

AMENDMENTS TO LB1368

Introduced by Ibach, 44.

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

3 Section 1. Sections 1 to 7 of this act shall be known and may be
4 cited as the Nitrogen Reduction Incentive Act.

5 Sec. 2. The Legislature finds and declares that:

6 (1) Agriculture is Nebraska's number one industry;

7 (2) Water is Nebraska's most precious natural resource;

8 (3) Nebraska farmers are leading the charge on sustainable
9 agriculture initiatives that will make Nebraska a world-renowned leader
10 and ensure protection of the land and water of Nebraska for generations
11 to come; and

12 (4) The Nitrogen Reduction Incentive Act encourages farmers to adopt
13 efficient and sustainable practices to help Nebraska protect these
14 natural resources and positions Nebraska farmers to compete.

15 Sec. 3. For purposes of the Nitrogen Reduction Incentive Act,
16 commercial fertilizer has the same meaning as in section 81-2,162.02.

17 Sec. 4. (1) The nitrogen reduction incentive program is created and
18 shall be administered by the Department of Natural Resources. The
19 department may collaborate with natural resources districts to administer
20 the program.

21 (2) The purposes of the program are to:

22 (a) Provide incentive payments to farmers; and

23 (b) Encourage farmers to (i) reduce the use of commercial fertilizer
24 and (ii) incorporate innovative technology into farming practices,
25 including the proper use of biological nitrogen products.

26 (3) The program shall provide an annual per-acre incentive for any
27 farmer who verifies through documentation that commercial fertilizer

1 rates were reduced by the lesser of forty pounds per acre for nitrogen or
2 fifteen percent by incorporating a qualifying product in the farmer's
3 nutrient plans.

4 (4) A commercial fertilizer rate reduction from historic baseline
5 use shall be completed to qualify for the program.

6 (5) The department shall review the required commercial fertilizer
7 rate of reduction for the program on a biennial basis to determine if
8 higher reduction targets are necessary.

9 (6) The department shall:

10 (a) Collaborate with natural resources districts to add any new
11 technology to the program as it becomes available. Such technology shall
12 replace nitrogen fertilizer use and maintain farm productivity;

13 (b) Identify geographically beneficial target areas while keeping
14 the program open to all farmers in the state;

15 (c) Consult with farmers and commercial entities in the agriculture
16 industry to determine a per-acre payment rate tied to the commercial
17 fertilizer rate reduction but not less than ten dollars per acre; and

18 (d) Review the per-acre payment rate based on inflation or emerging
19 technology in subsequent years.

20 (7)(a) The department shall not award an amount of incentive
21 payments in total per year under the nitrogen reduction incentive program
22 that is greater than the lesser of:

23 (i) Five million dollars; or

24 (ii) The amount appropriated for such purpose by the Legislature.

25 (b) It is the intent of the Legislature that any appropriation from
26 the General Fund to carry out the Nitrogen Reduction Incentive Act be
27 used only for operating expenses.

28 Sec. 5. The Department of Natural Resources may adopt and
29 promulgate rules and regulations that adopt a standard for labeled
30 commercial fertilizer products to qualify for the nitrogen reduction
31 incentive program and may adopt and promulgate rules and regulations to

1 carry out the Nitrogen Reduction Incentive Act.

2 Sec. 6. (1) The Nitrogen Reduction Incentive Cash Fund is created
3 and shall be administered by the Department of Natural Resources for
4 purposes of the Nitrogen Reduction Incentive Act. The Nitrogen Reduction
5 Incentive Cash Fund may consist of transfers as directed by the
6 Legislature and gifts, grants, bequests, and money from any public or
7 private source.

8 (2) The Department of Natural Resources may apply for all grants
9 from state, federal, and private sources that are applicable to the
10 purposes of the Nitrogen Reduction Incentive Act.

11 (3) Any such grant applied for by the Department of Natural
12 Resources that is awarded to the Department of Natural Resources or the
13 State of Nebraska shall be credited to the Nitrogen Reduction Incentive
14 Cash Fund.

15 (4) Any money in the fund available for investment shall be invested
16 by the state investment officer pursuant to the Nebraska Capital
17 Expansion and the Nebraska State Funds Investment Act.

18 Sec. 7. The Nitrogen Reduction Incentive Act terminates on December
19 31, 2029.

20 Sec. 8. Section 61-218, Revised Statutes Supplement, 2023, is
21 amended to read:

22 61-218 (1) The Water Resources Cash Fund is created. The fund shall
23 be administered by the Department of Natural Resources. Any money in the
24 fund available for investment shall be invested by the state investment
25 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
26 State Funds Investment Act.

27 (2) The State Treasurer shall credit to the fund such money as is
28 (a) transferred to the fund by the Legislature, (b) paid to the state as
29 fees, deposits, payments, and repayments relating to the fund, both
30 principal and interest, (c) donated as gifts, bequests, or other
31 contributions to such fund from public or private entities, (d) made

1 available by any department or agency of the United States if so directed
2 by such department or agency, (e) allocated pursuant to section
3 81-15,175, and (f) received by the state for settlement of claims
4 regarding Colorado's past use of water under the Republican River
5 Compact.

6 (3) The fund shall be expended by the department (a) to aid
7 management actions taken to reduce consumptive uses of water or to
8 enhance streamflows or ground water recharge in river basins, subbasins,
9 or reaches which are deemed by the department overappropriated pursuant
10 to section 46-713 or fully appropriated pursuant to section 46-714 or are
11 bound by an interstate compact or decree or a formal state contract or
12 agreement, (b) for purposes of projects or proposals described in the
13 grant application as set forth in subdivision (2)(h) of section
14 81-15,175, and (c) to the extent funds are not expended pursuant to
15 subdivisions (a) and (b) of this subsection, the department may conduct a
16 statewide assessment of short-term and long-term water management
17 activities and funding needs to meet statutory requirements in sections
18 46-713 to 46-718 and 46-739 and any requirements of an interstate compact
19 or decree or formal state contract or agreement. The fund shall not be
20 used to pay for administrative expenses or any salaries for the
21 department or any political subdivision.

22 (4) It is the intent of the Legislature that three million three
23 hundred thousand dollars be transferred each fiscal year from the General
24 Fund to the Water Resources Cash Fund for FY2011-12 through FY2022-23,
25 except that for FY2012-13 it is the intent of the Legislature that four
26 million seven hundred thousand dollars be transferred from the General
27 Fund to the Water Resources Cash Fund. It is the intent of the
28 Legislature that the State Treasurer credit any money received from any
29 Republican River Compact settlement to the Water Resources Cash Fund in
30 the fiscal year in which it is received.

31 (5)(a) Expenditures from the Water Resources Cash Fund may be made

1 to natural resources districts eligible under subsection (3) of this
2 section for activities to either achieve a sustainable balance of
3 consumptive water uses or assure compliance with an interstate compact or
4 decree or a formal state contract or agreement and shall require a match
5 of local funding in an amount equal to or greater than forty percent of
6 the total cost of carrying out the eligible activity. The department
7 shall, no later than August 1 of each year, beginning in 2007, determine
8 the amount of funding that will be made available to natural resources
9 districts from the Water Resources Cash Fund and notify natural resources
10 districts of this determination. The department shall adopt and
11 promulgate rules and regulations governing application for and use of the
12 Water Resources Cash Fund by natural resources districts. Such rules and
13 regulations shall, at a minimum, include the following components:

14 (i) Require an explanation of how the planned activity will achieve
15 a sustainable balance of consumptive water uses or will assure compliance
16 with an interstate compact or decree or a formal state contract or
17 agreement as required by section 46-715 and the controls, rules, and
18 regulations designed to carry out the activity; and

19 (ii) A schedule of implementation of the activity or its components,
20 including the local match as set forth in subdivision (5)(a) of this
21 section.

22 (b) Any natural resources district that fails to implement and
23 enforce its controls, rules, and regulations as required by section
24 46-715 shall not be eligible for funding from the Water Resources Cash
25 Fund until it is determined by the department that compliance with the
26 provisions required by section 46-715 has been established.

27 (6) The Department of Natural Resources shall submit electronically
28 an annual report to the Legislature no later than October 1 of each year,
29 beginning in the year 2007, that shall detail the use of the Water
30 Resources Cash Fund in the previous year. The report shall provide:

31 (a) Details regarding the use and cost of activities carried out by

1 the department; and

2 (b) Details regarding the use and cost of activities carried out by
3 each natural resources district that received funds from the Water
4 Resources Cash Fund.

5 (7)(a) Prior to the application deadline for fiscal year 2011-12,
6 the Department of Natural Resources shall apply for a grant of nine
7 million nine hundred thousand dollars from the Nebraska Environmental
8 Trust Fund, to be paid out in three annual installments of three million
9 three hundred thousand dollars. The purposes listed in the grant
10 application shall be consistent with the uses of the Water Resources Cash
11 Fund provided in this section and shall be used to aid management actions
12 taken to reduce consumptive uses of water, to enhance streamflows, to
13 recharge ground water, or to support wildlife habitat in any river basin
14 determined to be fully appropriated pursuant to section 46-714 or
15 designated as overappropriated pursuant to section 46-713.

16 (b) If the application is granted, funds received from such grant
17 shall be remitted to the State Treasurer for credit to the Water
18 Resources Cash Fund for the purpose of supporting the projects set forth
19 in the grant application. The department shall include in its grant
20 application documentation that the Legislature has authorized a transfer
21 of three million three hundred thousand dollars from the General Fund
22 into the Water Resources Cash Fund for each of fiscal years 2011-12 and
23 2012-13 and has stated its intent to transfer three million three hundred
24 thousand dollars to the Water Resources Cash Fund for fiscal year
25 2013-14.

26 (c) It is the intent of the Legislature that the department apply
27 for an additional three-year grant that would begin in fiscal year
28 2014-15, an additional three-year grant from the Nebraska Environmental
29 Trust Fund that would begin in fiscal year 2017-18, and an additional
30 three-year grant from the Nebraska Environmental Trust Fund that would
31 begin in fiscal year 2020-21 if the criteria established in subsection

1 (4) of section 81-15,175 are achieved.

2 (8) The department shall establish a subaccount within the Water
3 Resources Cash Fund for the accounting of all money received as a grant
4 from the Nebraska Environmental Trust Fund as the result of an
5 application made pursuant to subsection (7) of this section. At the end
6 of each calendar month, the department shall calculate the amount of
7 interest earnings accruing to the subaccount and shall notify the State
8 Treasurer who shall then transfer a like amount from the Water Resources
9 Cash Fund to the Nebraska Environmental Trust Fund.

10 (9) Any funds transferred from the Nebraska Environmental Trust Fund
11 to the Water Resources Cash Fund shall be expended in accordance with
12 section 81-15,168.

13 (10) The State Treasurer shall transfer one million dollars from the
14 Water Resources Cash Fund to the Nitrogen Reduction Incentive Cash Fund
15 as soon as administratively possible after the effective date of this
16 act, but before June 30, 2025, on such dates and in such amounts as
17 directed by the budget administrator of the budget division of the
18 Department of Administrative Services.

19 Sec. 9. Original section 61-218, Revised Statutes Supplement, 2023,
20 is repealed.