty  
31 million three hundred fifty thousand dollars on or before July 15, 2017,

1 (e) sixty million three hundred fifty thousand dollars on or before July  
2 15, 2018, and (f) sixty million one hundred thousand dollars on or before  
3 every July 15 thereafter from the Nebraska Medicaid Intergovernmental  
4 Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska  
5 Health Care Cash Fund, except that such amount shall be reduced by the  
6 amount of the unobligated balance in the Nebraska Health Care Cash Fund  
7 at the time the transfer is made. The state investment officer upon  
8 consultation with the Nebraska Investment Council shall advise the State  
9 Treasurer on the amounts to be transferred from the Nebraska Medicaid  
10 Intergovernmental Trust Fund and from the Nebraska Tobacco Settlement  
11 Trust Fund under this section in order to sustain such transfers in  
12 perpetuity. The state investment officer shall report electronically to  
13 the Legislature on or before October 1 of every even-numbered year on the  
14 sustainability of such transfers. The Nebraska Health Care Cash Fund  
15 shall also include money received pursuant to section 77-2602. Except as  
16 otherwise provided by law, no more than the amounts specified in this  
17 subsection may be appropriated or transferred from the Nebraska Health  
18 Care Cash Fund in any fiscal year.

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

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

27 (3) The University of Nebraska and postsecondary educational  
28 institutions having colleges of medicine in Nebraska and their affiliated  
29 research hospitals in Nebraska, as a condition of receiving any funds  
30 appropriated or transferred from the Nebraska Health Care Cash Fund,  
31 shall not discriminate against any person on the basis of sexual

1 orientation.

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

7 (5) Beginning July 1, 2017, and every fiscal year thereafter, the  
8 State Treasurer shall place such tax in the Nebraska Health Care Cash  
9 Fund and it shall be designated for distribution as follows:

10 (a) Six million dollars for state aid for local public health  
11 departments;

12 (b) Four million dollars for the College of Public Health of the  
13 University of Nebraska Medical Center;

14 (c) Five million dollars for state aid for the seven community  
15 health centers funded through federal program 330 of the federal Health  
16 Centers Consolidation Act of 1996;

17 (d) Two million four hundred thousand dollars for the Tobacco  
18 Prevention and Control Program;

19 (e) One million dollars for the Nebraska area health education  
20 centers;

21 (f) Ten million dollars for state aid for biomedical research;

22 (g) Eight million dollars to the Behavioral Health Provider Rate  
23 Stabilization Fund;

24 (h) Two million dollars to the Behavioral Health Education Center  
25 for workforce development;

26 (i) One million five thousand dollars for ST Segment Elevation  
27 Myocardial Infarction, (STEMI), and stroke cardiac monitors and training;

28 (j) One million dollars for the Simulation In Motion-Nebraska  
29 program of the University of Nebraska Medical Center;

30 (k) Seven hundred fifty thousand dollars for Nebraska emergency  
31 medical services workforce development;

1       (l) Five hundred thousand dollars for Nebraska local firefighters  
2 training;

3       (m) Five hundred thousand dollars for public health aid for the  
4 Nebraska Colon Cancer Screening Program;

5       (n) Five hundred thousand dollars for public health aid for the  
6 Every Woman Matters Program for breast cancer, cervical cancer, heart  
7 disease, and diabetes screening;

8       (o) Two million dollars for the University of Nebraska Medical  
9 Center Munroe-Meyer Institute Neurobehavioral Clinic program to study and  
10 improve methods for intervening early in the lives of children with  
11 behavioral and mental health problems;

12       (p) Five million dollars for a Nebraska paid-family-medical-leave  
13 program; and

14       (q) One million one hundred thousand dollars for the Division of  
15 Children and Family Services of the Department of Health and Human  
16 Services child welfare and services programs for evidence-based early  
17 intervention home visitation programs; and

18       (r) One million one hundred fifty thousand dollars for other early  
19 childhood programs.

20       Sec. 4. Section 77-2602, Revised Statutes Cumulative Supplement,  
21 2016, is amended to read:

22       77-2602 (1) Every stamping agent engaged in distributing or selling  
23 cigarettes at wholesale in this state shall pay to the Tax Commissioner  
24 of this state a special privilege tax. This shall be in addition to all  
25 other taxes. It shall be paid prior to or at the time of the sale, gift,  
26 or delivery to the retail dealer in the several amounts as follows: On  
27 each package of cigarettes containing not more than twenty cigarettes,  
28 two dollars and fourteen ~~sixty-four~~ cents per package; and on packages  
29 containing more than twenty cigarettes, the same tax as provided on  
30 packages containing not more than twenty cigarettes for the first twenty  
31 cigarettes in each package and a tax of one-twentieth of the tax on the

1 first twenty cigarettes on each cigarette in excess of twenty cigarettes  
2 in each package.

3 (2) Beginning July 1, 2017 ~~October 1, 2004~~, the State Treasurer  
4 shall place the equivalent of one dollar and twenty-four ~~forty-nine~~ cents  
5 of such tax in the General Fund. The State Treasurer shall reduce the  
6 amount placed in the General Fund under this subsection by the amount  
7 prescribed in subdivision (3)(d) of this section. For purposes of this  
8 section, the equivalent of a specified number of cents of the tax shall  
9 mean that portion of the proceeds of the tax equal to the specified  
10 number divided by the tax rate per package of cigarettes containing not  
11 more than twenty cigarettes.

12 (3) The State Treasurer shall distribute the remaining proceeds of  
13 such tax in the following order:

14 (a) First, beginning July 1, 1980, the State Treasurer shall place  
15 the equivalent of one cent of such tax in the Nebraska Outdoor Recreation  
16 Development Cash Fund. For fiscal year distributions occurring after  
17 FY1998-99, the distribution under this subdivision shall not be less than  
18 the amount distributed under this subdivision for FY1997-98. Any money  
19 needed to increase the amount distributed under this subdivision to the  
20 FY1997-98 amount shall reduce the distribution to the General Fund;

21 (b) Second, beginning July 1, 1993, the State Treasurer shall place  
22 the equivalent of three cents of such tax in the Health and Human  
23 Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal  
24 year distributions occurring after FY1998-99, the distribution under this  
25 subdivision shall not be less than the amount distributed under this  
26 subdivision for FY1997-98. Any money needed to increase the amount  
27 distributed under this subdivision to the FY1997-98 amount shall reduce  
28 the distribution to the General Fund;

29 (c) Third, beginning October 1, 2002, and continuing until all the  
30 purposes of the Deferred Building Renewal Act have been fulfilled, the  
31 State Treasurer shall place the equivalent of seven cents of such tax in

1 the Building Renewal Allocation Fund. The distribution under this  
2 subdivision shall not be less than the amount distributed under this  
3 subdivision for FY1997-98. Any money needed to increase the amount  
4 distributed under this subdivision to the FY1997-98 amount shall reduce  
5 the distribution to the General Fund;

6 (d) Fourth, until July 1, 2009, the State Treasurer shall place in  
7 the Municipal Infrastructure Redevelopment Fund the sum of five hundred  
8 twenty thousand dollars each fiscal year to carry out the Municipal  
9 Infrastructure Redevelopment Fund Act. The Legislature shall appropriate  
10 the sum of five hundred twenty thousand dollars each year for fiscal year  
11 2003-04 through fiscal year 2008-09;

12 (e) Fifth, beginning July 1, 2001, and continuing until June 30,  
13 2008, the State Treasurer shall place the equivalent of two cents of such  
14 tax in the Information Technology Infrastructure Fund. The distribution  
15 under this subdivision shall not be less than two million fifty thousand  
16 dollars. Any money needed to increase the amount distributed under this  
17 subdivision to two million fifty thousand dollars shall reduce the  
18 distribution to the General Fund;

19 (f) Sixth, beginning July 1, 2001, and continuing until June 30,  
20 2016, the State Treasurer shall place one million dollars each fiscal  
21 year in the City of the Primary Class Development Fund. If necessary, the  
22 State Treasurer shall reduce the distribution of tax proceeds to the  
23 General Fund pursuant to subsection (2) of this section by such amount  
24 required to fulfill the one million dollars to be distributed pursuant to  
25 this subdivision;

26 (g) Seventh, beginning July 1, 2001, and continuing until June 30,  
27 2016, the State Treasurer shall place one million five hundred thousand  
28 dollars each fiscal year in the City of the Metropolitan Class  
29 Development Fund. If necessary, the State Treasurer shall reduce the  
30 distribution of tax proceeds to the General Fund pursuant to subsection  
31 (2) of this section by such amount required to fulfill the one million

1 five hundred thousand dollars to be distributed pursuant to this  
2 subdivision;

3 (h) Eighth, beginning July 1, 2008, and continuing until June 30,  
4 2009, the State Treasurer shall place the equivalent of two million fifty  
5 thousand dollars of such tax in the Nebraska Public Safety Communication  
6 System Cash Fund. Beginning July 1, 2009, and continuing until June 30,  
7 2016, the State Treasurer shall place the equivalent of two million five  
8 hundred seventy thousand dollars of such tax in the Nebraska Public  
9 Safety Communication System Cash Fund. Beginning July 1, 2016, and every  
10 fiscal year thereafter, the State Treasurer shall place the equivalent of  
11 three million eight hundred twenty thousand dollars of such tax in the  
12 Nebraska Public Safety Communication System Cash Fund. If necessary, the  
13 State Treasurer shall reduce the distribution of tax proceeds to the  
14 General Fund pursuant to subsection (2) of this section by such amount  
15 required to fulfill the distribution pursuant to this subdivision; and

16 (i) Ninth, beginning July 1, 2016, and every fiscal year thereafter,  
17 the State Treasurer shall place the equivalent of sixty-one ~~one~~ million  
18 two hundred fifty thousand dollars of such tax in the Nebraska Health  
19 Care Cash Fund. If necessary, the State Treasurer shall reduce the  
20 distribution of tax proceeds to the General Fund pursuant to subsection  
21 (2) of this section by such amount required to fulfill the distribution  
22 pursuant to this subdivision.

23 (4) If, after distributing the proceeds of such tax pursuant to  
24 subsections (2) and (3) of this section, any proceeds of such tax remain,  
25 the State Treasurer shall place such remainder in the Nebraska Capital  
26 Construction Fund.

27 (5) The Legislature hereby finds and determines that the projects  
28 funded from the Municipal Infrastructure Redevelopment Fund and the  
29 Building Renewal Allocation Fund are of critical importance to the State  
30 of Nebraska. It is the intent of the Legislature that the allocations and  
31 appropriations made by the Legislature to such funds or, in the case of

1 allocations for the Municipal Infrastructure Redevelopment Fund, to the  
2 particular municipality's account not be reduced until all contracts and  
3 securities relating to the construction and financing of the projects or  
4 portions of the projects funded from such funds or accounts of such funds  
5 are completed or paid or, in the case of the Municipal Infrastructure  
6 Redevelopment Fund, the earlier of such date or July 1, 2009, and that  
7 until such time any reductions in the cigarette tax rate made by the  
8 Legislature shall be simultaneously accompanied by equivalent reductions  
9 in the amount dedicated to the General Fund from cigarette tax revenue.  
10 Any provision made by the Legislature for distribution of the proceeds of  
11 the cigarette tax for projects or programs other than those to (a) the  
12 General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund,  
13 (c) the Health and Human Services Cash Fund, (d) the Municipal  
14 Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation  
15 Fund, (f) the Information Technology Infrastructure Fund, (g) the City of  
16 the Primary Class Development Fund, (h) the City of the Metropolitan  
17 Class Development Fund, (i) the Nebraska Public Safety Communication  
18 System Cash Fund, and (j) the Nebraska Health Care Cash Fund shall not be  
19 made a higher priority than or an equal priority to any of the programs  
20 or projects specified in subdivisions (a) through (j) of this subsection.

21 Sec. 5. Section 77-4008, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 77-4008 (1)(a) A tax is hereby imposed upon the first owner of  
24 tobacco products to be sold in this state.

25 (b) The tax on snuff shall be forty-four cents per ounce and a  
26 proportionate tax at the like rate on all fractional parts of an ounce.  
27 Such tax shall be computed based on the net weight as listed by the  
28 manufacturer.

29 (c) The tax on tobacco products other than snuff shall be sixty-five  
30 ~~twenty~~ percent of (i) the purchase price of such tobacco products paid by  
31 the first owner or (ii) the price at which a first owner who made,

1 manufactured, or fabricated the tobacco product sells the items to  
2 others.

3 (d) The tax on tobacco products shall be in addition to all other  
4 taxes.

5 (2) Whenever any person who is licensed under section 77-4009  
6 purchases tobacco products from another person licensed under section  
7 77-4009, the seller shall be liable for the payment of the tax.

8 (3) Amounts collected pursuant to this section shall be used and  
9 distributed pursuant to section 77-4025.

10 Sec. 6. This act becomes operative on July 1, 2017.

11 Sec. 7. Original section 77-4008, Reissue Revised Statutes of  
12 Nebraska, and sections 71-801, 71-7611, and 77-2602, Revised Statutes  
13 Cumulative Supplement, 2016, are repealed.

14 Sec. 8. Since an emergency exists, this act takes effect when  
15 passed and approved according to law.