

AMENDMENTS TO LB 590

(Amendments to E & R amendments, ER111)

Introduced by Gloor

1 1. Insert the following new section:

2 Sec. 18. Section 71-7606, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 71-7606 (1) The purpose of the Nebraska Health Care  
5 Funding Act is to provide for the use of dedicated revenue for  
6 health-care-related expenditures and administration and enforcement  
7 of the Master Settlement Agreement as defined in section 69-2702.

8 (2) Any funds appropriated or distributed under the act  
9 shall not be considered ongoing entitlements or obligations on the  
10 part of the State of Nebraska and shall not be used to replace  
11 existing funding for existing programs.

12 (3) No funds appropriated or distributed under the act  
13 shall be used for abortion, abortion counseling, referral for  
14 abortion, or research or activity of any kind involving the use of  
15 human fetal tissue obtained in connection with the performance of  
16 an induced abortion or involving the use of human embryonic stem  
17 cells or for the purpose of obtaining other funding for such use.

18 (4) The Department of Health and Human Services shall  
19 report annually to the Legislature and the Governor regarding the  
20 use of funds appropriated under the act and the outcomes achieved  
21 from such use.

22 2. On page 19, line 16, strike the last "and" and show as

1 stricken; and in line 23 after "69-2702" insert "; and

2 (vi) The information required to establish that such  
3 nonparticipating manufacturer has posted the appropriate bond or  
4 cash equivalent required under section 9 of this act".

5 3. On page 21, line 25, after "376" insert "and 376a".

6 4. On page 24, line 27, strike beginning with "(1)"  
7 through "post" and insert the following new subsections:

8 "(1) All nonparticipating manufacturers shall post a bond  
9 or its cash equivalent for the benefit of the state which is  
10 subject to execution under subsection (3) of this section. The  
11 bond shall be posted by corporate surety located within the United  
12 States, or the cash equivalent of the bond shall be posted by the  
13 nonparticipating manufacturer in an account approved by the state.  
14 The bond or its cash equivalent shall be posted and evidence of  
15 such posting shall be provided to the Tax Commissioner at least  
16 ten days in advance of each calendar quarter as a condition to the  
17 nonparticipating manufacturer and its brand families being included  
18 in the directory for that quarter.

19 (2) The amount of the bond shall be determined as  
20 follows:

21 (a) Unless subdivision (c) of this subsection is  
22 applicable, for a nonparticipating manufacturer or its affiliates  
23 which have been listed on any state's directory for at least  
24 three years or for any nonparticipating manufacturer whose sales  
25 are authorized pursuant to an agreement under section 22 of this  
26 act, the amount of the bond required shall be twenty-five thousand  
27 dollars;

1           (b) Unless subdivision (c) of this subsection is  
2 applicable, for a nonparticipating manufacturer or its affiliates  
3 which have not been listed on any state's directory for at least  
4 three years, the amount of the bond required shall be fifty  
5 thousand dollars; and

6           (c) For a nonparticipating manufacturer or its affiliates  
7 which have failed, in the past three years, to make a full and  
8 timely escrow deposit due under section 69-2703, unless the failure  
9 was not knowing or intentional and was promptly cured upon notice,  
10 or for any nonparticipating manufacturer or its affiliates which  
11 were involuntarily removed from any state's directory, unless the  
12 removal was determined to have been erroneous or illegal, the  
13 amount of the bond required shall be the greater of (i) fifty  
14 thousand dollars or (ii) the greatest amount of escrow owed by the  
15 nonparticipating manufacturer or its predecessor in any calendar  
16 year in Nebraska within the preceding five calendar years."

17           5. Strike page 25.

18           6. On page 26, strike lines 1 and 2.

19           7. On page 28, line 2, after the period insert "The Tax  
20 Commissioner may also share with a nonparticipating manufacturer  
21 information reported under this section pertaining to such  
22 nonparticipating manufacturer's cigarettes."

23           8. On page 30, strike lines 21 through 27.

24           9. On page 31, strike lines 1 through 11 and insert the  
25 following new subsection:

26           "(3) A stamping agent shall not be liable for escrow  
27 deposits under subsections (1) and (2) of this section if,

1 at the time of purchase of such nonparticipating manufacturer's  
2 cigarettes:

3 (a) The nonparticipating manufacturer is on the directory  
4 pursuant to section 69-2706; and

5 (b) The state denotes on the directory that the  
6 nonparticipating manufacturer has posted the appropriate bond  
7 required under section 9 of this act."; and in line 20 after  
8 "69-2706" insert "or the rules and regulations".

9 10. On page 33, lines 2, 5, 6, 7, and 8, strike "failure"  
10 and insert "violation".

11 11. On page 34, line 1, strike "manufacturer of  
12 cigarettes" and insert "tobacco product manufacturer".

13 12. On page 35, line 15, after the period insert  
14 "This subsection shall not apply to a stamping agent purchasing  
15 cigarettes which are not in violation of subsection (4) of section  
16 69-2706 or section 69-2708.".

17 13. On page 37, line 3, strike "77-2604 or section" and  
18 insert "69-2708 or 77-2604 or section 14 or".

19 14. On page 42, line 10, after "process" insert ", that  
20 it fully cured such violation and provided notice of such cure  
21 to the Department of Revenue within thirty days after receipt of  
22 notice of the violation, or that it secured a temporary injunction  
23 against removal from the directory in the district court of  
24 Lancaster County. For purposes of a temporary injunction sought  
25 pursuant to this subsection, loss of the ability to sell tobacco  
26 products as a result of removal from the directory shall not  
27 constitute irreparable harm. If, after thirty days, the tobacco

1 product manufacturer remains in noncompliance and has not obtained  
2 a temporary injunction pursuant to this subsection, the tobacco  
3 product manufacturer shall be removed from the directory".

4           15. On page 55, line 11, after "forfeiture" insert "if  
5 the stamping agent fails to pay the shortfall amount".

6           16. On page 68, strike lines 11 through 18 and insert the  
7 following new subsection:

8           "(4) If a person's license has been suspended or revoked  
9 and the person's name has been removed for at least ten days from  
10 the list of licensed entities published by the Tax Commissioner  
11 under subsection (4) of section 77-2603, any person that sells  
12 cigarettes to or purchases cigarettes from such person shall be  
13 jointly and severally liable for any taxes applicable to such  
14 cigarettes under section 77-2602 and for any escrow due on such  
15 cigarettes under section 69-2703.".

16           17. Renumber the remaining sections and correct internal  
17 references and the repealer section accordingly.