

SENATE BILL NO. 421—COMMITTEE ON FINANCE

(ON BEHALF OF THE DIVISION OF BUDGET AND PLANNING)

MARCH 28, 2011

Referred to Committee on Finance

SUMMARY—Revises provisions relating to certain funds.
(BDR 40-1170)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; increasing the percentage of certain money received by the State to be allocated to the Fund for a Healthy Nevada; revising provisions relating to the allocation of money in the Fund for a Healthy Nevada; eliminating the Trust Fund for Public Health; providing for the transfer of money remaining in the Trust Fund for Public Health; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Trust Fund for Public Health receives 10 percent of all "tobacco settlement" money, which is that money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products and money received by the State pursuant to any judgment in a civil action against a manufacturer of tobacco products. The Trust Fund for Public Health uses interest and income earned on that money to fund grants for programs relating to public health. (NRS 439.605) Additionally, 50 percent of all tobacco settlement money goes to the Fund for a Healthy Nevada and is then allocated to various other programs relating to public health in amounts or according to percentages of available revenues set by statute. (NRS 439.620, 439.630)

This bill eliminates the Trust Fund for Public Health and provides for money in the Trust Fund for Public Health to be transferred to the Fund for a Healthy Nevada. This bill also increases to 60 percent the share of tobacco settlement money allocated to the Fund for a Healthy Nevada. Additionally, this bill removes the provisions setting the percentages of available revenues to be allocated from the Fund for a Healthy Nevada on specific programs and instead requires the Department of Health and Human Services to propose a biennial plan for the allocation of money for those programs. The plan must be submitted as part of



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the proposed biennial budget of the Department. In preparing the plan, the Department shall consider recommendations submitted by the Grants Management Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities. Finally, this bill removes certain programs relating to the prevention, reduction and treatment of tobacco use from the list of programs for which money in the Fund for a Healthy Nevada must be allocated.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 439.620 is hereby amended to read as follows:
439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) ~~Fifty~~ **Sixty** percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) ~~Fifty~~ **Sixty** percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:

(a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and



(b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging and Disability Services Division of the Department, to carry out its duties set forth in NRS 439.630, to administer the provisions of NRS 439.635 to 439.690, inclusive, and NRS 439.705 to 439.795, inclusive.

➤ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to be used for any purpose authorized by the Legislature or by the Department for expenditure or allocation in accordance with the provisions of NRS 439.630. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) ~~[Allocate not more than 30 percent of available revenues]~~
Subject to legislative appropriation, allocate money for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for



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1 senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From
2 the money allocated pursuant to this paragraph, the Department may
3 subsidize any portion of the cost of providing prescription drugs,
4 pharmaceutical services and, to the extent money is available, other
5 benefits, including, without limitation, dental and vision benefits
6 and hearing aids or other devices that enhance the ability to hear, to
7 senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The
8 Department shall consider recommendations from the Grants
9 Management Advisory Committee in carrying out the provisions of
10 NRS 439.635 to 439.690, inclusive. The Department shall submit a
11 quarterly report to the Governor, the Interim Finance Committee,
12 the Legislative Committee on Health Care and any other committees
13 or commissions the Director deems appropriate regarding the
14 general manner in which expenditures have been made pursuant to
15 this paragraph.

16 (d) ~~Allocate,~~ *Subject to legislative appropriation, allocate,* by
17 contract or grant, *money* for expenditure ~~not more than 30 percent~~
18 ~~of available revenues for allocation~~ by the Aging and Disability
19 Services Division of the Department in the form of grants for
20 existing or new programs that assist senior citizens with independent
21 living, including, without limitation, programs that provide:

22 (1) Respite care or relief of informal caretakers;
23 (2) Transportation to new or existing services to assist senior
24 citizens in living independently; and

25 (3) Care in the home which allows senior citizens to remain
26 at home instead of in institutional care.

27 ➔ The Aging and Disability Services Division of the Department
28 shall consider recommendations from the Grants Management
29 Advisory Committee concerning the independent living needs of
30 senior citizens.

31 (e) Allocate \$200,000 of all revenues deposited in the Fund for a
32 Healthy Nevada each year for direct expenditure by the Director to:

33 (1) Provide guaranteed funding to finance assisted living
34 facilities that satisfy the criteria for certification set forth in NRS
35 319.147; and

36 (2) Fund assisted living facilities that satisfy the criteria for
37 certification set forth in NRS 319.147 and assisted living supportive
38 services that are provided pursuant to the provisions of the home
39 and community-based services waiver which are amended pursuant
40 to NRS 422.2708.

41 ➔ The Director shall develop policies and procedures for
42 distributing the money allocated pursuant to this paragraph. Money
43 allocated pursuant to this paragraph does not revert to the Fund at
44 the end of the fiscal year.



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(f) ~~Allocate to the Health Division not more than 15 percent of available revenues for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:~~

~~—— (1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;~~

~~—— (2) For such programs in counties whose population is less than 100,000; and~~

~~—— (3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.~~

~~—— (g) Allocate,] Subject to legislative appropriation, allocate, by contract or grant, money for expenditure [not more than 10 percent of available revenues] for programs that improve the health [services for children.] and well-being of residents of this State.~~

~~[(h) Allocate,]~~

~~(g) Subject to legislative appropriation, allocate, by contract or grant, money for expenditure [not more than 10 percent of available revenues] for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:~~

~~(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;~~

~~(2) Programs that provide positive behavioral supports to persons with disabilities; and~~

~~(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.~~

~~[(i) Allocate not more than 5 percent of available revenues]~~

~~(h) Subject to legislative appropriation, allocate money for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management~~



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1 Advisory Committee in carrying out the provisions of NRS 439.705
2 to 439.795, inclusive.

3 ~~(f)(i)~~ (i) Maximize expenditures through local, federal and
4 private matching contributions.

5 ~~(f)(j)~~ (j) Ensure that any money expended from the Fund will
6 not be used to supplant existing methods of funding that are
7 available to public agencies.

8 ~~(f)(k)~~ (k) Develop policies and procedures for the administration
9 and distribution of contracts, grants and other expenditures to state
10 agencies, political subdivisions of this State, nonprofit
11 organizations, universities, state colleges and community colleges.
12 A condition of any such contract or grant must be that not more than
13 8 percent of the contract or grant may be used for administrative
14 expenses or other indirect costs. The procedures must require at
15 least one competitive round of requests for proposals per biennium.

16 ~~(f)(m)~~ (l) To make the allocations required by paragraphs ~~(f)(i)~~
17 (g) and (h):

18 (1) Prioritize and quantify the needs for these programs;

19 (2) Develop, solicit and accept applications for allocations;

20 (3) Review and consider the recommendations of the Grants
21 Management Advisory Committee submitted pursuant to
22 NRS 232.385;

23 (4) Conduct annual evaluations of programs to which
24 allocations have been awarded; and

25 (5) Submit annual reports concerning the programs to the
26 Governor, the Interim Finance Committee, the Legislative
27 Committee on Health Care and any other committees or
28 commissions the Director deems appropriate.

29 ~~(f)(n)~~ (m) Transmit a report of all findings, recommendations
30 and expenditures to the Governor, each regular session of the
31 Legislature, the Legislative Committee on Health Care and any
32 other committees or commissions the Director deems appropriate.

33 *(n) After considering the recommendations submitted to the*
34 *Director pursuant to subsection 6, develop a plan each biennium*
35 *to determine the percentage of available money in the Fund for a*
36 *Healthy Nevada to be allocated from the Fund for the purposes*
37 *described in paragraphs (c), (d), (f), (g) and (h). The plan must be*
38 *submitted as part of the proposed budget submitted to the Chief of*
39 *the Budget Division of the Department of Administration pursuant*
40 *to NRS 353.210.*

41 *(o) On or before September 30 of each even-numbered year,*
42 *submit to the Grants Management Advisory Committee created by*
43 *NRS 232.383, the Nevada Commission on Aging created by NRS*
44 *427A.032 and the Nevada Commission on Services for Persons*
45 *with Disabilities created by NRS 427A.1211 a report on the*



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funding plan submitted to the Chief of the Budget Division of the Department of Administration pursuant to paragraph (n).

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

(a) Prioritize and quantify the needs of senior citizens for these programs;

(b) Develop, solicit and accept grant applications for allocations;

(c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;

(d) Award grants, contracts or other allocations;

(e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.



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6. ~~{As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.}~~ *On or before June 30 of each even-numbered year, the Grants Management Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities each shall submit to the Director a report that includes, without limitation, recommendations regarding community needs and priorities that are determined by each such entity after any public hearings held by the entity.*

Sec. 3. The State Controller shall transfer to the Fund for a Healthy Nevada created by NRS 439.620, as soon as practicable on or after July 1, 2011, all money remaining in the Trust Fund for Public Health created by NRS 439.605 that has not been committed for expenditure.

Sec. 4. NRS 439.605, 439.610 and 439.615 are hereby repealed.

Sec. 5. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.605 Creation and administration of Fund; permissible investments; appropriation and expenditure of interest and income.

1. The Trust Fund for Public Health is hereby created in the State Treasury. The State Treasurer shall deposit in the Trust Fund:

(a) Ten percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Ten percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

(a) Shall maintain the financial records of the Trust Fund;

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and



(f) May perform any other duties necessary to administer the Trust Fund.

3. In addition to the investments authorized pursuant to paragraph (b) of subsection 2, the State Treasurer may, except as otherwise provided in subsection 4, invest the money in the Trust Fund in:

(a) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than \$50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 2 and paragraphs (a) and (b) of this subsection.

4. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 3 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to subsection 3. The State Treasurer shall establish such criteria for the qualifications



of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

5. The interest and income earned on the money in the Trust Fund is hereby appropriated to the Board of Trustees of the Trust Fund for Public Health and must, after deducting any applicable charges, be credited to the Fund and accounted for separately. All claims against the Fund must be paid as other claims against the State are paid.

6. Only the interest and income earned on the money in the Trust Fund may be expended. Such expenditures may be made for:

(a) Grants made pursuant to NRS 439.615 for:

(1) The promotion of public health and programs for the prevention of disease or illness;

(2) Research on issues related to public health; and

(3) The provision of direct health care services to children and senior citizens;

(b) Expenses related to the operation of the Board of Trustees of the Trust Fund;

(c) Actual costs incurred by the Health Division for providing administrative assistance to the Board, but in no event may more than 2 percent of the money in the Fund be used for administrative expenses or other indirect costs; and

(d) Any other purpose authorized by the Legislature.

7. The money in the Trust Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

439.610 Board of Trustees of Fund: Creation; membership; election of Chair; meetings; quorum; compensation of members; administrative support.

1. The Board of Trustees of the Trust Fund for Public Health is hereby created.

2. The Board consists of 11 members composed of:

(a) The Administrator or a designee of the Administrator.

(b) The State Health Officer or a designee of the State Health Officer.

(c) The Chair of the Nevada Commission on Aging or a designee of the Chair.

(d) The Chair of the State Board of Health or a designee of the Chair.

(e) The Chair of the Advisory Board on Maternal and Child Health or a designee of the Chair.

(f) The superintendent of schools of the school district in this State that has the highest number of enrolled pupils or a designee of that superintendent.



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(g) The county health officers of the two most populous counties in this State.

(h) One member appointed by the Nevada Association of Counties, or its successor, who serves as a county health officer in a rural area of this State.

(i) A representative of the University of Nevada School of Medicine appointed by the Dean of the School of Medicine.

(j) One member appointed by the Governor who possesses knowledge, skill and experience in providing health care services.

3. The term of a member of the Board who is appointed pursuant to paragraph (h), (i) or (j) of subsection 2 is 4 years.

4. The Board shall annually elect a Chair from among its members. The Board shall meet at least quarterly. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

5. Each member of the Board serves without compensation. While engaged in the business of the Board, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the Board who is an officer or employee of this State or a local government thereof must be paid by the state agency or the local government.

(b) Any other member of the Board must be paid from the interest and income earned on the money in the Trust Fund.

6. Each member of the Board who is an officer or employee of this State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the officer or employee may perform his or her duties relating to the Board in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Board to:

(a) Make up the time he or she is absent from work to fulfill his or her obligations as a member of the Board; or

(b) Take annual leave or compensatory time for the absence.

7. The Health Division shall provide such administrative support to the Board as is required to carry out the duties of the Board.

439.615 Board of Trustees of Fund: Powers and duties.

1. The Board of Trustees shall:

(a) In accordance with the provisions set forth in subsection 6 of NRS 439.605, develop policies and procedures for the expenditure of the interest and income earned on the money in the Trust Fund for Public Health.



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(b) After deducting authorized expenses, annually make grants in a cumulative amount equal to the interest and income earned on the money in the Trust Fund for Public Health.

(c) Develop forms for requests for proposals for grants and disseminate information about the grant program. A condition of each such grant must be that not more than 8 percent of the grant may be used for administrative expenses and other indirect costs.

(d) Publish an annual report of the activities of the Board and the grants made by the Board. A copy of each such report must be transmitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

2. The Board may take such other actions as are necessary to carry out its duties and the provisions of this section and NRS 439.605 and 439.610.

