

AMENDMENTS TO LB 142

(Amendments to E & R amendments, AM7091)

1 1. Insert the following new sections:

2 "Section 1. Section 8-1120, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 8-1120. (1) Except as otherwise provided in this
5 section, the Securities Act of Nebraska shall be administered by
6 the Director of Banking and Finance who may employ such assistants
7 or counsel as may be reasonably necessary for the purpose thereof
8 and who may designate one of such assistants as an assistant
9 director. The director may delegate to such assistant director or
10 counsel any powers, authority, and duties imposed upon or granted
11 to the director under the act, such as may be lawfully delegated
12 under the common law or the statutes of this state. The director
13 may also employ special counsel with respect to any investigation
14 conducted by him or her under the act or with respect to any
15 litigation to which the director is a party under the act, except
16 that security issued by and representing an interest in or a debt
17 of, or guaranteed by, any insurance company shall be registered,
18 pursuant to the provisions of sections 8-1104 to 8-1109, with the
19 Director of Insurance who shall as to such registrations administer
20 and enforce the act, and as pertains to the administration and
21 enforcement of such registration of such securities all references
22 in the act to director shall mean the Director of Insurance.

23 (2) It shall be unlawful for the director or any of his

1 or her officers or employees to use for personal benefit any
2 information which is filed with or obtained by the director and
3 which is not made public. No provision of the act shall authorize
4 the director or any of his or her officers or employees to disclose
5 any such information except among themselves or when necessary or
6 appropriate in a proceeding or investigation under the act. No
7 provision of the act shall either create or derogate from any
8 privilege which exists at common law or otherwise when documentary
9 or other evidence is sought under a subpoena directed to the
10 director or any of his or her officers or employees.

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

17 In prescribing rules and forms the director may cooperate
18 with the securities administrators of the other states and the
19 Securities and Exchange Commission with a view to effectuating the
20 policy of the Securities Act of Nebraska to achieve maximum
21 uniformity in the form and content of registration statements,
22 applications, and reports wherever practicable. All rules and
23 forms of the director shall be published and mailed to each
24 registered broker-dealer.

25 (4) No provision of the act imposing any liability shall
26 apply to any act done or omitted in good faith in conformity with
27 any rule, form, or order of the director, notwithstanding that the

1 rule or form may later be amended or rescinded or be determined by
2 judicial or other authority to be invalid for any reason.

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

7 (6) The Securities Act Cash Fund is created. All filing
8 fees, registration fees, and all other fees and all money collected
9 by or paid to the director under any of the provisions of the act
10 shall be remitted to the State Treasurer for credit to the fund,
11 except that registration fees collected by or paid to the Director
12 of Insurance pursuant to the provisions of the act shall be
13 credited to the Department of Insurance Cash Fund. The Securities
14 Act Cash Fund shall be used for the purpose of administering and
15 enforcing the provisions of the act, except that (a) transfers may
16 be made to the General Fund at the direction of the Legislature,
17 (b) ~~and~~, for the calendar years of 2000 and 2001, two million
18 dollars shall be transferred in each year to the Affordable Housing
19 Trust Fund, and (c) for fiscal year 1999-00, six million dollars
20 shall be transferred to the Water Quality Trust Fund. All of such
21 money is appropriated and shall be appropriated for such purposes.
22 Any money in the Securities Act Cash Fund available for investment
23 shall be invested by the state investment officer pursuant to the
24 Nebraska Capital Expansion Act and the Nebraska State Funds
25 Investment Act.

26 (7) A document is filed when it is received by the
27 director. The director shall keep a register of all applications

1 for registration and registration statements which are or have ever
2 been effective under the Securities Act of Nebraska and all denial,
3 suspension, or revocation orders which have ever been entered under
4 the act. The register shall be open for public inspection. The
5 information contained in or filed with any registration statement,
6 application, or report may be made available to the public under
7 such rules as the director shall prescribe.

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

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

17 Sec. 2. The Water Quality Trust Fund is created. The
18 interest earned on the fund shall be transferred to the Natural
19 Resources Enhancement Fund. Any money in the Water Quality Trust
20 Fund shall be invested pursuant to the Nebraska Capital Expansion
21 Act and the Nebraska State Funds Investment Act.

22 Sec. 4. Section 66-1345, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 66-1345. (1) There is hereby created the Ethanol
25 Production Incentive Cash Fund which shall be used by the board to
26 pay the credits created in section 66-1344 to the extent provided
27 in this section. Any money in the fund available for investment

1 shall be invested by the state investment officer pursuant to the
2 Nebraska Capital Expansion Act and the Nebraska State Funds
3 Investment Act. The State Treasurer shall transfer to the Ethanol
4 Production Incentive Cash Fund such money as shall be (a)
5 appropriated to the Ethanol Production Incentive Cash Fund by the
6 Legislature, (b) given as gifts, bequests, grants, or other
7 contributions to the Ethanol Production Incentive Cash Fund from
8 public or private sources, (c) made available due to failure to
9 fulfill conditional requirements pursuant to investment agreements
10 entered into prior to April 30, 1992, (d) received as return on
11 investment of the Ethanol Authority and Development Cash Fund, (e)
12 ~~credited to the Ethanol Production Incentive Cash Fund from the~~
13 ~~fertilizer fee pursuant to section 77-4401, (f) credited to the~~
14 Ethanol Production Incentive Cash Fund from the excise taxes
15 imposed by section 66-1345.01, and ~~(g)~~ (f) credited to the Ethanol
16 Production Incentive Cash Fund pursuant to section 66-1345.04.

17 (2) The Department of Revenue shall, at the end of each
18 calendar quarter, notify the State Treasurer of the amount of motor
19 fuel tax that was not collected in the preceding calendar quarter
20 due to the credits provided in section 66-1344. The State
21 Treasurer shall transfer from the Ethanol Production Incentive Cash
22 Fund to the Highway Trust Fund an amount equal to such credits less
23 the following amounts:

24 (a) For 1993, 1994, and 1995, the amount generated during
25 the calendar quarter by a one-cent tax on motor fuel pursuant to
26 sections 66-489, 66-668, and 66-6,107;

27 (b) For 1996, the amount generated during the calendar

1 quarter by a three-quarters-cent tax on motor fuel pursuant to such
2 sections;

3 (c) For 1997, the amount generated during the calendar
4 quarter by a one-half-cent tax on motor fuel pursuant to such
5 sections; and

6 (d) For 1998, 1999, and 2000, no reduction.

7 The amounts shall be transferred through December 31,
8 2000. For 1993 through 1997, if the amount generated pursuant to
9 subdivisions (a), (b), and (c) of this subsection and the amount
10 transferred pursuant to subsection (1) of this section are not
11 sufficient to fund the credits provided in section 66-1344, then
12 the credits shall be funded through the Ethanol Production
13 Incentive Cash Fund but shall not be funded through either the
14 Highway Cash Fund or the Highway Trust Fund. For 1998, 1999, and
15 2000, the credits provided in such section shall be funded through
16 the Ethanol Production Incentive Cash Fund but shall not be funded
17 through either the Highway Cash Fund or the Highway Trust Fund.

18 (3) The State Treasurer shall transfer from the Ethanol
19 Production Incentive Cash Fund to the Management Services Expense
20 Revolving Fund the amount reported under subsection (4) of section
21 66-1345.02 for each calendar quarter of the fiscal year as provided
22 in such subsection.

23 (4) On February 15, 2001, the State Treasurer shall
24 transfer any unexpended and unobligated funds from the Ethanol
25 Production Incentive Cash Fund to the Nebraska Corn Development,
26 Utilization, and Marketing Fund and Grain Sorghum Development,
27 Utilization, and Marketing Fund in the same proportion as funds

1 were collected pursuant to section 66-1345.01 from corn and grain
2 sorghum.

3 Sec. 5. Section 77-4401, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-4401. (1) ~~Through December 31, 1996, there shall be~~
6 There is imposed a fee of ~~four dollars~~ seventy-five cents per ton
7 upon the gross tonnage of all sales, use, or other consumption in
8 this state of commercial fertilizers. ~~and commencing January 1,~~
9 ~~1997, through December 31, 2000, there shall be imposed a fee of~~
10 ~~one dollar per ton upon such gross tonnage.~~ The fee shall be paid
11 by the purchaser of the commercial fertilizer. Any commercial
12 fertilizer subject to the sales and use tax pursuant to the
13 Nebraska Revenue Act of 1967 shall be exempt from the fee imposed
14 by this section. For purposes of this section, the definitions
15 found in section 81-2,162.02 shall apply.

16 (2) The fee imposed by this section shall be collected by
17 the seller and remitted to the ~~Department of Revenue for credit to~~
18 ~~the Ethanol Production Incentive Cash Fund through December 31,~~
19 ~~1996, and to the Natural Resources Enhancement Fund on and after~~
20 ~~January 1, 1997,~~ based on the gross tonnage of commercial
21 fertilizers sold during the preceding period. Payment of the fee
22 shall be accompanied by a report setting forth the gross tonnage of
23 commercial fertilizers sold by the seller. The report shall be on
24 a form prescribed by the Department of Revenue and shall include
25 such other information as the Tax Commissioner deems necessary.
26 The provisions of the Nebraska Revenue Act of 1967 applicable to
27 sales and use taxes shall apply to imposition of the fee.

1 (3) For purposes of this section, gross tonnage shall not
2 include water and other carriers added by the retail seller of the
3 fertilizer and shall not include sales of packages of fertilizers
4 containing ten pounds or less.

5 (4) Any person who purchased commercial fertilizer prior
6 to May 1, 1993, and paid a fee greater than three dollars per ton
7 shall be entitled to a refund of the amount paid in excess of three
8 dollars per ton.

9 (5) The Tax Commissioner shall adopt and promulgate rules
10 and regulations to carry out this section.".

11 2. On page 2, line 14, strike "section 60-3003" and
12 insert "sections 8-1120, 60-3003, 66-1345, and 77-4401"; and in
13 line 15 strike "is" and insert "are".

14 3. Renumber the remaining sections accordingly.