

## LEGISLATIVE BILL 1436

Approved by the Governor March 29, 2000

Introduced by Bohlke, 33; Aguilar, 35; Baker, 44; Bourne, 8; Brashear, 4; Bromm, 23; Brown, 6; Bruning, 3; Chambers, 11; Connealy, 16; Coordsen, 32; Engel, 17; Hartnett, 45; Hilgert, 7; Hudkins, 21; Janssen, 15; Jones, 43; Kiel, 9; Kremer, 34; Kristensen, 37; Landis, 46; Lynch, 13; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Quandahl, 31; Raikes, 25; Redfield, 12; Robak, 22; Schmitt, 41; Schrock, 38; Smith, 48; Stuhr, 24; Suttle, 10; Tyson, 19; Wehrbein, 2; Wickersham, 49; Vrtiska, 1

AN ACT relating to tobacco; to amend sections 71-7608 and 71-7614, Revised Statutes Supplement, 1999; to change provisions relating to the Nebraska Health Care Trust Fund Act; to establish the Teen Tobacco Education and Prevention Project; to create a committee and a fund; to provide and change duties; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 71-7608, Revised Statutes Supplement, 1999, is amended to read:

71-7608. The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include any settlement payments or other revenue received from a settlement or judgment awarded to by the State of Nebraska as a result of in connection with any tobacco-related litigation for compensation for the costs of treating smoking-related illnesses to which the State of Nebraska is a party. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund, except that, of such revenue received on or after April 1, 2000, twenty-one million dollars shall be credited to the Tobacco Prevention and Control Cash Fund as follows: (1) Seven million dollars in FY1999-00, (2) seven million dollars in FY2000-01, and (3) seven million dollars in FY2001-02. Subject to the terms and conditions of the settlement or judgment such litigation, the investment income on the revenue from the fund shall be transferred to the Excellence in Nebraska Health Care Trust Cash Fund to be used for grants or loan guarantees as provided in section 71-7614 as provided in section 71-7611. Any money in the Nebraska Tobacco Settlement Trust 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. 2. Section 71-7614, Revised Statutes Supplement, 1999, is amended to read:

71-7614. (1) Beginning January 15, 1999, the Excellence in The Nebraska Health Care Trust Cash Fund shall be used for grants for (a) awarding grants or making loan guarantees as described in section 71-7613 for conversion of nursing facilities to assisted-living facilities or other alternatives to nursing facility care, (b) awarding grants for public health services which focus on health education, preventive health measures, and environmental health, assessment, and assurance, including services for reservation or service areas of federally recognized Native American tribes in Nebraska and organizations that focus on the health of minority groups, (c) awarding grants for (b) activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children, (d) awarding grants for (c) conversion of hospitals in rural areas of the state to critical access hospitals, (e) awarding grants for (d) education, recruitment, and retention of primary care professionals, behavioral health professionals, and nurses for medically underserved areas, (f) awarding grants for (e) health infrastructure development which is supportive of telemedicine capability, including, but not limited to, high-speed data and medical information transmission, (g) awarding grants for and (f) the development and expansion of community-based aging services designed to promote the independent living status of and delay institutional care for elderly persons, including, but not limited to, personal care, respite care, homemaker care, and chore and transportation services. 7 and (h) the state's matching share for children's health insurance under Title XXI of the federal Social Security Act in excess of the funds distributed under subdivision (2)(b) of section 71-7612. No more than one-half of the money in the Excellence in Health Care Trust Fund may be used for conversion projects

~~under subdivision (a) of this subsection. No funds shall be used under this section for abortion, abortion counseling, referral for abortion, or school-based health clinics.~~

(2) The ~~Excellence in Nebraska~~ Health Care Council is created. The Director of Finance and Support or his or her designee shall be an ex officio member of the council. The council shall consist of a chairperson and ~~five~~ eight additional members appointed by the Governor with the approval of a majority of the Legislature. The chairperson and additional members shall be appointed for three-year terms, except that of the initial members, ~~two~~ three shall be appointed for one-year terms and ~~two~~ three for two-year terms. ~~Any member appointed prior to April 29, 1999, shall be subject to the approval of a majority of the Legislature.~~ The membership shall include at least one consumer and one health care provider. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term. The Department of Health and Human Services Finance and Support shall provide staff support for the council. The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall also assist the Department of Health and Human Services Finance and Support and the council as may be necessary. Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The council, with the approval of the Director of Finance and Support, ~~shall award grants or make loan guarantees under subdivision (1)(a) of this section and shall award grants under subdivisions (1)(b) through (g) subsection (1) of this section to a person or entity for expenditures, including, but not limited to, startup and training expenses and operating losses, which will improve access to or delivery of health care services to medically underserved individuals or in medically underserved areas or which will help contain or reduce the cost or improve the quality of health care services. The Director of Finance and Support, with the advice of the Nursing Home Advisory Council and the Policy Cabinet created in section 81-3009, shall use the procedures and criteria of section 71-7613 to make recommendations for grants to be awarded or loan guarantees to be made by the Excellence in Health Care Council under subdivision (1)(a) of this section.~~

(4) ~~Eligible activities services~~ under subdivision ~~(1)(b)~~ (1)(a) of this section shall include, but not be limited to, (a) projects to implement the Community Health Care Act, (b) the hiring of school nurses by educational service units, school districts, public health entities, or partnerships between schools and public health entities in order to identify children for medicaid eligibility and to provide immunizations and other public health services, (c) health education and activities that focus on prenatal care, proper diet, physical activity, the reduction of teen and other unintended pregnancies, the prevention of disease, and other public health problems, (d) staffing needs for public health services or education, including recruitment and training, (e) pregnancy testing, (f) tests and screenings for blood pressure, cholesterol, sexually transmitted diseases, cervical cancer, breast cancer, communicable diseases, and other potential public health problems, (g) matching funds for state and federal health programs designed to address public health needs, (h) laboratory equipment to enable the Department of Health and Human Services Regulation and Licensure to carry out its powers and duties relating to laboratory services, and (i) public health environmental services. ~~and (j) education, research, and outreach programs that specifically address the cause and prevention of smoking-related diseases and smoking prevention and cessation.~~

(5) This section does not create an entitlement to any funds available for grants ~~or loan guarantees~~ under this section, and the council may award grants ~~or make loan guarantees~~ to the extent funds are available and, within its discretion, to the extent such applications are approved.

(6) The department shall:

(a) In consultation with the ~~Excellence in Nebraska~~ Health Care Council, develop criteria for the awarding of grants from the ~~Excellence in Nebraska~~ Health Care ~~Trust~~ Cash Fund pursuant to ~~subdivisions (1)(b) through (g) subsection (1) of this section;~~

(b) Have the power to approve or disapprove decisions by the council regarding the selection of projects to be funded and the distribution and duration of project funding;

(c) In consultation with the council, establish standards, formats, procedures, and timelines for the successful implementation of approved projects;

(d) In consultation with the council, assist grant recipients in determining the effectiveness of the project and measure the accomplishment of the grant objectives; and

(e) Provide annual reports to the Governor and the Legislature concerning the projects. Each report shall include the number of applicants and approved applicants, an overview of the various projects, and detailed reports of the cost of each project.

(7) The department shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of projects funded from the fund pursuant to ~~subdivisions (1)-(b) through (g)~~ subsection (1) of this section. Recipients of such grants shall be required to provide, upon request, such data relating to the funded projects as the department deems necessary.

Sec. 3. The Tobacco Prevention and Control Cash Fund is created. The fund shall be appropriated by the Legislature for a comprehensive statewide tobacco-related public health program, including, but not limited to: (1) Community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, (9) administration, and (10) the Teen Tobacco Education and Prevention Project. The Legislature is not required to appropriate all available revenue from the fund for such purpose in any given year. The Health and Human Services Committee of the Legislature shall make annual recommendations for appropriations from the fund. 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. 4. (1) The Teen Tobacco Education and Prevention Project is created. The purpose of the project is to provide scholarships for high school students who design creative project proposals to aid in the prevention, reduction, and cessation of teen smoking and to provide award money for the sponsors of such proposals.

(2) The Teen Tobacco Education and Prevention Project Committee is created. The committee shall develop criteria for the submission of project proposals and shall select winning project proposals pursuant to subsection (4) of this section and rules and regulations adopted and promulgated under this section. The committee shall be appointed by the Governor and shall have no more than fifteen members. Committee members shall include (a) high school teachers or advisors, (b) one high school student from each category of school listed in subsection (4) of this section, (c) a physician, (d) persons with advertising or broadcasting expertise, (e) tobacco control advocates, (f) public health representatives, and (g) business persons. Any vacancy on the committee shall be filled in the same manner as the initial appointment. The Department of Health and Human Services shall provide staff support for the committee. Committee members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) On or before December 31 of each year, high school students who reside or attend school in Nebraska may submit project proposals to the committee. Each project proposal shall be designed and developed, by no more than four high school students, to be implemented statewide or in the school, community, or geographic area where such students reside or attend school. Project proposals may include programs, advertisement campaigns, small group projects, conferences, seminars, billboards, pamphlets, productions, television advertisements, radio advertisements, promotional ideas, or any other innovative concept the purpose of which is to help reduce, prevent, or stop teen smoking. The budget for each project proposal shall not exceed one hundred thousand dollars. The Department of Health and Human Services shall use all reasonable efforts to promote the program and shall provide at least one application to each high school in the state.

(4) By March 1 of each year, the committee shall select four winning project proposals from among those submitted: (a) One from a school with a membership of less than one hundred twenty-five students in grades nine through twelve, (b) one from a school with a membership of less than three hundred twenty but at least one hundred twenty-five students in grades nine through twelve, (c) one from a school with a membership of less than one thousand fifty but at least three hundred twenty students in grades nine through twelve, and (d) one from a school with a membership of one thousand fifty or more students in grades nine through twelve. The designers of the winning project proposals shall each be awarded a five-thousand-dollar scholarship and shall oversee the implementation of such project proposals statewide or in their school, community, or geographic area. The sponsor of each winning project proposal shall also be awarded five thousand dollars. The Department of Health and Human Services shall oversee and administer the sponsorship awards provided in this section.

(5) The Department of Health and Human Services shall adopt and

promulgate rules and regulations as necessary to carry out the duties set forth in subsections (1) through (4) of this section.

(6) The Coordinating Commission for Postsecondary Education shall oversee and administer the scholarships provided in this section. Scholarships may only be used by an eligible student for educational expenses at an eligible institution as defined under the Scholarship Assistance Program Act. The commission shall adopt and promulgate rules and regulations as necessary to carry out the duties set forth in this subsection.

(7) The Department of Health and Human Services shall annually review the Teen Tobacco Education and Prevention Project and submit a report of such review to the Governor and Legislature on or before December 31 of each year.

(8) This section shall terminate on January 1, 2003.

Sec. 5. Sections 1, 3, 5, 6, and 8 of this act become operative on the effective date of this act. The other sections of this act become operative three calendar months after the adjournment of this legislative session.

Sec. 6. Original section 71-7608, Revised Statutes Supplement, 1999, is repealed.

Sec. 7. Original section 71-7614, Revised Statutes Supplement, 1999, is repealed.

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