

AMENDMENTS TO LB 701

Introduced by Natural Resources

1 1. Strike the original sections and all amendments
2 thereto and insert the following sections:

3 Sec. 23. (1) The Water Resources Cash Fund is created.
4 The fund shall be administered by the Department of Natural
5 Resources. Any money in the fund available for investment shall be
6 invested by the state investment officer pursuant to the Nebraska
7 Capital Expansion Act and the Nebraska State Funds Investment Act.

8 (2) The State Treasurer shall credit to the fund such
9 money as is (a) transferred to the fund by the Legislature, (b)
10 paid to the state as fees, deposits, payments, and repayments
11 relating to the fund, both principal and interest, (c) donated as
12 gifts, bequests, or other contributions to such fund from public or
13 private entities, (d) made available by any department or agency of
14 the United States if so directed by such department or agency, and
15 (e) credited to the fund from the excise taxes imposed by section
16 66-1345.01 beginning January 1, 2013.

17 (3) The fund shall be expended by the department to
18 (i) aid management actions taken to reduce consumptive uses of
19 water in river basins, subbasins, or reaches which are deemed
20 by the department overappropriated pursuant to section 46-713 or
21 fully appropriated pursuant to section 46-714 or are bound by
22 an interstate compact or decree or a formal state contract or
23 agreement and (ii) the extent funds are not expended on subdivision

1 (i) of this subsection, the department may conduct a statewide
2 assessment of short and long-term water management activities and
3 funding needs to meet statutory requirements in sections 46-713 to
4 46-718 and 46-739 and any requirements of an interstate compact or
5 decree or formal state contract or agreement. The fund shall not
6 be used to pay for administrative expenses or any salaries for the
7 department or any political subdivision.

8 (4) It is the intent of the Legislature that two million
9 seven hundred thousand dollars be transferred each fiscal year from
10 the General Fund to the Water Resources Cash Fund for FY2009-10
11 through FY2018-19.

12 (5) (a) Expenditures from the Water Resources Cash
13 Fund may be made to natural resources districts eligible under
14 subsection (3) of this section for activities to either achieve
15 a sustainable balance of consumptive water uses or to assure
16 compliance with an interstate compact or decree or a formal state
17 contract or agreement and shall require a match of local funding
18 in an amount equal to or greater than forty percent of the total
19 cost of carrying out the eligible activity. Any natural resources
20 district receiving funding from the Water Resources Cash Fund
21 for fiscal year 2007-08 shall submit a report of its planned
22 expenditures for the activity to the Legislature by July 15, 2007,
23 and by November 15, 2007, for funding for any subsequent year. The
24 report shall include:

25 (i) An explanation of how the planned activity will
26 assure compliance with an interstate compact or decree or a formal
27 state contract or agreement as required by section 46-715 and

1 the controls, rules, and regulations designed to carry out the
2 activity; and

3 (ii) A schedule of implementation of the activity or its
4 components.

5 (b) Any natural resources district receiving funding from
6 the Water Resources Cash Fund shall agree as a condition to repay
7 the fund if the Legislature finds that the district failed to
8 implement and enforce its controls, rules, and regulations as
9 required by section 46-715.

10 Sec. 24. Section 61-210, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 61-210 The Department of Natural Resources Cash Fund
13 is created. The State Treasurer shall credit to such fund such
14 money as is specifically appropriated or reappropriated by the
15 Legislature. The State Treasurer shall also credit such fund with
16 payments, if any, accepted for services rendered by the department
17 and fees collected pursuant to subsection (6) of section 46-606
18 and section 61-209. The funds made available to the Department
19 of Natural Resources by the United States, through the Natural
20 Resources Conservation Service of the Department of Agriculture or
21 through any other agencies, shall be credited to the fund by the
22 State Treasurer. Any money in the fund available for investment
23 shall be invested by the state investment officer pursuant to
24 the Nebraska Capital Expansion Act and the Nebraska State Funds
25 Investment Act. The Department of Natural Resources shall allocate
26 money from the fund to pay costs of the programs or activities
27 of the department. The Director of Administrative Services, upon

1 receipt of proper vouchers approved by the department, shall issue
2 warrants on the fund, and the State Treasurer shall countersign
3 and pay from, but never in excess of, the amounts to the credit
4 of the fund. ~~The State Treasurer shall transfer any money in the~~
5 ~~Department of Water Resources Cash Fund and in the Nebraska Natural~~
6 ~~Resources Commission Cash Fund on July 1, 2000, to the Department~~
7 ~~of Natural Resources Cash Fund.~~

8 Sec. 25. Section 66-1345, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 66-1345 (1) There is hereby created the Ethanol
11 Production Incentive Cash Fund which shall be used by the board
12 to pay the credits created in section 66-1344 to the extent
13 provided in this section. Any money in the fund available for
14 investment shall be invested by the state investment officer
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska
16 State Funds Investment Act. The State Treasurer shall transfer to
17 the Ethanol Production Incentive Cash Fund such money as shall be
18 (a) appropriated to the Ethanol Production Incentive Cash Fund by
19 the Legislature, (b) given as gifts, bequests, grants, or other
20 contributions to the Ethanol Production Incentive Cash Fund from
21 public or private sources, (c) made available due to failure to
22 fulfill conditional requirements pursuant to investment agreements
23 entered into prior to April 30, 1992, (d) received as return on
24 investment of the Ethanol Authority and Development Cash Fund, (e)
25 credited to the Ethanol Production Incentive Cash Fund from the
26 excise taxes imposed by section 66-1345.01, and (f) credited to the
27 Ethanol Production Incentive Cash Fund pursuant to sections 66-489,

1 ~~66-4,134,~~ 66-726, 66-1345.04, and 66-1519.

2 (2) The Department of Revenue shall, at the end of each
3 calendar month, notify the State Treasurer of the amount of motor
4 fuel tax that was not collected in the preceding calendar month
5 due to the credits provided in section 66-1344. The State Treasurer
6 shall transfer from the Ethanol Production Incentive Cash Fund to
7 the Highway Trust Fund an amount equal to such credits less the
8 following amounts:

9 (a) For 1993, 1994, and 1995, the amount generated during
10 the calendar quarter by a one-cent tax on motor fuel pursuant to
11 sections 66-489 and 66-6,107;

12 (b) For 1996, the amount generated during the calendar
13 quarter by a three-quarters-cent tax on motor fuel pursuant to such
14 sections;

15 (c) For 1997, the amount generated during the calendar
16 quarter by a one-half-cent tax on motor fuel pursuant to such
17 sections; and

18 (d) For 1998 and each year thereafter, no reduction.

19 For 1993 through 1997, if the amount generated pursuant
20 to subdivisions (a), (b), and (c) of this subsection and the
21 amount transferred pursuant to subsection (1) of this section are
22 not sufficient to fund the credits provided in section 66-1344,
23 then the credits shall be funded through the Ethanol Production
24 Incentive Cash Fund but shall not be funded through either the
25 Highway Cash Fund or the Highway Trust Fund. For 1998 and each year
26 thereafter, the credits provided in such section shall be funded
27 through the Ethanol Production Incentive Cash Fund but shall not be

1 funded through either the Highway Cash Fund or the Highway Trust
2 Fund.

3 If, during any month, the amount of money in the Ethanol
4 Production Incentive Cash Fund is not sufficient to reimburse the
5 Highway Trust Fund for credits earned pursuant to section 66-1344,
6 the Department of Revenue shall suspend the transfer of credits by
7 ethanol producers until such time as additional funds are available
8 in the Ethanol Production Incentive Cash Fund for transfer to the
9 Highway Trust Fund. Thereafter, the Department of Revenue shall, at
10 the end of each month, allow transfer of accumulated credits earned
11 by each ethanol producer on a prorated basis derived by dividing
12 the amount in the fund by the aggregate amount of accumulated
13 credits earned by all ethanol producers.

14 (3) The State Treasurer shall transfer from the Ethanol
15 Production Incentive Cash Fund to the Management Services Expense
16 Revolving Fund the amount reported under subsection (4) of section
17 66-1345.02 for each calendar month of the fiscal year as provided
18 in such subsection.

19 (4) On December 31, 2012, the State Treasurer shall
20 transfer ~~one-half~~ of the unexpended and unobligated funds,
21 including all subsequent investment interest, from the Ethanol
22 Production Incentive Cash Fund to the ~~Nebraska Corn Development,~~
23 ~~Utilization, and Marketing Fund and Grain Sorghum Development,~~
24 ~~Utilization, and Marketing Fund~~ in the same proportion as funds
25 were collected pursuant to section 66-1345.01 from corn and grain
26 sorghum. The Department of Agriculture shall assist the State
27 Treasurer in determining the amounts to be transferred to the

1 ~~funds. The remaining one-half of the unexpended and unobligated~~
2 ~~funds shall be transferred to the General Fund. Water Resources~~
3 ~~Cash Fund.~~

4 (5) Whenever the unobligated balance in the Ethanol
5 Production Incentive Cash Fund exceeds twenty million dollars, the
6 Department of Revenue shall notify the Department of Agriculture at
7 which time the Department of Agriculture shall suspend collection
8 of the excise tax levied pursuant to section 66-1345.01. If, after
9 suspension of the collection of such excise tax, the balance of
10 the fund falls below ten million dollars, the Department of Revenue
11 shall notify the Department of Agriculture which shall resume
12 collection of the excise tax.

13 (6) On or before December 1, 2003, and each December
14 1 thereafter, the Department of Revenue and the Nebraska Ethanol
15 Board shall jointly submit a report to the Legislature which shall
16 project the anticipated revenue and expenditures from the Ethanol
17 Production Incentive Cash Fund through the termination of the
18 ethanol production incentive programs pursuant to section 66-1344.
19 The initial report shall include a projection of the amount
20 of ethanol production for which the Department of Revenue has
21 entered agreements to provide ethanol production credits pursuant
22 to section 66-1344.01 and any additional ethanol production which
23 the Department of Revenue and the Nebraska Ethanol Board reasonably
24 anticipate may qualify for credits pursuant to section 66-1344.

25 Sec. 26. Section 66-1345.01, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 66-1345.01 An excise tax is levied upon all corn and

1 grain sorghum sold through commercial channels in Nebraska or
2 delivered in Nebraska. For any sale or delivery of corn or grain
3 sorghum occurring on or after July 1, 1995, and before January
4 1, 2000, the tax is three-fourths cent per bushel for corn and
5 three-fourths cent per hundredweight for grain sorghum. For any
6 sale or delivery of corn or grain sorghum occurring on or after
7 January 1, 2000, and before January 1, 2001, the tax is one-half
8 cent per bushel for corn and one-half cent per hundredweight for
9 grain sorghum. For any sale or delivery of corn or grain sorghum
10 occurring on or after October 1, 2001, and before October 1, 2004,
11 the tax is one-half cent per bushel for corn and one-half cent per
12 hundredweight for grain sorghum. For any sale or delivery of corn
13 or grain sorghum occurring on or after October 1, 2004, and before
14 October 1, 2005, the tax is three-fourths cent per bushel for
15 corn and three-fourths cent per hundredweight for grain sorghum.
16 For any sale or delivery of corn or grain sorghum occurring on
17 or after October 1, 2005, and before October 1, 2010, the tax is
18 seven-eighths cent per bushel for corn and seven-eighths cent per
19 hundredweight for grain sorghum. For any sale or delivery of corn
20 or grain sorghum occurring on or after October 1, 2012, and before
21 October 1, 2019, the tax is one-half cent per bushel for corn and
22 one-half cent per hundredweight for grain sorghum. The tax shall
23 be in addition to any fee imposed pursuant to sections 2-3623 and
24 2-4012.

25 The excise tax shall be imposed at the time of sale or
26 delivery and shall be collected by the first purchaser. The tax
27 shall be collected, administered, and enforced in conjunction with

1 the fees imposed pursuant to sections 2-3623 and 2-4012. The tax
2 shall be collected, administered, and enforced by the Department of
3 Agriculture. No corn or grain sorghum shall be subject to the tax
4 imposed by this section more than once.

5 In the case of a pledge or mortgage of corn or grain
6 sorghum as security for a loan under the federal price support
7 program, the excise tax shall be deducted from the proceeds of such
8 loan at the time the loan is made. If, within the life of the loan
9 plus thirty days after the collection of the excise tax for corn
10 or grain sorghum that is mortgaged as security for a loan under
11 the federal price support program, the grower of the corn or grain
12 sorghum so mortgaged decides to purchase the corn or grain sorghum
13 and use it as feed, the grower shall be entitled to a refund of
14 the excise tax previously paid. The refund shall be payable by the
15 department upon the grower's written application for a refund. The
16 application shall have attached proof of the tax deducted.

17 The excise tax shall be deducted whether the corn or
18 grain sorghum is stored in this or any other state. The excise
19 tax shall not apply to the sale of corn or grain sorghum to the
20 federal government for ultimate use or consumption by the people
21 of the United States when the State of Nebraska is prohibited from
22 imposing such tax by the Constitution of the United States and laws
23 enacted pursuant thereto.

24 Sec. 27. Section 66-1345.02, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 66-1345.02 (1) The first purchaser, at the time of sale
27 or delivery, shall retain the excise tax as provided in section

1 66-1345.01 and shall maintain the necessary records of the excise
2 tax for each sale or delivery of corn or grain sorghum. Records
3 maintained by the first purchaser shall provide (a) the name and
4 address of the seller or deliverer, (b) the date of the sale or
5 delivery, (c) the number of bushels of corn or hundredweight of
6 grain sorghum sold or delivered, and (d) the amount of excise
7 tax retained on each sale or delivery. The records shall be open
8 for inspection and audit by authorized representatives of the
9 Department of Agriculture during normal business hours observed by
10 the first purchaser.

11 (2) The first purchaser shall render and have on file
12 with the department by the last day of each January, April, July,
13 and October on forms prescribed by the department a statement of
14 the number of bushels of corn and hundredweight of grain sorghum
15 sold or delivered in Nebraska. At the time the statement is filed,
16 the first purchaser shall pay and remit to the department the
17 excise tax.

18 (3) The department shall remit the excise tax collected
19 to the State Treasurer for credit to the Ethanol Production
20 Incentive Cash Fund within thirty days after the end of each
21 quarter through December 31, 2010. Beginning January 1, 2013,
22 the department shall remit the excise tax collected to the State
23 Treasurer for credit to the Water Resources Cash Fund within thirty
24 days after the end of each quarter.

25 (4) The department shall calculate its costs in
26 collecting and enforcing the excise tax imposed by section
27 66-1345.01 and shall report such costs to the budget division of

1 the Department of Administrative Services within thirty days after
2 the end of the fiscal year. Sufficient funds to cover such costs
3 shall be transferred from the Ethanol Production Incentive Cash
4 Fund to the Management Services Expense Revolving Fund at the end
5 of each calendar month, with such transfers ending December 31,
6 2010. Beginning January 1, 2013, the department shall calculate its
7 costs in collecting and enforcing the excise tax imposed by section
8 66-1345.01 and shall report such costs to the budget division
9 of the Department of Administrative Services within thirty days
10 after the end of the fiscal year. Sufficient funds to cover such
11 costs shall be transferred from the Water Resources Cash Fund to
12 the Management Services Expense Revolving Fund at the end of each
13 calendar month. Funds shall be transferred upon the receipt of
14 a report of costs incurred by the Department of Agriculture for
15 the previous calendar month by the Department of Administrative
16 Services.

17 Sec. 28. The State Treasurer shall transfer \$2,700,000
18 from the General Fund to the Water Resources Cash Fund, on
19 or before June 30, 2008, on such date as directed by the
20 budget administrator of the budget division of the Department
21 of Administrative Services.

22 Sec. 29. The State Treasurer shall transfer \$2,700,000
23 from the General Fund to the Water Resources Cash Fund, on
24 or before June 30, 2009, on such date as directed by the
25 budget administrator of the budget division of the Department
26 of Administrative Services.

27 Sec. 30. It is the intent of the Legislature that the

- 1 Department of Natural Resources may undertake measures in fiscal
- 2 year 2006-07 to further facilitate compliance with interstate
- 3 compact or decree stipulations.