

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 379**

Introduced by Speaker Flood, 19; at the request of the Governor.

Read first time January 13, 2011

Committee: Appropriations

A BILL

1 FOR AN ACT relating to the Cash Reserve Fund; to amend sections  
2 66-1345 and 84-612, Revised Statutes Cumulative  
3 Supplement, 2010; to provide for transfers; to harmonize  
4 provisions; to repeal the original sections; and to  
5 declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 66-1345, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           66-1345 (1) There is hereby created the Ethanol  
4 Production Incentive Cash Fund which shall be used by the board to  
5 pay the credits created in section 66-1344 to the extent provided in  
6 this section. Any money in the fund available for investment shall be  
7 invested by the state investment officer pursuant to the Nebraska  
8 Capital Expansion Act and the Nebraska State Funds Investment Act.  
9 The State Treasurer shall transfer to the Ethanol Production  
10 Incentive Cash Fund such money as shall be (a) appropriated to the  
11 Ethanol Production Incentive Cash Fund by the Legislature, (b) given  
12 as gifts, bequests, grants, or other contributions to the Ethanol  
13 Production Incentive Cash Fund from public or private sources, (c)  
14 made available due to failure to fulfill conditional requirements  
15 pursuant to investment agreements entered into prior to April 30,  
16 1992, (d) received as return on investment of the Ethanol Authority  
17 and Development Cash Fund, (e) credited to the Ethanol Production  
18 Incentive Cash Fund from the excise taxes imposed by section  
19 66-1345.01 through December 31, 2012, ~~and~~ (f) credited to the Ethanol  
20 Production Incentive Cash Fund pursuant to sections 66-489, 66-726,  
21 66-1345.04, and 66-1519, and (g) directed to be transferred pursuant  
22 to section 84-612.

23           (2) The Department of Revenue shall, at the end of each  
24 calendar month, notify the State Treasurer of the amount of motor  
25 fuel tax that was not collected in the preceding calendar month due

1 to the credits provided in section 66-1344. The State Treasurer shall  
2 transfer from the Ethanol Production Incentive Cash Fund to the  
3 Highway Trust Fund an amount equal to such credits less the following  
4 amounts:

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

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

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

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

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

25 If, during any month, the amount of money in the Ethanol

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

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

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

1 unobligated funds to the General Fund.

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

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

23           Sec. 2. Section 84-612, Revised Statutes Cumulative  
24 Supplement, 2010, is amended to read:

25           84-612 (1) There is hereby created within the state

1 treasury a fund known as the Cash Reserve Fund which shall be under  
2 the direction of the State Treasurer. The fund shall only be used  
3 pursuant to this section.

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

12 (3) The State Treasurer, at the direction of the budget  
13 administrator of the budget division of the Department of  
14 Administrative Services, shall transfer such amounts not to exceed  
15 seven million seven hundred fifty-three thousand two hundred sixty-  
16 three dollars in total from the Cash Reserve Fund to the Nebraska  
17 Capital Construction Fund between July 1, 2003, and June 30, 2007.

18 (4) The State Treasurer, at the direction of the budget  
19 administrator, shall transfer an amount equal to the total amount  
20 transferred pursuant to subsection (3) of this section from the  
21 General Fund to the Cash Reserve Fund on or before June 30, 2008.

22 (5) In addition to receiving transfers from other funds,  
23 the Cash Reserve Fund shall receive federal funds received by the  
24 State of Nebraska for undesignated general government purposes,  
25 federal revenue sharing, or general fiscal relief of the state.

1           (6) On June 15, 2009, the State Treasurer shall transfer  
2 four million nine hundred ninety thousand five hundred five dollars  
3 from the Cash Reserve Fund to the General Fund.

4           (7) On or before June 16, 2009, the State Treasurer, at  
5 the direction of the budget administrator, shall transfer fifty  
6 million dollars from the Cash Reserve Fund to the General Fund.

7           (8) The State Treasurer, at the direction of the budget  
8 administrator, shall transfer such amounts, as certified by the  
9 Director of Administrative Services, for employee health insurance  
10 claims and expenses, not to exceed twelve million dollars in total  
11 from the Cash Reserve Fund to the State Employees Insurance Fund  
12 between May 1, 2007, and June 30, 2011.

13           (9) On July 9, 2007, the State Treasurer shall transfer  
14 five million dollars from the Cash Reserve Fund to the Job Training  
15 Cash Fund. ~~The State Treasurer shall transfer from the Job Training~~  
16 ~~Cash Fund to the Cash Reserve Fund such amounts as directed in~~  
17 ~~section 81-1201.21.~~

18           (10) On July 7, 2008, the State Treasurer shall transfer  
19 five million dollars from the Cash Reserve Fund to the Job Training  
20 Cash Fund. ~~The State Treasurer shall transfer from the Job Training~~  
21 ~~Cash Fund to the Cash Reserve Fund such amounts as directed in~~  
22 ~~section 81-1201.21.~~

23           (11) On or before June 30, 2009, the State Treasurer  
24 shall transfer nine million five hundred ninety thousand dollars from  
25 the Cash Reserve Fund to the Nebraska Capital Construction Fund.

1                   (12) The State Treasurer, at the direction of the budget  
2 administrator, shall transfer an amount equal to the total amount  
3 transferred pursuant to subsection (8) of this section from the  
4 appropriate health insurance accounts of the State Employees  
5 Insurance Fund in such amounts as certified by the Director of  
6 Administrative Services to the Cash Reserve Fund on or before June  
7 30, 2011.

8                   (13) On July 7, 2009, the State Treasurer shall transfer  
9 five million dollars from the Cash Reserve Fund to the Roads  
10 Operations Cash Fund. The Department of Roads shall use such funds to  
11 provide the required state match for federal funding made available  
12 to the state through congressional earmarks.

13                   (14) Within five days after the budget division of the  
14 Department of Administrative Services notifies the State Treasurer  
15 that matching fund requirements under section 82-331 have been met,  
16 the State Treasurer shall transfer one million dollars from the Cash  
17 Reserve Fund to the Nebraska Cultural Preservation Endowment Fund.

18                   (15) On or before June 15, 2010, the State Treasurer, at  
19 the direction of the budget administrator, shall transfer one hundred  
20 five million dollars from the Cash Reserve Fund to the General Fund.

21                   (16) On or before June 15, 2011, the State Treasurer, at  
22 the direction of the budget administrator, shall transfer one hundred  
23 fifty-one million dollars from the Cash Reserve Fund to the General  
24 Fund.

25                   (17) On June 15, 2009, the State Treasurer shall transfer



1 seven million five hundred thousand dollars from the Cash Reserve  
2 Fund to the Governor's Emergency Cash Fund.

3 (18) On July 7, 2009, the State Treasurer shall transfer  
4 one million dollars from the Cash Reserve Fund to the State Visitors  
5 Promotion Cash Fund. The Department of Economic Development shall use  
6 such funds to provide funding for the promotion and support of the  
7 hosting of a Special Olympics national event by a city of the primary  
8 class.

9 (19) On or before June 30, 2011, the State Treasurer, at  
10 the direction of the budget administrator, shall transfer three  
11 million dollars from the Cash Reserve Fund to the General Fund.

12 (20) The State Treasurer shall transfer a total of one  
13 hundred thirty million dollars from the Cash Reserve Fund to the  
14 General Fund on or before June 30, 2012, on such dates and in such  
15 amounts as directed by the budget administrator.

16 (21) The State Treasurer shall transfer a total of one  
17 hundred thirty million dollars from the Cash Reserve Fund to the  
18 General Fund on or before June 30, 2013, on such dates and in such  
19 amounts as directed by the budget administrator.

20 (22) The State Treasurer, at the direction of the budget  
21 administrator, shall transfer not to exceed twelve million dollars in  
22 total between July 1, 2011, and November 30, 2012, from the Cash  
23 Reserve Fund to the Ethanol Production Incentive Cash Fund, for  
24 ethanol production incentive credits, on such dates and in such  
25 amounts as certified by the Tax Commissioner.

1                   (23) The State Treasurer, at the direction of the budget  
2 administrator, shall transfer an amount equal to the total amount  
3 transferred pursuant to subsection (22) of this section from the  
4 Ethanol Production Incentive Cash Fund to the Cash Reserve Fund in  
5 such amounts as certified by the Tax Commissioner on or before  
6 November 30, 2012.

7                   Sec. 3. Original sections 66-1345 and 84-612, Revised  
8 Statutes Cumulative Supplement, 2010, are repealed.

9                   Sec. 4. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.