

LEGISLATIVE BILL 969

Approved by the Governor April 2, 2012

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

FOR AN ACT relating to state funds; to amend sections 68-965, 71-7611, and 71-8805, Reissue Revised Statutes of Nebraska, section 82-332, Revised Statutes Cumulative Supplement, 2010, sections 13-2704, 29-3921, 58-703, 66-1345.04, and 82-331, Revised Statutes Supplement, 2011, and Laws 2011, LB378, section 14; to state and restate intent; to provide for transfers of funds; to change and eliminate provisions relating to certain transfers of funds; to create funds; to provide for a study; to change the source and use of funds; to provide operative dates; to repeal the original sections; to outright repeal Laws 2011, LB378, sections 8 and 10; and to declare an emergency.

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

Section 1. The State Treasurer shall transfer \$99,666.37 from the State Insurance Fund to the Roads Operations Cash Fund on the operative date of this section or as soon thereafter as administratively possible.

Sec. 2. Laws 2011, LB378, section 14, is amended to read:

Sec. 14. The State Treasurer shall transfer \$3,800,000 up to \$1,000,000 from the General Fund to the Ethanol Production Incentive Cash Fund on or before June 30, December 31, 2012, on such date dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to subdivision (2)(1) of section 66-1345.04.

Sec. 3. The State Colleges Sport Facilities Cash Fund is created. The fund shall be administered by the Board of Trustees of the Nebraska State Colleges. The fund shall include transfers from the Civic and Community Center Financing Fund, revenue received from gifts, grants, bequests, donations, other similar donation arrangements, or other contributions from public or private sources, and such other revenue as may accrue to the State Colleges Sport Facilities Cash Fund. Expenditures from the fund are authorized to support renovation and construction of or improvements to facilities for intercollegiate athletics and student fitness, recreation, and sport activities at the Nebraska state colleges. 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.

Sec. 4. Section 13-2704, Revised Statutes Supplement, 2011, is amended to read:

13-2704 (1) The Civic and Community Center Financing Fund is created. The fund shall be administered by the department. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Civic and Community Center Financing 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 fund may be used for assistance for the construction of new civic centers, the renovation or expansion of existing civic or community centers, or the conversion, rehabilitation, or reuse of historic buildings for purposes consistent with this section. The fund may not be used for programming, marketing, advertising, and related activities. Transfers may be made from the fund to the Department of Revenue Enforcement Fund and to the State Colleges Sport Facilities Cash Fund at the direction of the Legislature.

(2) It is the intent of the Legislature that on July 1, 2011, or as soon thereafter as is administratively possible the State Treasurer shall transfer forty-two thousand nine hundred dollars from the Civic and Community Center Financing Fund to the Department of Revenue Enforcement Fund.

(3) The State Treasurer shall transfer two hundred fifty thousand dollars from the Civic and Community Center Financing Fund to the State Colleges Sport Facilities Cash Fund on October 1 of 2012, 2013, and 2014. Commencing October 1, 2015, and every year thereafter, the State Treasurer shall transfer four hundred thousand dollars from the Civic and Community Center Financing Fund to the State Colleges Sport Facilities Cash Fund.

Sec. 5. Section 29-3921, Revised Statutes Supplement, 2011, is amended to read:

29-3921 (1) The Commission on Public Advocacy Operations Cash Fund is created. The fund shall be used for the operations of the commission, except that transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2011. The Commission on Public

Advocacy Operations Cash Fund shall consist of money remitted pursuant to section 33-156. It is the intent of the Legislature that the commission shall be funded solely from the fund. 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.

(2) On July 1, 2011, or as soon thereafter as administratively possible, the State Treasurer shall transfer one hundred thousand dollars from the Commission on Public Advocacy Operations Cash Fund to the Supreme Court Education Fund. The State Court Administrator shall use these funds to assist the juvenile justice system in providing prefiling and diversion programming designed to reduce excessive absenteeism and unnecessary involvement with the juvenile justice system.

(3) The State Treasurer shall transfer the following amounts from the Commission on Public Advocacy Operations Cash Fund to the Court Appointed Special Advocate Fund:

(a) On July 1, 2011, or as soon thereafter as administratively possible, one hundred thousand dollars; and

(b) On July 1, 2012, or as soon thereafter as administratively possible, two hundred thousand dollars.

(4) On July 1, 2012, or as soon thereafter as administratively possible, the State Treasurer shall transfer sixty thousand dollars from the Commission on Public Advocacy Operations Cash Fund to the Nebraska State Patrol Cash Fund.

The Nebraska State Patrol shall use such funds to contract with the University of Nebraska to study sex offender recidivism data before and after the passage of Laws 2009, LB285, which changed the Nebraska sex offender classification system from an evaluation of risk assessment system to an offense-based assessment system in the attempt by the state to comply with federal requirements under the Adam Walsh Child Protection and Safety Act of 2006.

Sec. 6. Section 58-703, Revised Statutes Supplement, 2011, is amended to read:

58-703 The Affordable Housing Trust Fund is created. The fund shall receive money pursuant to sections 8-1120 and 76-903 and may include revenue from sources recommended by the housing advisory committee established in section 58-704, appropriations from the Legislature, transfers authorized by the Legislature, grants, private contributions, repayment of loans, and all other sources, except that before appropriations from the General Fund and transfers from the General Fund or the Cash Reserve Fund may not be used as a revenue source for the Affordable Housing Trust Fund after June 30, 2013. or for administrative costs of the Department of Economic Development in administering the fund, such use must be specifically authorized by a separate legislative bill passed in a legislative session subsequent to the Ninety-fourth Legislature, Second Session, 1996. Any initial appropriation from the General Fund which is used as a revenue source for the Affordable Housing Trust Fund or for administrative costs shall be in an appropriations bill which does not contain appropriations for other programs. The department Department of Economic Development as part of its comprehensive housing affordability strategy shall administer the Affordable Housing Trust Fund.

Transfers may be made from the Affordable Housing Trust Fund to the General Fund, the Behavioral Health Services Fund, and the Site and Building Development Fund at the direction of the Legislature.

Sec. 7. Section 66-1345.04, Revised Statutes Supplement, 2011, is amended to read:

66-1345.04 (1) The State Treasurer shall transfer from the General Fund to the Ethanol Production Incentive Cash Fund, on or before the end of each of fiscal years 1995-96 and 1996-97, \$8,000,000 per fiscal year.

(2) It is the intent of the Legislature that the following General Fund amounts be appropriated to the Ethanol Production Incentive Cash Fund in each of the following years:

(a) For each of fiscal years 1997-98 and 1998-99, \$7,000,000 per fiscal year;

(b) For fiscal year 1999-2000, \$6,000,000;

(c) For fiscal year 2000-01, \$5,000,000;

(d) For fiscal year 2001-02 and for each of fiscal years 2003-04 through 2006-07, \$1,500,000;

(e) For each of fiscal years 2005-06 and 2006-07, \$2,500,000 in addition to the amount in subdivision (2)(d) of this section;

(f) For fiscal year 2007-08, \$5,500,000;

(g) For each of fiscal years 2008-09 through 2011-12, \$2,500,000;

(h) For each of fiscal years 2005-06 and 2006-07, \$5,000,000 in addition to the other amounts in this section;

(i) For fiscal year 2007-08, \$15,500,000 in addition to the other amounts in this section;

(j) For fiscal year 2009-10, \$8,250,000 in addition to the other amounts in this section;

(k) For fiscal year 2010-11, \$3,000,000 in addition to the other amounts in this section; and

(l) For fiscal year years 2011-12, \$3,800,000 and 2012-13, amounts totaling up to \$1,000,000 in addition to the other amounts in this section.

Sec. 8. Section 68-965, Reissue Revised Statutes of Nebraska, is amended to read:

68-965 (1) The Autism Treatment Program Cash Fund is created. The fund shall include ~~revenue transferred from the Nebraska Health Care Cash Fund and~~ revenue received from gifts, grants, bequests, donations, other similar donation arrangements, or other contributions from public or private sources. The department shall administer the fund. The ~~Autism Treatment Program Cash Fund~~ fund shall be used as the state's matching share for the waiver established under section 68-966 and for expenses incurred in the administration of the Autism Treatment Program. 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.

(2) The program shall utilize private funds deposited in the Autism Treatment Program Cash Fund and funds transferred by the Legislature from the Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund. ~~Transfers from the Nebraska Health Care Cash Fund in any fiscal year shall be contingent upon the receipt of private matching funds for such program, with no less than one dollar of private funds received for every two dollars transferred from the Nebraska Health Care Cash Fund.~~ fund. No donations from a provider of services under Title XIX of the federal Social Security Act shall be deposited into the Autism Treatment Program Cash Fund. ~~fund.~~

Sec. 9. Section 71-7611, Reissue Revised Statutes of Nebraska, is amended to read:

71-7611 (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer (a) fifty-six million one hundred thousand dollars no later than July 15, 2009, and (b) fifty-nine million one hundred thousand dollars beginning on July 15, 2010, and annually thereafter no later than July 15, 2011, and July 15, 2012, (c) fifty-six million one hundred forty-five thousand dollars no later than July 15, 2013, (d) fifty-three million one hundred ninety thousand dollars no later than July 15, 2014, and (e) fifty million two hundred thirty-five thousand dollars beginning July 15, 2015, and annually thereafter no later than July 15 from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund, except that such amount shall be reduced by the amount of the unobligated balance in the Nebraska Health Care Cash Fund at the time the transfer is made. The state investment officer upon consultation with the Nebraska Investment Council shall advise the State Treasurer on the amounts to be transferred from the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco Settlement Trust Fund under this section in order to sustain such transfers in perpetuity. The state investment officer shall report to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers. Except as otherwise provided by law, no more than the amount specified in this subsection may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

It is the intent of the Legislature that no additional programs are funded through the Nebraska Health Care Cash Fund until funding for all programs with an appropriation from the fund during FY2012-13 are restored to their FY2012-13 levels.

(2) Any money in the Nebraska Health Care Cash 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.

(3) ~~One million dollars in the Nebraska Health Care Cash Fund shall be transferred each year to the Autism Treatment Program Cash Fund for five fiscal years beginning on a date determined by the Department of Health and Human Services but no later than ninety days after a waiver under section 68-966 has been approved and shall be distributed with matching private funds from the Autism Treatment Program Cash Fund and matching funds from Title XIX of the federal Social Security Act in each fiscal year as follows: (a) First, to the Department of Health and Human Services for costs related to application, implementation, and administration of a waiver pursuant to section 68-966; (b) second, to the department for other medical costs for children who would not otherwise qualify for medicaid except for the waiver;~~

and ~~(e) third, the balance to fund services pursuant to the waiver.~~

~~(4) (3) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.~~

~~(5) The State Treasurer shall transfer two hundred thousand dollars from the Nebraska Health Care Cash Fund to the University of Nebraska Medical Center Cash Fund for the Nebraska Regional Poison Center within fifteen days after each July 1.~~

~~(6) Beginning on July 1, 2010, the State Treasurer shall transfer three million dollars annually no later than July 15 of each year from the Nebraska Health Care Cash Fund to the Tobacco Prevention and Control Cash Fund.~~

~~(7) The State Treasurer shall transfer five hundred thousand dollars annually no later than July 15 of each year from the Nebraska Health Care Cash Fund to the Stem Cell Research Cash Fund.~~

Sec. 10. Section 71-8805, Reissue Revised Statutes of Nebraska, is amended to read:

71-8805 (1) The Stem Cell Research Cash Fund is created. 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.

(2) Money credited to the Stem Cell Research Cash Fund pursuant to section 71-7611 shall be used to provide a dollar-for-dollar match, up to five hundred thousand dollars per fiscal year, of funds received by institutions or researchers from sources other than funds provided by the State of Nebraska for nonembryonic stem cell research. Such matching funds shall be awarded through the grant process established pursuant to section 71-8804. No single institution or researcher shall receive more than seventy percent of the funds available for distribution under this section on an annual basis.

(3) Up to three percent of the funds credited to the Stem Cell Research Cash Fund shall be available to the Division of Public Health of the Department of Health and Human Services for administrative costs, including stipends and reimbursements pursuant to section 71-8803.

Sec. 11. Section 82-331, Revised Statutes Supplement, 2011, is amended to read:

82-331 (1) There is hereby established in the state treasury a trust fund to be known as the Nebraska Cultural Preservation Endowment Fund. The fund shall consist of funds appropriated or transferred by the Legislature, and only the earnings of the fund may be used as provided in this section.

(2) On August 1, 1998, the State Treasurer shall transfer five million dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund.

(3) Except as provided in subsection (4) of this section, it is the intent of the Legislature that the State Treasurer shall transfer (a) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2009 and 2010 and (b) an amount not to exceed five hundred thousand dollars from the General Fund to the Nebraska Cultural Preservation Endowment Fund on December 31 of 2013, 2014, 2015, 2016, 2017, and 2018.

(4) Prior to the transfer of funds from any state account into the Nebraska Cultural Preservation Endowment Fund, the Nebraska Arts Council shall provide documentation to the budget division of the Department of Administrative Services that qualified endowments have generated a dollar-for-dollar match of new money, up to the amount of state funds authorized by the Legislature to be transferred to the Nebraska Cultural Preservation Endowment Fund. For purposes of this section, new money means a contribution to a qualified endowment generated after July 1, 2011. Contributions not fully matched by state funds shall be carried forward to succeeding years and remain available to provide a dollar-for-dollar match for state funds. For an endowment to be a qualified endowment (a) the endowment must meet the standards set by the Nebraska Arts Council or Nebraska Humanities Council, (b) the endowment must be intended for long-term stabilization of the organization, and (c) the funds of the endowment must be endowed and only the earnings thereon expended. The budget division of the Department of Administrative Services shall notify the State Treasurer to execute a transfer of state funds up to the amount specified by the Legislature, but only to the extent that the Nebraska Arts Council has provided documentation of a dollar-for-dollar match. Funds State funds not transferred shall be carried forward to the succeeding year and be added to the funds authorized for a dollar-for-dollar match during that year.

(5) The Legislature shall not appropriate or transfer money from the Nebraska Cultural Preservation Endowment Fund for any purpose other than the purposes stated in sections 82-330 to 82-333, except that the Legislature may appropriate or transfer money from the fund upon a finding that the purposes of such sections are not being accomplished by the fund.

(6) Any money in the Nebraska Cultural Preservation Endowment 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.

(7) All investment earnings from the Nebraska Cultural Preservation Endowment Fund shall be credited to the Nebraska Arts and Humanities Cash Fund.

Sec. 12. Section 82-332, Revised Statutes Cumulative Supplement, 2010, is amended to read:

82-332 (1) The Nebraska Arts and Humanities Cash Fund is created. The fund shall consist of all funds credited from the Nebraska Cultural Preservation Endowment Fund pursuant to section 82-331. The Nebraska Arts Council shall administer and distribute the Nebraska Arts and Humanities Cash Fund. All disbursements from the Nebraska Arts and Humanities Cash Fund shall be matched dollar-for-dollar by sources other than state funds. The match funds shall be new money generated for endowments established by the Nebraska Arts Council or Nebraska Humanities Council or qualified endowments of their constituent organizations, new money generated as a result of seed grants to recipients, or new money generated by the Nebraska Arts Council or Nebraska Humanities Council for arts or humanities education. Matching funds shall also include earnings generated by qualified private endowments formed in accordance with this section. New money used as a match shall not be limited to matching the Nebraska Arts and Humanities Cash Fund in the state fiscal year the new money is received, but it shall be used as a match no later than the subsequent fiscal year. For purposes of this section, new money means a contribution to a qualified endowment generated after July 1, 2011. Contributions not fully matched by state funds shall be carried forward to succeeding years and remain available to provide a dollar-for-dollar match for state funds. For an endowment to be a qualified endowment (a) the endowment must meet the standards set by the Nebraska Arts Council or Nebraska Humanities Council, (b) the endowment must be intended for long-term stabilization of the organization, and (c) the funds of the endowment must be endowed and only the earnings thereon expended. An organization is a constituent organization if it receives funding from the Nebraska Arts Council or Nebraska Humanities Council and is tax exempt under section 501 of the Internal Revenue Code. The match funds required by this section shall not include in-kind contributions. The budget division of the Department of Administrative Services shall approve allotment and disbursement of funds from the Nebraska Arts and Humanities Cash Fund only to the extent the Nebraska Arts Council has provided documentation of the dollar-for-dollar match required by this section. Funds from the Nebraska Arts and Humanities Cash Fund may be used for the purpose of obtaining challenge grants from the National Endowment for the Humanities or the National Endowment for the Arts.

(2) Rules and regulations of the Nebraska Arts Council shall provide that the ultimate use of disbursements from the Nebraska Arts and Humanities Cash Fund shall be in a ratio of seventy percent to projects, endowments, or programs designated by the Nebraska Arts Council and thirty percent to projects, endowments, or programs designated by the Nebraska Humanities Council.

(3) 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.

Sec. 13. The World Day on the Mall Cash Fund is created. The fund shall consist of sums that are contributed as gifts, donations, grants, or bequests to provide multicultural or diversity education, training, and events. The fund shall be used by the personnel division of the Department of Administrative Services for the administration of multicultural or diversity education, training, and events. 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.

Sec. 14. Sections 8, 9, 10, and 16 of this act become operative on July 1, 2012. The other sections of this act become operative on their effective date.

Sec. 15. Original section 82-332, Revised Statutes Cumulative Supplement, 2010, sections 13-2704, 29-3921, 58-703, 66-1345.04, and 82-331, Revised Statutes Supplement, 2011, and Laws 2011, LB378, section 14, are

repealed.

Sec. 16. Original sections 68-965, 71-7611, and 71-8805, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 17. The following sections are outright repealed: Laws 2011, LB378, sections 8 and 10.

Sec. 18. Since an emergency exists, this act takes effect when passed and approved according to law.