

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 185

Introduced by Christensen, 44.

Read first time January 14, 2013

Committee: Appropriations

A BILL

1 FOR AN ACT relating to natural resources districts; to amend section
2 2-3226.05, Reissue Revised Statutes of Nebraska, and
3 section 84-612, Revised Statutes Cumulative Supplement,
4 2012; to authorize state assistance for streamflow
5 enhancement projects; to provide funding; to provide for
6 a fund transfer; to harmonize provisions; to provide a
7 duty for the Revisor of Statutes; to repeal the original
8 sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The Legislature finds that natural
2 resources districts that exercise their authority given them by the
3 Legislature pursuant to sections 2-3226.01 to 2-3226.05 to invest in
4 projects that enhance streamflows for the purpose of compliance with
5 compacts, agreements, and decrees and to assist in the management,
6 protection, and conservation of the water resources of river basins
7 should be given financial assistance. It is the intent of the
8 Legislature to provide payment to such districts through the
9 financial assistance provided in this section. The Legislature
10 further finds that the financial assistance provided by the state
11 under this section shall be repaid through the occupation tax
12 authorized in section 2-3226.05 or such other means as are provided
13 by the Legislature.

14 (2) No later than five days after the effective date of
15 this act, a natural resources district with an integrated management
16 plan as described in subsection (1) of section 2-3226.01 and that has
17 entered into contracts to construct or implement streamflow
18 enhancement projects shall submit a request in writing to the
19 department certifying the amount of financial assistance necessary to
20 meet its obligations under such contracts by or through obligations
21 of joint entities or joint public agencies formed for the purposes
22 described in section 2-3226.01. Within fifteen days after the
23 effective date of this act, if such a request has been received by
24 the department, the department shall expend from the Water
25 Contingency Cash Fund the amount requested to provide financial

1 assistance to the submitting natural resources district. The natural
2 resources district shall use the financial assistance provided by the
3 state from the Water Contingency Cash Fund to continue the funding
4 and implementation of such augmentation project. Any financial
5 assistance provided under this section not used for such purpose by
6 the natural resources district within one year after it is received
7 by such district shall be returned to the department for credit to
8 the Water Contingency Cash Fund.

9 (3) Any district receiving financial assistance pursuant
10 to this section shall remit to the department the unobligated
11 proceeds of the occupation tax authorized pursuant to section
12 2-3226.05 when such proceeds are available for distribution until the
13 amount of such financial assistance has been repaid. Such proceeds
14 shall be remitted within fifteen days after receipt of the proceeds
15 by the district. If the district does not receive proceeds of the
16 occupation tax, the district shall reimburse the Water Contingency
17 Cash Fund by such means as are provided by the Legislature. Such
18 reimbursement shall be made no later than June 30, 2018.

19 Sec. 2. Section 2-3226.05, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 2-3226.05 (1) A district with an integrated management
22 plan as described in subsection (1) of section 2-3226.01 may levy an
23 occupation tax upon the activity of irrigation of agricultural lands
24 within such district on an annual basis, not to exceed ten dollars
25 per irrigated acre, the proceeds of which may be used for (a)

1 repaying principal and interest on any bonds or refunding bonds
2 issued pursuant to section 2-3226.01 for one or more projects under
3 section 2-3226.04, (b) the repayment of financial assistance received
4 by the district pursuant to section 2-3226.07 or section 1 of this
5 act, or (c) payment of all or any part of the costs and expenses of
6 one or more qualified projects described in section 2-3226.04. If
7 such district has more than one river basin as described in section
8 2-1504 within its jurisdiction, such district shall confine such
9 occupation tax authorized in this section to the geographic area
10 affected by an integrated management plan adopted in accordance with
11 section 46-715.

12 (2)(a) Acres classified by the county assessor as
13 irrigated shall be subject to such district's occupation tax unless
14 on or before March 1 in each year the record owner certifies to the
15 district the nonirrigation status of such acres.

16 (b) A district may exempt from the occupation tax acres
17 that are enrolled in local, state, or federal temporary irrigation
18 retirement programs that prohibit the application of irrigation water
19 in the year for which the tax is levied.

20 (c) Except as provided in subdivisions (2)(a) and (b) of
21 this section, a district is prohibited from providing an exemption
22 from, or allowing a request for a local refund of, an occupation tax
23 on irrigated acres regardless of the irrigation source while the
24 record owner maintains irrigated status on such acres in the year for
25 which the tax is levied.

1 (d) Notwithstanding subdivisions (2)(b) and (c) of this
2 section, the record owner may present evidence of the nonirrigation
3 status of the acres subject to the tax within twelve months after the
4 date the tax was levied and the district may refund amounts collected
5 upon such acres if an occupation tax was not levied by the district
6 the previous year and the district had not adopted an integrated
7 management plan as described in subsection (1) of section 2-3226.01
8 by March 1 in the current year. Subdivision (2)(d) of this section
9 terminates on October 1, 2012.

10 (3) Any such occupation tax shall remain in effect so
11 long as the natural resources district has bonds outstanding which
12 have been issued stating such occupation tax as an available source
13 for payment and for the purpose of paying all or any part of the
14 costs and expenses of one or more projects authorized pursuant to
15 section 2-3226.04.

16 (4) Such occupation taxes shall be certified to,
17 collected by, and accounted for by the county treasurer at the same
18 time and in the same manner as general real estate taxes, and such
19 occupation taxes shall be and remain a perpetual lien against such
20 real estate until paid. Such occupation taxes shall become delinquent
21 at the same time and in the same manner as general real property
22 taxes. The county treasurer shall publish and post a list of
23 delinquent occupation taxes with the list of real property subject to
24 sale for delinquent property taxes provided for in section 77-1804.
25 In addition, the list shall be provided to natural resources

1 districts which levied the delinquent occupation taxes. The list
2 shall include the record owner's name, the parcel identification
3 number, and the amount of delinquent occupation tax. For services
4 rendered in the collection of the occupation tax, the county
5 treasurer shall receive the fee provided for collection of general
6 natural resources district money under section 33-114.

7 (5) Such lien shall be inferior only to general taxes
8 levied by political subdivisions of the state. When such occupation
9 taxes have become delinquent and the real property on which the
10 irrigation took place has not been offered at any tax sale, the
11 district may proceed in district court in the county in which the
12 real estate is situated to foreclose in its own name the lien in the
13 same manner and with like effect as a foreclosure of a real estate
14 mortgage, except that sections 77-1903 to 77-1917 shall govern when
15 applicable.

16 Sec. 3. Section 84-612, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 84-612 (1) There is hereby created within the state
19 treasury a fund known as the Cash Reserve Fund which shall be under
20 the direction of the State Treasurer. The fund shall only be used
21 pursuant to this section.

22 (2) The State Treasurer shall transfer funds from the
23 Cash Reserve Fund to the General Fund upon certification by the
24 Director of Administrative Services that the current cash balance in
25 the General Fund is inadequate to meet current obligations. Such

1 certification shall include the dollar amount to be transferred. Any
2 transfers made pursuant to this subsection shall be reversed upon
3 notification by the Director of Administrative Services that
4 sufficient funds are available.

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

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

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

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

24 (7) The State Treasurer, at the direction of the budget
25 administrator of the budget division of the Department of

1 Administrative Services, shall transfer not to exceed twelve million
2 dollars in total between July 1, 2011, and November 30, 2012, from
3 the Cash Reserve Fund to the Ethanol Production Incentive Cash Fund,
4 for ethanol production incentive credits, on such dates and in such
5 amounts as certified by the Tax Commissioner.

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

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

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

23 (11) The State Treasurer shall transfer ten million
24 dollars from the Cash Reserve Fund to the General Fund on or before
25 June 30, 2013, on such date as directed by the budget administrator

1 of the budget division of the Department of Administrative Services.

2 (12) The State Treasurer shall transfer forty million
3 dollars from the Cash Reserve Fund to the Water Contingency Cash Fund
4 within seven days after the effective date of this act.

5 Sec. 4. The Revisor of Statutes shall assign section 1 of
6 this act to Chapter 2, article 32.

7 Sec. 5. Original section 2-3226.05, Reissue Revised
8 Statutes of Nebraska, and section 84-612, Revised Statutes Cumulative
9 Supplement, 2012, are repealed.

10 Sec. 6. Since an emergency exists, this act takes effect
11 when passed and approved according to law.