

LEGISLATIVE BILL 130

Approved by the Governor March 29, 2014, with line-item
veto overridden April 1, 2014.

(CORRECTED)

Introduced by Mello, 5.

FOR AN ACT relating to the Cash Reserve Fund; to amend section 66-1345, Revised Statutes Cumulative Supplement, 2012, and section 84-612, Revised Statutes Supplement, 2013; to provide and eliminate transfers of funds; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 66-1345, Revised Statutes Cumulative Supplement, 2012, 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 66-1519.7 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 electronically 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 Supplement, 2013, 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) 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.

(4) 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.

~~(5) 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 of the budget division of the Department of Administrative Services.~~

~~(6)~~ (5) 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 of the budget division of the Department of Administrative Services.

~~(7) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, 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.~~

~~(8) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer an amount equal to the total amount transferred pursuant to subsection (7) 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.

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

~~(10) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer one million dollars from the Cash Reserve Fund to the Affordable Housing Trust Fund on or before August 15, 2012.~~

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

~~(12) (7) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer not to exceed forty-three million fifteen thousand four hundred fifty-nine dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2013, and June 30, 2017.~~

(8) The State Treasurer shall transfer fourteen million five hundred thousand dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund on or before June 30, 2015, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

(9) The State Treasurer shall transfer fifty million five hundred thousand dollars from the Cash Reserve Fund to the General Fund on or before December 31, 2014, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Sec. 3. Original section 66-1345, Revised Statutes Cumulative Supplement, 2012, and section 84-612, Revised Statutes Supplement, 2013, are repealed.