

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 698**

FINAL READING

Introduced by Louden, 49.

Read first time January 06, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating revenue and taxation; to amend sections  
2 77-908 and 77-912, Reissue Revised Statutes of  
3 Nebraska, and sections 44-32,180 and 44-4726, Revised  
4 Statutes Cumulative Supplement, 2008; to eliminate  
5 certain insurance premium tax provisions; to harmonize  
6 provisions; to repeal the original sections; and to  
7 declare an emergency.

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

1           Section 1. Section 44-32,180, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           44-32,180 (1) Any health maintenance organization subject  
4 to the Health Maintenance Organization Act shall also be subject  
5 to (a) the premium taxation provisions of Chapter 77, article 9,  
6 to the extent that the direct writing premiums are not otherwise  
7 subject to taxation under such article and (b) the retaliatory  
8 taxation provisions of section 44-150.

9           (2) ~~Except as provided in subsection (3) of this section,~~  
10 any Any capitation payment made in accordance with the Medical  
11 Assistance Act shall be excluded from computation of any tax  
12 obligation imposed by subsection (1) of this section.

13           ~~(3) Upon approval by the Centers for Medicare and~~  
14 ~~Medicaid Services of the United States Department of Health and~~  
15 ~~Human Services of federal financial participation based upon the~~  
16 ~~changes made by Laws 2002, LB 9, Ninety-seventh Legislature, Second~~  
17 ~~Special Session, any capitation payment made in accordance with the~~  
18 ~~Medical Assistance Act shall be included in the computation of any~~  
19 ~~tax obligation imposed by subsection (1) of this section.~~

20           Sec. 2. Section 44-4726, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22           44-4726 (1) The same taxes provided for in section  
23 44-32,180 shall be imposed upon each prepaid limited health service  
24 organization, and such organizations also shall be entitled to  
25 the same tax deductions, reductions, abatements, and credits that

1 health maintenance organizations are entitled to receive.

2 (2) ~~Except as provided in subsection (3) of this section,~~  
 3 any Any capitation payment made in accordance with the Medical  
 4 Assistance Act shall be excluded from computation of any tax  
 5 obligation imposed by subsection (1) of this section.

6 ~~(3) Upon approval by the Centers for Medicare and~~  
 7 ~~Medicaid Services of the United States Department of Health and~~  
 8 ~~Human Services of federal financial participation based upon the~~  
 9 ~~changes made by Laws 2002, LB 9, Ninety-seventh Legislature, Second~~  
 10 ~~Special Session, any capitation payment made in accordance with the~~  
 11 ~~Medical Assistance Act shall be included in the computation of any~~  
 12 ~~tax obligation imposed by subsection (1) of this section.~~

13 Sec. 3. Section 77-908, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 77-908 Every insurance company organized under the stock,  
 16 mutual, assessment, or reciprocal plan, except fraternal benefit  
 17 societies, which is transacting business in this state shall, on  
 18 or before March 1 of each year, pay a tax to the director of one  
 19 percent of the gross amount of direct writing premiums received by  
 20 it during the preceding calendar year for business done in this  
 21 state, except that (1) for group sickness and accident insurance  
 22 the rate of such tax shall be five-tenths of one percent, and (2)  
 23 for property and casualty insurance, excluding individual sickness  
 24 and accident insurance, the rate of such tax shall be one percent,  
 25 ~~and (3) for capitation payments made in accordance with the~~

1 ~~Medical Assistance Act, the rate of tax shall be five percent.~~ A  
2 captive insurer authorized under the Captive Insurers Act that is  
3 transacting business in this state shall, on or before March 1 of  
4 each year, pay to the director a tax of one-fourth of one percent  
5 of the gross amount of direct writing premiums received by such  
6 insurer during the preceding calendar year for business transacted  
7 in the state. The taxable premiums shall include premiums paid on  
8 the lives of persons residing in this state and premiums paid for  
9 risks located in this state whether the insurance was written in  
10 this state or not, including that portion of a group premium paid  
11 which represents the premium for insurance on Nebraska residents  
12 or risks located in Nebraska included within the group when the  
13 number of lives in the group exceeds five hundred. The tax shall  
14 also apply to premiums received by domestic companies for insurance  
15 written on individuals residing outside this state or risks located  
16 outside this state if no comparable tax is paid by the direct  
17 writing domestic company to any other appropriate taxing authority.  
18 Companies whose scheme of operation contemplates the return of a  
19 portion of premiums to policyholders, without such policyholders  
20 being claimants under the terms of their policies, may deduct  
21 such return premiums or dividends from their gross premiums for  
22 the purpose of tax calculations. Any such insurance company shall  
23 receive a credit on the tax imposed as provided in the Community  
24 Development Assistance Act.

25           Sec. 4. Section 77-912, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-912 The Director of Insurance shall transmit fifty  
3 percent of the taxes paid in conformity with Chapter 44, article 1,  
4 and Chapter 77, article 9, to the State Treasurer, forty percent of  
5 such taxes paid to the General Fund, and ten percent of such taxes  
6 paid to the Mutual Finance Assistance Fund promptly upon completion  
7 of his or her audit and examination and in no event later than May  
8 1 of each year, except that:

9           (1) All fire insurance taxes paid pursuant to sections  
10 44-150 and 81-523 shall be remitted to the State Treasurer for  
11 credit to the General Fund;

12           (2) All workers' compensation insurance taxes paid  
13 pursuant to section 44-150 shall be remitted to the State Treasurer  
14 for credit to the Compensation Court Cash Fund; and

15           (3) Commencing with the premium and related retaliatory  
16 taxes for the taxable year ending December 31, 2001, and for each  
17 taxable year thereafter, all premium and related retaliatory taxes  
18 imposed by section 44-150 or 77-908 paid by insurers writing health  
19 insurance in this state shall be remitted to the Comprehensive  
20 Health Insurance Pool Distributive Fund, and

21           ~~(4) All taxes paid pursuant to section 77-908 for~~  
22 ~~capitation payments made in accordance with the Medical Assistance~~  
23 ~~Act shall be remitted to the Health and Human Services Cash Fund.~~

24           Sec. 5. Original sections 77-908 and 77-912, Reissue  
25 Revised Statutes of Nebraska, and sections 44-32,180 and 44-4726,

1 Revised Statutes Cumulative Supplement, 2008, are repealed.

2           Sec. 6. Since an emergency exists, this act takes effect

3 when passed and approved according to law.