

## LEGISLATIVE BILL 379

Approved by the Governor May 17, 2011

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

FOR AN ACT relating to state funds; to amend sections 66-1345 and 84-612, Revised Statutes Cumulative Supplement, 2010; to provide for fund transfers involving the Ethanol Production Incentive Cash Fund and the Cash Reserve Fund; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

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

66-1345 (1) There is hereby created the Ethanol Production Incentive Cash Fund which shall be used by the board to pay the credits created in section 66-1344 to the extent provided in this section. 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 State Treasurer shall transfer to the Ethanol Production Incentive Cash Fund such money as shall be (a) appropriated to the Ethanol Production Incentive Cash Fund by the Legislature, (b) given as gifts, bequests, grants, or other contributions to the Ethanol Production Incentive Cash Fund from public or private sources, (c) made available due to failure to fulfill conditional requirements pursuant to investment agreements entered into prior to April 30, 1992, (d) received as return on investment of the Ethanol Authority and Development Cash Fund, (e) credited to the Ethanol Production Incentive Cash Fund from the excise taxes imposed by section 66-1345.01 through December 31, 2012, and (f) credited to the Ethanol Production Incentive Cash Fund pursuant to sections 66-489, 66-726, 66-1345.04, and 66-1519, and (g) directed to be transferred pursuant to section 84-612.

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

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

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

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

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

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

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

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

(4) On December 31, 2012, the State Treasurer shall transfer

one-half of the unexpended and unobligated funds, including all subsequent investment interest, from the Ethanol Production Incentive Cash Fund to the Nebraska Corn Development, Utilization, and Marketing Fund and the Grain Sorghum Development, Utilization, and Marketing Fund in the same proportion as funds were collected pursuant to section 66-1345.01 from corn and grain sorghum. The Department of Agriculture shall assist the State Treasurer in determining the amounts to be transferred to the funds. The State Treasurer shall transfer the remaining one-half of the unexpended and unobligated funds to the General Fund.

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

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

Sec. 2. Section 84-612, Revised Statutes Cumulative Supplement, 2010, 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. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

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

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

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

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

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

~~(8) (4) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer such amounts, as certified by the Director of Administrative Services, for employee health insurance claims and expenses, not to exceed twelve million dollars in total from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011.~~

~~(9) (5) On July 9, 2007, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.~~

~~(10) (6) On July 7, 2008, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The~~

State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section ~~81-1201.21.~~

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

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

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

~~(14) (9) Within five days after the budget division of the Department of Administrative Services notifies the State Treasurer that matching fund requirements under section 82-331 have been met, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Nebraska Cultural Preservation Endowment Fund.~~

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

~~(16) (10) On or before June 15, 2011, the State Treasurer, at the direction of the budget administrator, shall transfer one hundred fifty-one million dollars from the Cash Reserve Fund to the General Fund.~~

~~(17) On June 15, 2009, the State Treasurer shall transfer seven million five hundred thousand dollars from the Cash Reserve Fund to the Governor's Emergency Cash Fund.~~

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

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

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

(13) The State Treasurer shall transfer a total of sixty-eight million dollars from the Cash Reserve Fund to the General Fund on or before June 30, 2013, on such dates and in such amounts as directed by the budget administrator.

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

(15) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (14) of this section from the Ethanol Production Incentive Cash Fund to the Cash Reserve Fund in such amounts as certified by the Tax Commissioner on or before November 30, 2012.

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

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