

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 130**

Introduced by Mello, 5.

Read first time January 11, 2013

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, 2012; to eliminate transfers as prescribed;  
4 to harmonize provisions; and to repeal the original  
5 sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 66-1345, Revised Statutes Cumulative  
2 Supplement, 2012, 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~~  
22 ~~pursuant 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 electronically to the Legislature which  
14 shall project the anticipated revenue and expenditures from the  
15 Ethanol Production Incentive Cash Fund through the termination of the  
16 ethanol production incentive programs pursuant to section 66-1344.  
17 The initial report shall include a projection of the amount of  
18 ethanol production for which the Department of Revenue has entered  
19 agreements to provide ethanol production credits pursuant to section  
20 66-1344.01 and any additional ethanol production which the Department  
21 of Revenue and the Nebraska Ethanol Board reasonably anticipate may  
22 qualify for credits pursuant to section 66-1344.

23           Sec. 2. Section 84-612, Revised Statutes Cumulative  
24 Supplement, 2012, 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) In addition to receiving transfers from other funds,  
13 the Cash Reserve Fund shall receive federal funds received by the  
14 State of Nebraska for undesignated general government purposes,  
15 federal revenue sharing, or general fiscal relief of the state.

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

21 ~~(5) The State Treasurer shall transfer a total of thirty-~~  
22 ~~seven million dollars from the Cash Reserve Fund to the General Fund~~  
23 ~~on or before June 30, 2012, on such dates and in such amounts as~~  
24 ~~directed by the budget administrator of the budget division of the~~  
25 ~~Department of Administrative Services.~~

1           ~~(6)~~(5) The State Treasurer shall transfer a total of  
2 sixty-eight million dollars from the Cash Reserve Fund to the General  
3 Fund on or before June 30, 2013, on such dates and in such amounts as  
4 directed by the budget administrator of the budget division of the  
5 Department of Administrative Services.

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

13           ~~(8) The State Treasurer, at the direction of the budget~~  
14 ~~administrator of the budget division of the Department of~~  
15 ~~Administrative Services, shall transfer an amount equal to the total~~  
16 ~~amount transferred pursuant to subsection (7) of this section from~~  
17 ~~the Ethanol Production Incentive Cash Fund to the Cash Reserve Fund~~  
18 ~~in such amounts as certified by the Tax Commissioner on or before~~  
19 ~~November 30, 2012.~~

20           ~~(9) The State Treasurer, at the direction of the budget~~  
21 ~~administrator of the budget division of the Department of~~  
22 ~~Administrative Services, shall transfer eighty million dollars from~~  
23 ~~the Cash Reserve Fund to the Nebraska Capital Construction Fund on or~~  
24 ~~before August 15, 2012.~~

25           ~~(10) The State Treasurer, at the direction of the budget~~

1 ~~administrator of the budget division of the Department of~~  
2 ~~Administrative Services, shall transfer one million dollars from the~~  
3 ~~Cash Reserve Fund to the Affordable Housing Trust Fund on or before~~  
4 ~~August 15, 2012.~~

5           ~~(11)~~(6) The State Treasurer shall transfer ten million  
6 dollars from the Cash Reserve Fund to the General Fund on or before  
7 June 30, 2013, on such date as directed by the budget administrator  
8 of the budget division of the Department of Administrative Services.

9           Sec. 3. Original sections 66-1345 and 84-612, Revised  
10 Statutes Cumulative Supplement, 2012, are repealed.