

LEGISLATIVE BILL 469

Approved by the Governor May 17, 1983

Introduced by Performance Review and Audit Committee,
Warner, 25, Chairperson; Marsh 29, L. Johnson,
15; H. Peterson, 35; Kilgarin, 7; Goodrich,
20; Morehead, 30; Wagner, 41; Kahle, 37

AN ACT relating to funds; to amend sections 8-1120, 44-116, 79-1346, 81-8, 129.01, and 81-1010, Reissue Revised Statutes of Nebraska, 1943, and sections 60-2116 and 77-2602, Revised Statutes Supplement, 1982; to authorize certain transfers as prescribed; to change provisions relating to the use of certain funds; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 8-1120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1120. (1) Sections 8-1101 to 8-1124 shall be administered by the Director of Banking and Finance who may employ such assistant or assistants or counsel as may be reasonably necessary for the purpose thereof, and may designate one of such assistants as an assistant director; and the director may delegate to such assistant director or counsel any and all powers, authority, and duties by sections 8-1101 to 8-1124 imposed upon or granted to the director, such as may be lawfully delegated under the common law or the statutes of this state. The director may also employ special counsel with respect to any investigation conducted by him or her under sections 8-1101 to 8-1124, or with respect to any litigation to which the director is a party under sections 8-1101 to 8-1124; PROVIDED, that security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company shall be registered, pursuant to the provisions of sections 8-1104 to 8-1109, with the Director of Insurance who shall as to such registrations administer and enforce the provisions of sections 8-1101 to 8-1124; and as pertains to the administration and enforcement of such

registration of such securities all references in sections 8-1101 to 8-1124 to director shall mean the Director of Insurance.

(2) It shall be unlawful for the director or any of his or her officers or employees to use for personal benefit any information which is filed with or obtained by the director and which is not made public. No provision of sections 8-1101 to 8-1124 shall authorize the director or any of his or her officers or employees to disclose any such information except among themselves or when necessary or appropriate in a proceeding or investigation under the provisions of sections 8-1101 to 8-1124. No provision of sections 8-1101 to 8-1124 shall either create or derogate from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the director or any of his or her officers or employees.

(3) The director may from time to time make, amend, and rescind such rules and forms as are necessary to carry out the provisions of sections 8-1101 to 8-1124. No rule or form may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of sections 8-1101 to 8-1124.

In prescribing rules and forms the director may cooperate with the securities administrator of the other states and the Securities and Exchange Commission with a view to effectuating the policy of sections 8-1101 to 8-1124 to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable. All rules and forms of the director shall be published and mailed to each registered broker-dealer.

(4) No provision of sections 8-1101 to 8-1124 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, form, or order of the director, notwithstanding that the rule or form may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(5) Every hearing in an administrative proceeding shall be public unless the director in his or her discretion grants a request joined in by all the respondents that the hearing be conducted privately.

(6) All filing fees, registration fees, and all other fees and all money collected by or paid to the director under any of the provisions of sections 8-1101 to 8-1124 shall be paid into the state treasury and by the State Treasurer credited to the Securities Act Cash Fund; PROVIDED, that registration fees collected by or paid to the Director of Insurance pursuant to the

provisions of sections 8-1101 to 8-1124 shall be credited to the Department of Insurance Cash Fund. The Securities Act Cash Fund shall be used for the purpose of administering and enforcing the provisions of sections 8-1101 to 8-1124, except that transfers may be made to the General Fund at the direction of the Legislature. All and all of such money is appropriated and shall be appropriated for such purposes. Any money in the Securities Act Cash Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259 72-1269.

(7) A document is filed when it is received by the director. The director shall keep a register of all applications for registration and registration statements which are or have ever been effective under sections 8-1101 to 8-1124 and all denial, suspension, or revocation orders which have ever been entered under the provisions of sections 8-1101 to 8-1124. The register shall be open for public inspection. The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the director shall prescribe.

(8) Upon request and at such reasonable charges as he or she shall prescribe, the director shall furnish to any person photostatic or other copies, certified under his or her seal of office if requested, of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under sections 8-1101 to 8-1124, any copy so certified shall be prima facie evidence of the contents of the entry or document certified.

(9) The director in his or her discretion may honor requests from interested persons for interpretative opinions.

Sec. 2. That section 44-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-116. All money collected by the Department of Insurance for examination of the affairs of domestic, foreign, or alien insurance companies, reciprocal exchanges, fraternal benefit societies, nonprofit hospital service corporations, burial associations, governmental retirement systems, and rating bureaus or for valuing the reserve liabilities of life insurance companies, burial associations, or governmental retirement systems shall be paid by the department into the state treasury and deposited by the State Treasurer in a fund to be known as the Department of Insurance Cash Fund. Money in the Department of Insurance Cash Fund may be used for transfers to the General Fund at the direction of the Legislature. Any money in the Department of Insurance Cash Fund available for

investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to ~~72-1259~~ 72-1269.

Sec. 3. That section 60-2116, Revised Statutes Supplement, 1982, be amended to read as follows:

60-2116. There is hereby created a Motorcycle Safety Education Fund in the state treasury which shall consist of money transferred pursuant to sections 39-2215 and 60-409.02 and such money as may be appropriated by the Legislature. The fund shall be used for the administration of this act and to reimburse approved schools, businesses, or organizations for teaching approved motorcycle safety courses as provided in section 60-2117. Money in such fund may be used for transfers to the General Fund at the direction of the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1259~~ 72-1269.

Sec. 4. That section 77-2602, Revised Statutes Supplement, 1982, be amended to read as follows:

77-2602. Every person, engaged in distributing or selling cigarettes at wholesale in this state, shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts, as follows: On all cigarettes (1) for two years, commencing on May 1, 1982, eighteen cents per package containing not more than twenty cigarettes, and on packages containing more than twenty cigarettes a tax of eighteen cents for the first twenty cigarettes and eighteen cents for each twenty cigarettes or fractional part thereof in excess of twenty cigarettes and (2) commencing two years after May 1, 1982, fifteen cents per package containing not more than twenty cigarettes, and on packages containing more than twenty cigarettes a tax of fifteen cents for the first twenty cigarettes and fifteen cents for each twenty cigarettes or fractional part thereof in excess of twenty cigarettes. For two years commencing on May 1, 1982, the proceeds of thirteen cents of such tax shall be placed in the General Fund and commencing two years after May 1, 1982, the proceeds of ten cents of such tax shall be placed in the General Fund. The proceeds of the remaining five cents of such tax shall be distributed in the following order:

First, in each fiscal year beginning with the fiscal year commencing July 1, 1972, there shall be first transferred to the University of Nebraska at Lincoln Field House Fund, which is hereby created, the sum of two million four hundred thousand dollars, and

the money in such fund shall be used to make the annual payments on the lease of the field house building constructed pursuant to the provisions of section 85-1,100. There is hereby appropriated two million four hundred thousand dollars from the Nebraska Capital Construction Fund for the fiscal year ending June 30, 1977, for the purposes stated in this subdivision;

Second, there shall be placed in the State Office Building Fund the sum of one million two hundred thousand dollars each year for fiscal years 1974-75, 1975-76, 1976-77, and 1977-78 and three million six hundred thousand dollars for each fiscal year beginning with 1978-79 through 1983-84. Such amounts are hereby appropriated and the unexpended balances existing in such fund at the end of each fiscal year through June 30, 1984, are hereby reappropriated. Money in the State Office Building Fund may be transferred to the General Fund at the direction of the Legislature;

Third, there shall be placed in the Downtown Education Center and Office Rental Fund the sum of nine hundred sixty thousand dollars each year for fiscal years 1976-77 through 1983-84 and two million two hundred eighty thousand dollars each year for fiscal years 1984-85 and 1985-86. Such amounts are hereby appropriated and the unexpended balances existing in such fund at the end of each fiscal year through June 30, 1986, are hereby reappropriated. Money in the Downtown Education Center and Office Rental Fund may be transferred to the General Fund at the direction of the Legislature;

Fourth, beginning July 1, 1980, the equivalent of one cent of such tax shall be placed in the Nebraska Outdoor Recreation Development Cash Fund. There shall be placed in such fund one million thirty thousand one hundred dollars for fiscal year 1979-80;

Fifth, beginning July 1, 1983, the equivalent of one cent of such tax shall be used to fund and carry out the provisions of sections 81-637 to 81-640; and

Sixth, the balance of such proceeds shall be placed in a special fund to be known as the Nebraska Capital Construction Fund and disbursements from such fund shall be as the Legislature shall from time to time provide.

Sec. 5. That section 79-1346, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1346. There is hereby created in the state treasury a special fund to be known as the State Department of Education Cash Fund. Except as to other revenue the disposition of which is otherwise provided for, all sums of money received by the State Department of Education from the sale of goods and materiel, fees from any training program or services rendered, and any

revenue such department may receive from any other source shall be paid into the state treasury and the State Treasurer shall deposit the money in the State Department of Education Cash Fund. The State Treasurer shall disburse such amounts in the cash fund as are available and as shall be considered incident to the administration and operation of the State Department of Education. Money in the State Department of Education Cash Fund may be transferred to the General Fund at the direction of the Legislature. All disbursements for the fund shall be made upon vouchers issued by the State Department of Education and warrants drawn by the Director of Administrative Services.

Sec. 6. That section 81-8,129.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,129.01. There is hereby created a fund, to be known as the State Athletic Commissioner's Cash Fund, and from which shall be appropriated such amounts as are available ~~therefrom~~ and as shall be considered incident to the administration of the State Athletic Commissioner's office. Money in the State Athletic Commissioner's Cash Fund may be transferred to the General Fund at the direction of the Legislature. The fund shall contain all license fees and gross receipts taxes collected by the commissioner as provided under sections 81-8,128 to 81-8,142.01, which shall be paid into the state treasury and the State Treasurer shall credit the money to the State Athletic Commissioner's Cash Fund.

Sec. 7. That section 81-1010, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

* 81-1010. The chief of the transportation services bureau shall have the following duties and responsibilities:

(1) To establish, within thirty days after May 23, 1981, standards for which a state agency must qualify for the full-time assignment of state-owned motor vehicles;

(2) To create a motor pool or motor pools for the use of agencies whose travel requirements do not meet the qualifications set out in subdivision (1) of this section;

(3) To repair, maintain, and lease to state agencies all vehicles owned by the transportation services bureau and approve the acquisition, sale, or trade of each and every state-owned vehicle made by the materiel division of the Department of Administrative Services. The bureau may provide for repair and maintenance pursuant to subdivision (8) of this section;

(4) To consult with the various state agencies using state vehicles and write specifications for

state-owned vehicles to be purchased by the materiel division;

(5) To provide for the purchase only of vehicles used primarily for the transportation of state employees from funds received from the sale of surplus passenger-carrying motor vehicles;

(6) To present to the accounting division of the Department of Administrative Services cost and maintenance records of state-owned vehicles so that the various state agencies which use state-owned vehicles may be billed for such use. Income arising from these billings shall be deposited to the Transportation Services Bureau Revolving Fund, which is hereby created. All expenses of acquisition, operation, and maintenance of state-owned vehicles used primarily for transportation of state employees shall be paid from such fund. Money in the Transportation Services Bureau Revolving Fund may be transferred to the General Fund at the direction of the Legislature. The Department of Administrative Services shall develop a system of time and mileage charges for the purpose of billing the various state agencies for their vehicle usage. The daily, weekly, or monthly charge shall cover all fixed expenses of such vehicles and the mileage charge shall cover the variable costs of operation;

(7) To monitor the utilization of permanently assigned motor vehicles and enforce minimum utilization standards by withdrawing permanently assigned motor vehicles from agencies which are not meeting such standards;

(8) To enter into service agreements for the repair and maintenance of bureau controlled motor vehicles when it determines such action would be to the economic advantage of the state; and

(9) To insure compliance with section 60-1001 for all bureau-owned vehicles.

Sec. 8. That original sections 8-1120, 44-116, 79-1346, 81-8, 129.01, and 81-1010, Reissue Revised Statutes of Nebraska, 1943, and sections 60-2116 and 77-2602, Revised Statutes Supplement, 1982, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.