

LEGISLATIVE BILL 541

Approved by the Governor May 14, 2001

Introduced by Speaker Kristensen, 37; at the request of the Governor

AN ACT relating to state funds; to amend sections 2-958, 45-621, 89-187, and 89-1,100, Reissue Revised Statutes of Nebraska, sections 9-1,101, 71-7607, 83-162.04, 84-612, and 84-1613, Revised Statutes Supplement, 2000, and section 9-531, Uniform Commercial Code; to provide for certain transfers from the Cash Reserve Fund and other funds; to change powers; to eliminate appropriations provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 83-162.06, Revised Statutes Supplement, 2000; and to declare an emergency.

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

Section 1. Section 2-958, Reissue Revised Statutes of Nebraska, is amended to read:

2-958. (1) There is hereby authorized to be established a noxious weed control fund for each control authority, which fund shall be available for expenses authorized to be paid from such fund, including necessary expenses of the control authority in carrying out its duties and responsibilities under the Noxious Weed Control Act. The weed control superintendent within the county shall (a) ascertain and tabulate each year the approximate amount of land infested with noxious weeds and its location in the county, (b) ascertain and prepare all information required by the county board in the preparation of the county budget, including actual and expected revenue from all sources, cash balances, expenditures, amounts proposed to be expended during the year, and working capital, and (c) transmit such information tabulated by the control authority to the county board not later than June 1 of each year.

(2) There is hereby created the Noxious Weed Cash Fund. The fund shall consist of proceeds raised from fees imposed for the registration of pesticides and earmarked for the fund pursuant to section 2-2634 and any reimbursement funds for control work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount from the General Fund ~~matching the earmarked proceeds shall~~ may be appropriated annually for and deposited in the Noxious Weed Control Act. ~~Cash Fund annually. The Department of Agriculture shall request matching funds from the General Fund based upon the prior year's revenue earmarked for the Noxious Weed Cash Fund.~~ The fund shall be administered and used by the director to maintain the noxious weed control program and for expenses directly related to the program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

On or before July 15, 2001, the State Treasurer shall transfer fifty thousand dollars from the Noxious Weed Cash Fund to the Livestock Waste Management Cash Fund. On or before July 15, 2002, the State Treasurer shall transfer fifty thousand dollars from the Noxious Weed Cash Fund to the Livestock Waste Management Cash Fund.

Sec. 2. Section 9-1,101, Revised Statutes Supplement, 2000, is amended to read:

9-1,101. (1) The Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, and section 9-701 shall be administered and enforced by the Charitable Gaming Division of the Department of Revenue, which division is hereby created. The Department of Revenue shall make annual reports to the Governor, Legislature, Auditor of Public Accounts, and Attorney General on all tax revenue received, expenses incurred, and other activities relating to the administration and enforcement of such acts.

(2) The Charitable Gaming Operations Fund is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) Forty percent of the taxes collected pursuant to sections 9-239, 9-344, 9-429, and 9-648 shall be available to the Charitable Gaming Division for administering and enforcing the acts listed in subsection (1) of this section and section 81-8,128. The remaining sixty percent shall be transferred to the General Fund. Any portion of the forty percent not used by

the division in the administration and enforcement of such acts and section shall be transferred to the Compulsive Gamblers Assistance Fund and the General Fund as provided in this subsection. Within fifteen days after the effective date of this act and on or before November 1, 2002, and on November 1 of each year thereafter, (a) the State Treasurer shall transfer fifty thousand dollars from the Charitable Gaming Operations Fund to the Compulsive Gamblers Assistance Fund, except that no transfer shall occur if the Charitable Gaming Operations Fund contains less than fifty thousand dollars, and (b) the State Treasurer shall transfer to the General Fund any money remaining in the Charitable Gaming Operations Fund after the transfer pursuant to subdivision (a) of this subsection not used by the Charitable Gaming Division in its administration and enforcement duties pursuant to this section.

(4) The Tax Commissioner shall employ investigators who shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the Tax Commissioner or the Department of Revenue.

(5) The Charitable Gaming Division may charge a fee for publications and listings it produces. The fee shall not exceed the cost of publication and distribution of such items. The division may also charge a fee for making a copy of any record in its possession equal to the actual cost per page. The division shall remit the fees to the State Treasurer for credit to the Charitable Gaming Operations Fund.

Sec. 3. Section 45-621, Reissue Revised Statutes of Nebraska, is amended to read:

45-621. (1) All fees collected under the Collection Agency Act shall be remitted to the State Treasurer for credit to a special fund to be known as the Nebraska Collection Agency Fund. The board may use the fund as may be necessary for the proper administration and enforcement of the act. The fund shall be paid out only on proper vouchers approved by the board and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer as provided by law. All fees and expenses of the Attorney General in representing the board pursuant to the act shall be paid out of such fund. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Nebraska Collection Agency Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) On or before July 5, 2001, the State Treasurer shall transfer four hundred thousand dollars from the Nebraska Collection Agency Fund to the General Fund.

Sec. 4. Section 71-7607, Revised Statutes Supplement, 2000, is amended to read:

71-7607. (1) The Nebraska Medicaid Intergovernmental Trust Fund is created. The fund shall include revenue received on or after January 1, 1998, from governmental nursing facilities receiving payments for nursing facility services under the medical assistance program established pursuant to section 68-1018. The Department of Health and Human Services Finance and Support shall remit such revenue to the State Treasurer for credit to the fund, except that of such revenue received on or after July 1, 2001, nine million two hundred thousand dollars shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Cash Fund. ~~except that of such revenue received on or after July 1, 2000, fourteen million dollars shall be remitted to the State Treasurer for credit to the Nursing Facility Conversion Cash Fund.~~ The department shall adopt and promulgate rules and regulations to establish procedures for participation by governmental nursing facilities and for the receipt of such revenue under this section. Investment income from the Nebraska Medicaid Intergovernmental Trust Fund shall be transferred to the Nebraska Health Care Cash Fund to be used as provided in section 71-7611.

(2) If there is an unanticipated reduction in federal medicaid funds derived pursuant to this section, the department may use revenue in the Nebraska Medicaid Intergovernmental Trust Fund to offset the amount of such reduction.

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

Sec. 5. Section 83-162.04, Revised Statutes Supplement, 2000, is amended to read:

83-162.04. The Compulsive Gamblers Assistance Fund is created. The division shall administer the fund for the treatment of compulsive gamblers as recommended by the commission and shall spend no more than ten percent of the money appropriated to the fund for administrative costs. In addition to money

transferred to the fund from the State Lottery Operation Trust Fund under section 9-812 and the Charitable Gaming Operations Fund under ~~sections~~ section 9-1,101, ~~and 83-162.06~~, the department is authorized to accept for deposit in the Compulsive Gamblers Assistance Fund funds, donations, gifts, devises, or bequests from any federal, state, local, public, or private source to be used by the division in the exercise of this authority under and in the performance of its duties in carrying out the provisions of the Alcoholism, Drug Abuse, and Addiction Services Act which relate to compulsive gambling. The Director of Administrative Services shall draw warrants upon the Compulsive Gamblers Assistance Fund upon the presentation of proper vouchers by the division. Money from the Compulsive Gamblers Assistance Fund shall be used exclusively for the purpose of providing assistance to agencies, groups, organizations, and individuals that provide education, assistance, and counseling to individuals and families experiencing difficulty as a result of problem or pathological gambling, to promote the awareness of gamblers assistance programs, and to pay the costs and expenses of the division and the commission with regard to compulsive gambling. Neither the director of the division nor the division shall provide any direct services to problem or pathological gamblers or their families. Funds appropriated from the Compulsive Gamblers Assistance Fund shall not be granted or loaned to or administered by any of the mental health regional governing boards created pursuant to the Nebraska Comprehensive Community Mental Health Services Act unless the mental health region is a direct provider of services dealing with the treatment of compulsive gambling. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. Section 84-612, Revised Statutes Supplement, 2000, is amended to read:

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

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. ~~(3) Any transfers made pursuant to subsections (2) and (5) of this section~~ this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

~~(4) On or before August 17, 1994, the State Treasurer shall transfer six million dollars from the Cash Reserve Fund to the Job Training Cash Fund.~~

~~(5) The State Treasurer shall transfer funds from the Cash Reserve Fund to the Roads Operations Cash Fund upon certification by the Director of Administrative Services that the current cash balance in the Roads Operations Cash Fund is inadequate to meet current obligations as the result of delayed receipt of federal funds. The certification shall include the dollar amount to be transferred. The authority to transfer funds pursuant to this subsection shall be in effect for the period July 17, 1998, through June 30, 1999.~~

~~(6) On or before September 17, 1998, the State Treasurer shall transfer four million five hundred thousand dollars from the Cash Reserve Fund to the General Fund.~~

~~(7) On or before September 17, 1998, the State Treasurer shall transfer two million dollars from the Cash Reserve Fund to the Reorganized School Assistance Fund.~~

~~(8) On June 15, 1999, the State Treasurer shall transfer twelve million dollars from the Cash Reserve Fund to the General Fund.~~

~~(9) On or before June 30, 1999, the State Treasurer shall transfer eighty million dollars from the Cash Reserve Fund to the General Fund.~~

~~(10) (3) On June 15, 2001, the State Treasurer shall transfer twenty-eight million dollars from the Cash Reserve Fund to the General Fund.~~

~~(11) On August 16, 1999, the State Treasurer shall transfer thirty million dollars from the Cash Reserve Fund to the Relief to Property Taxpayers Cash Fund for the purposes of increased aid to community colleges.~~

~~(12) On August 16, 2000, the State Treasurer shall transfer twenty-five million dollars from the Cash Reserve Fund to the Relief to Property Taxpayers Cash Fund.~~

~~(13) (4) On July 23, 2001, the State Treasurer shall transfer three hundred seventy thousand dollars from the Cash Reserve Fund to the Municipal Natural Gas Regulation Revolving Loan Fund for purposes of loaning to Nebraska communities that seek to review natural gas rates. Any transfer made pursuant to this subsection shall be reversed upon notification by the Director of Policy Research that a sufficient court judgment has been obtained.~~

(5) On July 23, 2001, the State Treasurer shall transfer twenty-four million eight hundred thousand dollars from the Cash Reserve Fund to the General Fund.

(6) On August 1, 2001, the State Treasurer shall transfer thirty-five million dollars from the Cash Reserve Fund to the General Fund for purposes of funding the Tax Equity and Educational Opportunities Support Act.

(7) On June 15, 2003, the State Treasurer shall transfer sixty-four million nine hundred thousand dollars from the Cash Reserve Fund to the General Fund.

Sec. 7. Section 84-1613, Revised Statutes Supplement, 2000, is amended to read:

84-1613. The State Employees Insurance Fund is established. The fund shall be administered by the personnel division of the Department of Administrative Services. All funds appropriated to pay the state's share of the cost of the coverages provided by sections 84-1601 to 84-1615 and all payroll deductions made under sections 84-1601 to 84-1615 shall be credited to the fund. The division shall make premium payments to the carrier, carriers, or combinations of carriers selected under section 84-1603 from this fund.

Any funds in the State Employees Insurance Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

On or before October 1, 2001, the State Treasurer shall transfer one million five hundred thousand dollars from the excess state share of life insurance history money of the State Employees Insurance Fund to the Workers' Compensation Claims Revolving Fund.

Sec. 8. Section 89-187, Reissue Revised Statutes of Nebraska, is amended to read:

89-187. The director shall:

(1) Maintain traceability of the primary standards to the National Institute of Standards and Technology;

(2) Enforce the provisions of the Weights and Measures Act;

(3) Adopt and promulgate reasonable rules and regulations for the enforcement of the act including the following:

(a) Requirements for the voluntary registration of sales and repair personnel for commercial weighing and measuring devices including:

(i) Registration fees for such personnel which shall not exceed the actual cost to defray the operation of the voluntary registration program;

(ii)(A) Qualifications for registration, which may include examinations, (B) performance standards to maintain registration, (C) types of equipment necessary for the work to be performed by the personnel, (D) responsibilities and privileges of registration, and (E) revocation and suspension of such registration and probation of the registrant; and

(iii) Minimum standards for the installation and maintenance of commercial weighing and measuring devices;

(b) Additional standards not specifically provided for in the act;

(c) Standards for (i) attachments or parts entering into the construction or installation of commercial weighing and measuring devices which shall tend to secure correct results in the use of such devices and (ii) the setting of laboratory fees which shall not exceed the actual cost for testing, correcting, calibrating, and verifying secondary standards and the establishment of standard laboratory operating procedures;

(d) Requirements for the suitable use of commercial weighing and measuring devices; and

(e) Guidelines for the appropriate method of weighing or measuring whenever the director determines that such guidelines would further the purpose of the act;

(4) Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the presentation of cost-per-unit information for any commodity;

(5) Upon an application filed with the department by the applicant, grant exemptions, including specific exemptions for single-use commercial weighing and measuring devices, from the provisions of the act or the rules and regulations when the applicant on such application provides assurances, acceptable to the director, that such exemption is appropriate to the maintenance of good commercial practices within the state. Notwithstanding any other provision of the act, meters used by a public utility system for the measurement of electricity, natural or manufactured gas, water, or the usage of communication services, the appliances or accessories associated with such meters, and all weighing and measuring devices inspected or tested by the Public Service Commission shall be exempt from the registration, inspection, and testing requirements of the act, except that this exemption shall not apply to meters which determine the weight or measurement of motor fuel;

- (6) Conduct investigations to insure compliance with the act;
- (7) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;
- (8) In his or her discretion, inspect and test weighing and measuring devices kept for sale or sold;
- (9) Inspect and test annually and from time to time, as in the director's judgment seems necessary, to ascertain whether commercial weighing and measuring devices are correct;
- (10) Register and test as far as practical all commercial weighing and measuring devices used in checking the receipt or disbursement of supplies in every institution for which funds are appropriated by the Legislature;
- (11) Test annually and at the request of the Nebraska State Patrol all weighing and measuring devices used for the enforcement of the provisions of sections 60-329, 60-331, and 60-6,294. The agency responsible for such weighing and measuring devices shall pay the department for the actual cost of such tests. The department shall bill test fees to such agency upon completion of the test;
- (12) Approve for use and may mark commercial weighing and measuring devices which the director finds to be correct and shall reject and mark or tag as rejected such commercial weighing and measuring devices which the director finds to be not correct or not registered and inspected in accordance with the Weights and Measures Act. Commercial weighing and measuring devices that have been rejected may be seized if not made correct within the time specified or if used or disposed of in a manner not specifically authorized. The director shall condemn and may seize commercial weighing and measuring devices which are found not to be correct and not capable of being made correct;
- (13) Weigh, measure, or inspect commodities kept for sale, sold, or in the process of delivery to determine whether they contain the amounts represented and whether they are kept for sale or sold in accordance with the act or the rules and regulations. When commodities are found not to contain the amounts represented or are found to be kept for sale, sold, or in the process of delivery in violation of the act, the director may issue stop-sale, hold, or removal orders and may mark or tag such commodities as being in violation of the act. In carrying out the provisions of this section, the director shall employ recognized procedures pursuant to subdivisions (1)(b) through (d) of section 89-186;
- (14) Provide for the weights and measures training of inspection personnel and adopt and promulgate by rule and regulation minimum training requirements which shall be met by all inspection personnel;
- (15) Adopt and promulgate rules and regulations prescribing the appropriate term or unit of measurement to be used whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion;
- (16) Allow reasonable variations from the stated quantity of contents which shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;
- (17) Verify advertised prices, price representations, and point-of-sale systems, as deemed necessary, to determine: (a) The accuracy of prices, quantity, and computations; (b) the correct use of the equipment; and (c) if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of prices and quantity printed or recalled from a data base;
- (18) On or before July 1 of each year, notify all persons who have registered any commercial weighing or measuring device of the amount of fees which are due and that such fees shall be due on August 1 of each year and shall be delinquent after such date;
- (19) Require all persons who operate a weighing and measuring establishment to obtain a permit to operate such establishment pursuant to section 89-187.01 and to pay to the department an application permit fee pursuant to section 89-187.02; and
- (20) Require Set registration fees and device inspection fees in an amount not to exceed the amounts specified in this subdivision and require, on or before August 1 of each year, all persons who operate a weighing and measuring establishment to:
- (a) Register each commercial weighing and measuring device with the department upon forms furnished by the director;
- (b) Pay to the department a registration fee ~~is~~ not to exceed the amounts designated in column A;

(c) Pay device inspection fees to the department ~~in~~ not to exceed the amounts designated in column B:

Scales:	A	B	Total Fees
Up to 35 pounds capacity.....	4.00	7.00	11.00
Multiunit Scales.....	4.00	33.00	37.00
Over 35 to 1,000 pounds capacity....	4.00	10.00	14.00
Over 1,000 to 4,000 pounds capacity.....	4.00	21.00	25.00
Over 4,000 to 50,000 pounds capacity.....	4.00	25.00	29.00
Over 50,000 to 150,000 pounds capacity.....	4.00	30.00	34.00
Over 150,000 pounds capacity.....	4.00	51.00	55.00
Length Measuring Devices:			
Cordage or fabric.....	4.00	9.00	13.00
Pumps:			
Service Station Dispensers -- per measuring element.....	4.00	5.00	9.00
High-capacity service station dispensers over 20 gallons per minute -- per hose.....	4.00	12.00	16.00
Compressed natural gas -- per hose.....	4.00	50.00	54.00
Meters:			
Vehicle tank meters.....	4.00	12.00	16.00
Loading rack meters.....	4.00	22.00	26.00
Liquid petroleum gas meters.....	4.00	20.00	24.00
Liquid fertilizer meters.....	4.00	27.00	31.00
Liquid feed meters.....	4.00	27.00	31.00
Cryogenic.....	4.00	50.00	54.00
Mass Flow Metering Systems:			
Mass flow meters (all liquid).....	4.00	50.00	54.00;

and

(d) Pay a penalty as may be required by the department of twenty-five percent per month of the fees for each month any such fees are delinquent not to exceed one hundred percent of such fees. Such penalties paid shall be in addition to the fees due. The department's decision regarding whether penalties will be imposed shall be based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fees.

Sec. 9. Section 89-1,100, Reissue Revised Statutes of Nebraska, is amended to read:

89-1,100. The director shall collect registration, permit, laboratory, test, and inspection fees, penalties, and money required to be reimbursed as provided for in the Weights and Measures Act and shall remit such funds to the State Treasurer. The State Treasurer shall credit such funds to the Weights and Measures Administrative Fund, which fund is hereby created. All fees, penalties, and reimbursements collected pursuant to the act and credited to the fund shall be appropriated to the uses of the department to aid in defraying the expenses of administering the act. Any unexpended balance in such fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The registration, permit, laboratory, test, and inspection fees, penalties, and money required to be reimbursed as provided for in the Weights and Measures Act shall constitute a lien on the weighing and measuring devices or standards required to be registered or approved for use in this state until such fees, penalties, and reimbursements are paid. The director may sue for such fees, penalties, and reimbursements and may seek to foreclose on any lien in the name of the state. The county attorney of the county in which the device is located or the Attorney General's office shall, upon the request of the director, take appropriate action to establish and foreclose on any such lien.

On or before July 15, 2001, the State Treasurer shall transfer two hundred thousand dollars from the Weights and Measures Administrative Fund to the Livestock Waste Management Cash Fund. On or before July 15, 2002, the State Treasurer shall transfer two hundred thousand dollars from the Weights and Measures Administrative Fund to the Livestock Waste Management Cash Fund.

Sec. 10. Section 9-531, Uniform Commercial Code, is amended to

read:

9-531. Uniform Commercial Code Cash Fund; created; use; Secretary of State;

duties; fees; transfer of funds.

(a) There is created the Uniform Commercial Code Cash Fund. Except as otherwise specifically provided, all funds received pursuant to this part and sections 52-1312, 52-1313, 52-1316, and 52-1602 shall be placed in the fund and used by the Secretary of State to carry out this part, sections 52-1301 to 52-1321, and sections 52-1601 to 52-1605, except that transfers from the Uniform Commercial Code Cash Fund to the General Fund and the Records Management Cash Fund may be made at the direction of the Legislature.

(b)(1) The Secretary of State shall furnish each county clerk with computer terminal hardware, including a printer, compatible with the centralized computer system implemented and maintained pursuant to section 9-529, for inquiries and searches of information in such centralized computer system. The terminals shall be readily and reasonably available and accessible to members of the public for such inquiries and searches.

(2) The fees charged by county clerks for inquiries and other services regarding information in the centralized computer system shall be the same as set forth for filing offices in this part.

(c) On or before July 5, 2001, the State Treasurer shall transfer one hundred thirty thousand seven hundred twenty-five dollars from the Uniform Commercial Code Cash Fund to the Records Management Cash Fund. On or before July 5, 2002, the State Treasurer shall transfer forty-nine thousand four hundred dollars from the Uniform Commercial Code Cash Fund to the Records Management Cash Fund.

Sec. 11. Original sections 2-958, 45-621, 89-187, and 89-1,100, Reissue Revised Statutes of Nebraska, sections 9-1,101, 71-7607, 83-162.04, 84-612, and 84-1613, Revised Statutes Supplement, 2000, and section 9-531, Uniform Commercial Code, are repealed.

Sec. 12. The following section is outright repealed: Section 83-162.06, Revised Statutes Supplement, 2000.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.