

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1149**

Introduced by Johnson, 37.

Read first time January 23, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to behavioral health funding; to amend  
2 sections 77-2602, 84-612, and 84-613, Revised Statutes  
3 Supplement, 2007; to adopt the Behavioral Health  
4 Workforce Development Act; to change the cigarette tax  
5 and provide for a portion of the proceeds to be used  
6 for behavioral health funding; to provide for a portion  
7 of the Cash Reserve Fund to be used as an endowment  
8 for funding behavioral health workforce development;  
9 to change provisions relating to the allocation of  
10 interest on the Cash Reserve Fund; to repeal the original  
11 sections; and to declare an emergency.

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

1           Section 1. Sections 1 to 5 of this act shall be known and  
2 may be cited as the Behavioral Health Workforce Development Act.  
3 The act shall terminate on June 30, 2014, unless reauthorized by  
4 the Legislature.

5           Sec. 2. (1) The Legislature finds that there is a  
6 significant statewide shortage of community-based behavioral health  
7 services and providers in Nebraska.

8           (2) It is the intent of the Legislature to encourage the  
9 establishment of public-private partnerships for the funding of  
10 behavioral health workforce development in Nebraska. The purpose  
11 of the Behavioral Health Workforce Development Act is to provide  
12 for an ongoing source of public and private funding statewide for  
13 (a) the recruitment, training, and retention of behavioral health  
14 providers, (b) the development and provision of community-based  
15 behavioral health services, and (c) other behavioral health  
16 priorities as provided in the act.

17           (3) Any funds appropriated or distributed under the  
18 Behavioral Health Workforce Development Act shall not be considered  
19 ongoing entitlements or obligations on the part of the State of  
20 Nebraska and shall not be used to replace existing funding for  
21 existing programs.

22           Sec. 3. (1) The Behavioral Health Endowment Fund is  
23 created. The fund shall consist of a portion of the Cash Reserve  
24 Fund as provided in section 84-612 and a portion of the cigarette  
25 tax proceeds as provided in section 77-2602. The fund shall include

1 money appropriated or transferred by the Legislature or otherwise  
2 received from any other public or private source for credit to the  
3 fund. All investment income from the Behavioral Health Endowment  
4 Fund shall be deposited in the Behavioral Health Endowment Cash  
5 Fund.

6 (2) The Behavioral Health Endowment Cash Fund is created.  
7 The fund shall include money transferred from the Behavioral Health  
8 Endowment Fund under subsection (1) of this section, including  
9 investment income credited pursuant to section 84-613.

10 (3) Any money in the Behavioral Health Endowment Fund or  
11 the Behavioral Health Endowment Cash Fund available for investment  
12 shall be invested by the state investment officer pursuant to  
13 the Nebraska Capital Expansion Act and the Nebraska State Funds  
14 Investment Act.

15 Sec. 4. (1) The Behavioral Health Workforce Development  
16 Program is created. The program shall be administered by the  
17 Behavioral Health Endowment Board of Trustees established in  
18 section 5 of this act. For budgetary purposes only, the program and  
19 the board of trustees shall be within the University of Nebraska.

20 (2) The board of trustees shall use the Behavioral Health  
21 Endowment Cash Fund for behavioral-health-related purposes under  
22 the Behavioral Health Workforce Development Program as provided in  
23 this section.

24 (3) The first priority for expenditures from the  
25 Behavioral Health Endowment Cash Fund shall be the statewide

1 recruitment, training, and retention of behavioral health  
2 providers, including, but not limited to, peer providers,  
3 psychiatric social workers, licensed alcohol and drug counselors,  
4 licensed mental health practitioners, nurse practitioners,  
5 psychologists, and psychiatrists.

6 (4) The second priority for expenditures from the  
7 Behavioral Health Endowment Cash Fund shall be the statewide  
8 development and provision of community-based behavioral health  
9 services, including, but not limited to, supported housing  
10 and employment, informal community support, peer support, and  
11 nonresidential, residential, hospital, and telehealth services.

12 (5) The third priority for expenditures from the  
13 Behavioral Health Endowment Cash Fund shall be other behavioral  
14 health priorities as identified by the board of trustees.

15 (6) The board of trustees shall report annually to the  
16 Governor, the Appropriations Committees of the Legislature, and  
17 the Health and Human Services Committee of the Legislature on  
18 expenditures from the Behavioral Health Endowment Cash Fund and the  
19 outcomes achieved from such expenditures.

20 Sec. 5. (1) The Behavioral Health Endowment Board of  
21 Trustees is created. The board of trustees shall consist of

22 (a) One representative of the Division of Behavioral  
23 Health of the Department of Health and Human Services;

24 (b) One representative of the University of Nebraska  
25 Medical Center;

1           (c) One representative of each postsecondary educational  
2 institution having a college of medicine located in Nebraska;

3           (d) The chairperson of the Nebraska Rural Health Advisory  
4 Commission; and

5           (e) Six persons appointed by the Governor.

6           (2) The Governor shall appoint the members under  
7 subdivision (1)(e) of this section for terms of three years, except  
8 that of the first members appointed, two shall be appointed for  
9 one-year terms and two shall be appointed for two-year terms.  
10 Vacancies shall be filled for the unexpired term in the same manner  
11 as provided for the original appointment. Members whose terms have  
12 expired shall continue to serve until their successors have been  
13 appointed and qualified.

14           (3) The board of trustees shall annually elect a  
15 chairperson and vice-chairperson from its own members. The board  
16 of trustees shall meet as least quarterly at the call of the  
17 chairperson. Members of the board of trustees shall be reimbursed  
18 for their actual and necessary expenses as provided in sections  
19 81-1174 to 81-1177.

20           (4) The board of trustees may employ staff, enter  
21 into contracts, and perform such other activities as necessary  
22 and appropriate for the administration of the Behavioral Health  
23 Workforce Development Program established under section 4 of this  
24 act. Administrative expenses for the program shall be paid from the  
25 Behavioral Health Endowment Cash Fund.

1           (5) The board of trustees shall establish procedures to  
2 carry out the Behavioral Health Workforce Development Program and  
3 make them available to the public.

4           Sec. 6. Section 77-2602, Revised Statutes Supplement,  
5 2007, is amended to read:

6           77-2602 (1) Every person engaged in distributing or  
7 selling cigarettes at wholesale in this state shall pay to the  
8 Tax Commissioner of this state a special privilege tax. This shall  
9 be in addition to all other taxes. It shall be paid prior to or  
10 at the time of the sale, gift, or delivery to the retail dealer  
11 in the several amounts as follows: On each package of cigarettes  
12 containing not more than twenty cigarettes, ~~sixty-four~~ seventy-four  
13 cents per package; and on packages containing more than twenty  
14 cigarettes, the same tax as provided on packages containing not  
15 more than twenty cigarettes for the first twenty cigarettes in each  
16 package and a tax of one-twentieth of the tax on the first twenty  
17 cigarettes on each cigarette in excess of twenty cigarettes in each  
18 package.

19           (2) Beginning October 1, 2004, the State Treasurer shall  
20 place the equivalent of forty-nine cents of such tax in the General  
21 Fund. The State Treasurer shall reduce the amount placed in the  
22 General Fund under this subsection by the amount prescribed in  
23 subdivision (3) (d) of this section. For purposes of this section,  
24 the equivalent of a specified number of cents of the tax shall mean  
25 that portion of the proceeds of the tax equal to the specified

1 number divided by the tax rate per package of cigarettes containing  
2 not more than twenty cigarettes.

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

5 (a) First, beginning July 1, 1980, the State Treasurer  
6 shall place the equivalent of one cent of such tax in the  
7 Nebraska Outdoor Recreation Development Cash Fund. For fiscal year  
8 distributions occurring after FY1998-99, the distribution under  
9 this subdivision shall not be less than the amount distributed  
10 under this subdivision for FY1997-98. Any money needed to increase  
11 the amount distributed under this subdivision to the FY1997-98  
12 amount shall reduce the distribution to the General Fund;

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

22 (c) Third, beginning October 1, 2002, and continuing  
23 until all the purposes of the Deferred Building Renewal Act have  
24 been fulfilled, the State Treasurer shall place the equivalent of  
25 seven cents of such tax in the Building Renewal Allocation Fund.

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

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

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

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

1 section by such amount required to fulfill the one million dollars  
2 to be distributed pursuant to this subdivision;

3 (g) Seventh, beginning July 1, 2001, and continuing  
4 until June 30, 2016, the State Treasurer shall place one million  
5 five hundred thousand dollars each fiscal year in the City of  
6 the Metropolitan Class Development Fund. If necessary, the State  
7 Treasurer shall reduce the distribution of tax proceeds to the  
8 General Fund pursuant to subsection (2) of this section by such  
9 amount required to fulfill the one million five hundred thousand  
10 dollars to be distributed pursuant to this subdivision; ~~and~~

11 (h) Eighth, beginning July 1, 2008, and continuing until  
12 June 30, 2009, the State Treasurer shall place the equivalent of  
13 two million fifty thousand dollars of such tax in the Nebraska  
14 Public Safety Communication System Cash Fund. Beginning July 1,  
15 2009, and continuing until June 30, 2016, the State Treasurer shall  
16 place the equivalent of two million five hundred seventy thousand  
17 dollars of such tax in the Nebraska Public Safety Communication  
18 System Cash Fund. Beginning July 1, 2016, and every fiscal year  
19 thereafter, the State Treasurer shall place the equivalent of  
20 five million seventy thousand dollars of such tax in the Nebraska  
21 Public Safety Communication System Cash Fund. If necessary, the  
22 State Treasurer shall reduce the distribution of tax proceeds to  
23 the General Fund pursuant to subsection (2) of this section by  
24 such amount required to fulfill the distribution pursuant to this  
25 subdivision; and -

1           (i) Ninth, beginning July 1, 2008, and continuing until  
2 June 30, 2012, the State Treasurer shall place the equivalent of  
3 ten cents of such tax in the Behavioral Health Endowment Fund.

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

8           (5) The Legislature hereby finds and determines that the  
9 projects funded from the Municipal Infrastructure Redevelopment  
10 Fund and the Building Renewal Allocation Fund are of critical  
11 importance to the State of Nebraska. It is the intent of the  
12 Legislature that the allocations and appropriations made by the  
13 Legislature to such funds or, in the case of allocations for  
14 the Municipal Infrastructure Redevelopment Fund, to the particular  
15 municipality's account not be reduced until all contracts and  
16 securities relating to the construction and financing of the  
17 projects or portions of the projects funded from such funds or  
18 accounts of such funds are completed or paid or, in the case  
19 of the Municipal Infrastructure Redevelopment Fund, the earlier  
20 of such date or July 1, 2009, and that until such time any  
21 reductions in the cigarette tax rate made by the Legislature  
22 shall be simultaneously accompanied by equivalent reductions in the  
23 amount dedicated to the General Fund from cigarette tax revenue.  
24 Any provision made by the Legislature for distribution of the  
25 proceeds of the cigarette tax for projects or programs other than

1 those to (a) the General Fund, (b) the Nebraska Outdoor Recreation  
2 Development Cash Fund, (c) the Health and Human Services Cash  
3 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the  
4 Building Renewal Allocation Fund, (f) the Information Technology  
5 Infrastructure Fund, (g) the City of the Primary Class Development  
6 Fund, (h) the City of the Metropolitan Class Development Fund,  
7 ~~and~~ (i) the Nebraska Public Safety Communication System Cash Fund,  
8 and (j) the Behavioral Health Endowment Fund shall not be made a  
9 higher priority than or an equal priority to any of the programs  
10 or projects specified in subdivisions (a) through ~~(i)~~ (j) of this  
11 subsection.

12           Sec. 7. Section 84-612, Revised Statutes Supplement,  
13 2007, is amended to read:

14           84-612 (1) There is hereby created within the state  
15 treasury a fund known as the Cash Reserve Fund which shall be under  
16 the direction of the State Treasurer. The fund shall only be used  
17 pursuant to this section.

18           (2) The State Treasurer shall transfer funds from the  
19 Cash Reserve Fund to the General Fund upon certification by the  
20 Director of Administrative Services that the current cash balance  
21 in the General Fund is inadequate to meet current obligations. Such  
22 certification shall include the dollar amount to be transferred.  
23 Any transfers made pursuant to this subsection shall be reversed  
24 upon notification by the Director of Administrative Services that  
25 sufficient funds are available.

1           (3) The State Treasurer, at the direction of the  
2 budget administrator of the budget division of the Department  
3 of Administrative Services, shall transfer such amounts not to  
4 exceed seven million seven hundred fifty-three thousand two hundred  
5 sixty-three dollars in total from the Cash Reserve Fund to the  
6 Nebraska Capital Construction Fund between July 1, 2003, and June  
7 30, 2007.

8           (4) The State Treasurer, at the direction of the budget  
9 administrator, shall transfer an amount equal to the total amount  
10 transferred pursuant to subsection (3) of this section from the  
11 General Fund to the Cash Reserve Fund on or before June 30, 2008.

12           (5) In addition to receiving transfers from other funds,  
13 the Cash Reserve Fund shall receive federal funds received by the  
14 State of Nebraska for undesignated general government purposes,  
15 federal revenue sharing, or general fiscal relief of the state.

16           (6) On June 15, 2007, the State Treasurer shall transfer  
17 fifteen million six hundred seventy-four thousand one hundred seven  
18 dollars from the Cash Reserve Fund to the General Fund.

19           (7) On June 16, 2008, the State Treasurer shall transfer  
20 seventeen million nine hundred thirty-one thousand thirty dollars  
21 from the Cash Reserve Fund to the General Fund.

22           (8) On June 15, 2009, the State Treasurer shall transfer  
23 four million nine hundred ninety thousand five hundred five dollars  
24 from the Cash Reserve Fund to the General Fund.

25           (9) On or before June 16, 2008, the State Treasurer, at

1 the direction of the budget administrator, shall transfer fifty  
2 million dollars from the Cash Reserve Fund to the General Fund.

3 (10) On or before June 16, 2009, the State Treasurer,  
4 at the direction of the budget administrator, shall transfer fifty  
5 million dollars from the Cash Reserve Fund to the General Fund.

6 (11) From the effective date of an endowment agreement  
7 as defined in subdivision (3)(c) of section 79-1101 until June  
8 30, 2007, forty million dollars of the Cash Reserve Fund shall be  
9 deemed to constitute the Early Childhood Education Endowment Fund.  
10 Such funds shall remain part of the Cash Reserve Fund for all  
11 purposes, except that the interest earned on such forty million  
12 dollars shall accrue as provided in section 84-613.

13 (12) The State Treasurer, at the direction of the budget  
14 administrator, shall transfer such amounts, as certified by the  
15 Director of Administrative Services, for employee health insurance  
16 claims and expenses, not to exceed twelve million dollars in total  
17 from the Cash Reserve Fund to the State Employees Insurance Fund  
18 between May 1, 2007, and June 30, 2011.

19 (13) On July 9, 2007, the State Treasurer shall transfer  
20 twelve million dollars from the Cash Reserve Fund to the Nebraska  
21 Capital Construction Fund.

22 (14) On July 9, 2007, the State Treasurer shall transfer  
23 five million dollars from the Cash Reserve Fund to the Job Training  
24 Cash Fund. The State Treasurer shall transfer from the Job Training  
25 Cash Fund to the Cash Reserve Fund such amounts as directed in

1 section 81-1201.21.

2 (15) On July 7, 2008, the State Treasurer shall transfer  
3 five million dollars from the Cash Reserve Fund to the Job Training  
4 Cash Fund. The State Treasurer shall transfer from the Job Training  
5 Cash Fund to the Cash Reserve Fund such amounts as directed in  
6 section 81-1201.21.

7 (16) On or before August 1, 2007, the State Treasurer,  
8 at the direction of the budget administrator, shall transfer  
9 seventy-five million dollars from the Cash Reserve Fund to the  
10 Nebraska Capital Construction Fund.

11 (17) On or before June 30, 2009, the State Treasurer  
12 shall transfer nine million five hundred ninety thousand dollars  
13 from the Cash Reserve Fund to the Nebraska Capital Construction  
14 Fund.

15 (18) The State Treasurer, at the direction of the budget  
16 administrator, shall transfer an amount equal to the total amount  
17 transferred pursuant to subsection (12) of this section from  
18 the appropriate health insurance accounts of the State Employees  
19 Insurance Fund in such amounts as certified by the Director of  
20 Administrative Services to the Cash Reserve Fund on or before June  
21 30, 2011.

22 (19) On July 9, 2007, the State Treasurer shall  
23 transfer one million dollars from the Cash Reserve Fund to the  
24 Microenterprise Development Cash Fund.

25 (20) On July 9, 2007, the State Treasurer shall transfer

1 two hundred fifty thousand dollars from the Cash Reserve Fund to  
2 the Building Entrepreneurial Communities Cash Fund.

3 (21) On July 7, 2008, the State Treasurer shall  
4 transfer one million dollars from the Cash Reserve Fund to the  
5 Microenterprise Development Cash Fund.

6 (22) On July 7, 2008, the State Treasurer shall transfer  
7 two hundred fifty thousand dollars from the Cash Reserve Fund to  
8 the Building Entrepreneurial Communities Cash Fund.

9 (23) Beginning July 1, 2008, until June 30, 2009, forty  
10 million dollars of the Cash Reserve Fund shall be deemed to  
11 constitute the Behavioral Health Endowment Fund. Such forty million  
12 dollars shall remain part of the Cash Reserve Fund for all  
13 purposes, except that the State Treasurer shall transfer the  
14 investment income earned on the forty million dollars in the  
15 Behavioral Health Endowment Fund to the Behavioral Health Endowment  
16 Cash Fund as provided in section 84-613.

17 Sec. 8. Section 84-613, Revised Statutes Supplement,  
18 2007, is amended to read:

19 84-613 Any money in the Cash Reserve Fund available  
20 for investment shall be invested by the state investment officer  
21 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
22 State Funds Investment Act. ~~Until July 1, 2007, any interest~~  
23 ~~earned by the fund shall accrue to the General Fund, except~~  
24 ~~for interest earned on forty million dollars if such money is~~  
25 ~~deemed to constitute the Early Childhood Education Endowment Fund~~

1 in accordance with subsection (11) of section 84-612. From the  
2 effective date of an endowment agreement as defined in subdivision  
3 (3)(c) of section 79-1101 until June 30, 2007, interest earned on  
4 the forty million dollars deemed to constitute the Early Childhood  
5 Education Endowment Fund shall accrue to the Early Childhood  
6 Education Endowment Cash Fund. Commencing July 1, 2007, any Any  
7 interest earned by the Cash Reserve Fund shall accrue to the  
8 General Fund, except that beginning July 1, 2008, and until June  
9 30, 2009, interest earned on the forty million dollars deemed to  
10 constitute the Behavioral Health Endowment Fund in accordance with  
11 section 84-612 shall accrue to the Behavioral Health Endowment Cash  
12 Fund.

13           Sec. 9. Original sections 77-2602, 84-612, and 84-613,  
14 Revised Statutes Supplement, 2007, are repealed.

15           Sec. 10. Since an emergency exists, this act takes effect  
16 when passed and approved according to law.