

## LEGISLATIVE BILL 961

Approved by the Governor April 2, 2008

Introduced by Speaker Flood, 19; Pahls, 31; at the request of the Governor.

FOR AN ACT relating to state funds; to amend section 54-857, Reissue Revised Statutes of Nebraska, sections 2-958.01, 29-3921, and 84-510, Revised Statutes Cumulative Supplement, 2006, sections 71-7608 and 81-3119, Revised Statutes Supplement, 2007, Laws 2007, LB 321, section 281, and section 71-7611, Revised Statutes Supplement, 2007, as amended by section 2, Legislative Bill 480, One Hundredth Legislature, Second Session, 2008; to provide for and change amounts of transfers of funds; to provide for a study; to change authorized use of certain funds; to change allocation provisions for the Nebraska Tobacco Settlement Trust Fund; to prohibit the pledge of certain funds for bond repayment; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 2-958.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

2-958.01 The Noxious Weed and Invasive Plant Species Assistance Fund is created. The fund may be used to carry out the purposes of section 2-958.02. The State Treasurer shall credit to the fund any money any funds transferred pursuant to section 54-857, funds appropriated to the fund by the Legislature, and any money funds received as gifts or grants or other private or public funds obtained for the purposes set forth in section 2-958.02. 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. 2. Section 29-3921, Revised Statutes Cumulative Supplement, 2006, is amended to read:

29-3921 The Commission on Public Advocacy Operations Cash Fund is created. The fund shall be used for the operations of the commission. The 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. ~~Any money in the County Revenue Assistance Fund on April 19, 2002, shall be transferred to the Commission on Public Advocacy Operations Cash Fund.~~

The State Treasurer shall transfer two hundred fifty thousand dollars from the Commission on Public Advocacy Operations Cash Fund to the University Cash Fund within fifteen days after May 1, 2008. Such funds shall be used for a study of the juvenile legal defense and guardian ad litem systems utilizing the University of Nebraska Public Policy Center to create, administer, and review a Request for Proposals to select from a national search a research consultant that is qualified to provide a methodologically sound and objective assessment of Nebraska's juvenile justice system. The assessment shall include: (1) Gathering of general data and information about the structure and funding mechanisms for juvenile legal defense and guardian ad litem representation; (2) a review of caseloads; (3) examining issues related to the timing of appointment of counsel and guardians ad litem; (4) supervision of attorneys; (5) charging and trying juveniles as adults; (6) frequency with which juveniles waive their right to counsel and under what conditions they do so; (7) allocation of resources; (8) adequacy of juvenile court facilities; (9) compensation of attorneys; (10) supervising and training of attorneys; (11) access to investigators, experts, social workers, and support staff; (12) access to educational officers, teachers, educational staff, and truancy officers; (13) the relationship between a guardian ad litem, a juvenile's legal counsel, and the judicial system with identified educational staff regarding a juvenile's educational status; (14) examining issues related to truancy and the relationship between the school districts and the juvenile court system; (15) recidivism; (16) time to permanency and time in court, especially when a guardian ad litem is appointed; and (17) coordination of representation for those juveniles that may have been appointed an attorney in a juvenile delinquency matter and a guardian ad litem because of abuse or neglect. The assessment shall also highlight promising approaches and innovative practices within the state and offer recommendations to improve weak areas.

Sec. 3. Section 54-857, Reissue Revised Statutes of Nebraska, is

amended to read:

54-857 All money received pursuant to the Commercial Feed Act shall be remitted by the director to the State Treasurer for credit to the Commercial Feed Administration Cash Fund which is hereby created. Such fund shall be used by the department to aid in defraying the expenses of administering the act. 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.

On or before October 1, 2008, the State Treasurer shall transfer two hundred fifty thousand dollars from the Commercial Feed Administration Cash Fund to the Noxious Weed and Invasive Plant Species Assistance Fund.

Sec. 4. Section 71-7608, Revised Statutes Supplement, 2007, is amended to read:

71-7608 The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include any settlement payments or other revenue received by the State of Nebraska in connection with any tobacco-related litigation to which the State of Nebraska is a party. The Department of Health and Human Services shall remit such revenue to the State Treasurer for credit to the fund, except that of such revenue received on or after April 1, 2005, (1) two million five hundred thousand dollars shall be credited annually for fiscal years before FY2009-10 and (2) three million dollars shall be credited for FY2009-10 and subsequent fiscal years to the Tobacco Prevention and Control Cash Fund. For FY2008-09 five hundred thousand dollars shall be transferred from the Nebraska Tobacco Settlement Trust Fund to the Tobacco Prevention and Control Cash Fund. The State Treasurer shall make such transfer no later than July 15, 2008. Subject to the terms and conditions of such litigation, money from the Nebraska Tobacco Settlement Trust Fund shall be transferred to the Nebraska Health Care Cash Fund as provided in section 71-7611. Any money in the Nebraska Tobacco Settlement Trust 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. 5. Section 71-7611, Revised Statutes Supplement, 2007, as amended by section 2, Legislative Bill 480, One Hundredth Legislature, Second Session, 2008, is amended to read:

71-7611 (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer fifty-five million seven hundred thousand dollars annually 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. On or before May 1, 2008, the State Treasurer shall transfer from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund an additional two hundred fifty thousand dollars to the Nebraska Health Care Cash Fund. 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 fifty-five million seven hundred thousand dollars may be appropriated or transferred from the Nebraska Health Care Cash Fund in any fiscal year.

(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 is designated each year for the Autism Treatment Program Act for five fiscal years beginning in fiscal year 2007-08 and shall be distributed in each fiscal year as follows: (a) First, to the Department of Health and Human Services for costs related to application and implementation of the waiver; (b) second, to the department for other medical costs for children who would not otherwise qualify for medicaid except for the waiver; and (c) third, the balance to the Autism Treatment Program Cash Fund. The State Treasurer shall transfer the balance of the funding to the Autism Treatment Program Cash Fund based on the estimated costs of administrative and other medical costs as determined by the Legislature through the appropriation process. The transfers to the Autism Treatment Program Cash Fund in any fiscal year shall be contingent upon the receipt of private matching funds under the Autism Treatment Program Act, with no less than one dollar of private funds received for every two dollars transferred from the Nebraska Health Care Cash Fund to the Autism Treatment Program Cash Fund.

(4) 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.

Sec. 6. Section 81-3119, Revised Statutes Supplement, 2007, is amended to read:

81-3119 The Health and Human Services Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. ~~Any money in the Department of Health and Human Services Cash Fund, the Department of Health and Human Services Finance and Support Cash Fund, and the Department of Health and Human Services Regulation and Licensure Cash Fund on July 1, 2007, shall be transferred to the Health and Human Services Cash Fund. On or before July 15, 2008, one million dollars shall be transferred from the Health and Human Services Cash Fund to the Rural Health Professional Incentive Fund.~~ Any money in the ~~fund~~ Health and Human Services 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.

Sec. 7. Section 84-510, Revised Statutes Cumulative Supplement, 2006, is amended to read:

84-510 The Corporation Cash Fund is created. Transfers from the fund to the Election Administration Fund may be made at the direction of the Legislature. ~~On or before May 1, 2003,~~ Within five days after the operative date of this section, the State Treasurer shall transfer ~~two hundred sixty thousand~~ thirty-five thousand seven hundred ninety-five dollars from the Corporation Cash Fund to the Election Administration Fund. Any money in the Corporation 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.

Sec. 8. Laws 2007, LB 321, section 281, is amended to read:

Sec. 281. FUND LAPSES AND TRANSFERS.

The State Treasurer shall make the transfers specified in this section between funds, in the amounts indicated. Unless otherwise noted, transfers for FY2007-08 shall occur on July 1, 2007, or as soon thereafter as administratively possible, and transfers for FY2008-09 shall occur on July 1, 2008, or as soon thereafter as administratively possible. All agencies with administrative responsibilities for these funds shall assist the State Treasurer as needed in implementing the transfers.

(1) Transfers for FY2007-08 shall include:

(a) From the General Fund to the Nebraska State Patrol Cash Fund: \$115,000 less the unexpended balance existing on June 30, 2007, in (i) the Nebraska State Patrol Cash Fund, (ii) the Investigation Petty Cash Fund, (iii) any special checking account or accounts used by the Nebraska State Patrol, and (iv) the possession of agency personnel involved in investigations, when the unexpended balances resulted from General Fund transfers to the Nebraska State Patrol Cash Fund or from General Fund appropriations. Any transfers made shall be subject to a final reconciliation of available investigation cash fund balances as of June 30, 2007, by the Nebraska State Patrol.

It is the intent of the Legislature that the Nebraska State Patrol have available a total of \$115,000 from the General Fund for FY2007-08 to be used in making drug purchases, for enforcing Nebraska laws relating to felonies, for enforcing the Nebraska liquor laws, and for payment of investigative expenses;

(b) From the Tobacco Products Administration Cash Fund to the General Fund: \$-0- on or before June 15, 2008, on such date as directed by the budget administrator;

(c) From the Securities Act Cash Fund to the General Fund: \$7,500,000 on or before September 30, 2007, and \$3,500,000 on or before March 31, 2008, on such dates as directed by the budget administrator;

(d) From the ~~Department of~~ Health and Human Services Cash Fund to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases Cash Fund: \$500,000, pursuant to Laws 1983, LB 192, section 2;

(e) From the Department of Insurance Cash Fund to the General Fund: \$1,500,000 on or before September 30, 2007, and \$1,500,000 on or before March 31, 2008, on such dates as directed by the budget administrator;

(f) From the Roads Operations Cash Fund to the Carrier Enforcement Cash Fund: \$6,757,436 less the June 30, 2007, unobligated Carrier Enforcement Cash Fund balance. Transfers shall be made in four equal quarterly amounts on

or before July 15, October 15, January 15, and April 15;

(g) From the Petroleum Release Remedial Action Cash Fund to the Underground Storage Tank Fund: \$50,000 on or before July 5, 2007;

(h) From the State Building Revolving Fund to the Capitol Security Revolving Fund: \$507,950. Transfers shall be made in four equal quarterly amounts on or before July 15, October 15, January 15, and April 15.

Transfers shall be made to pay non-General Fund costs associated with the operation of the State Capitol Security Division of the Nebraska State Patrol;

(i) From the Highway Trust Fund to the Motor Fuel Tax Enforcement and Collection Cash Fund: \$2,000,000. Transfers shall be made in twelve equal monthly amounts;

(j) From the Highway Trust Fund to the Motor Carrier Division Cash Fund: Up to a maximum of \$750,000. Transfers shall be made as required by the Department of Motor Vehicles to operate the Division of Motor Carrier Services;

(k) From the Highway Trust Fund to the License Plate Cash Fund: \$250,000. Transfers shall be made as required by the Department of Motor Vehicles to meet the expenditures of plate and sticker production, except that the total \$250,000 aggregate amount shall be transferred by the State Treasurer on or before June 1, 2008;

(l) From the Flexible Spending Trust Fund to the Health and Life Benefit Administration Cash Fund: \$68,000, except if the total available unobligated balance of forfeitures in the Flexible Spending Trust Fund as of June 30, 2007, is less than \$68,000, then the State Treasurer shall transfer the difference, not to exceed \$68,000, from the Health History Account of the State Employees Insurance Fund. Transfers shall be made to pay the costs associated with the administration of the Flexible Spending Account program;

(m) From the Health History Account of the State Employees Insurance Fund to the Health and Life Benefit Administration Cash Fund: \$631,981, less the June 30, 2007, unobligated Health and Life Benefit Administration Cash Fund balance;

(n) From the Severance Tax Fund to the Municipal Rate Negotiations Revolving Loan Fund: \$30,000, pursuant to section 57-705;

(o) From the Severance Tax Fund to the State Energy Office Cash Fund: \$300,000, pursuant to section 57-705. Transfers shall be made in twelve equal monthly amounts; and

(p) From the Nebraska Collection Agency Fund to the General Fund: \$350,000.

(2) Transfers for FY2008-09 shall include:

(a) From the General Fund to the Nebraska State Patrol Cash Fund: \$115,000 less the unexpended balance existing on June 30, 2008, in (i) the Nebraska State Patrol Cash Fund, (ii) the Investigation Petty Cash Fund, (iii) any special checking account or accounts used by the Nebraska State Patrol, and (iv) the possession of agency personnel involved in investigations, when the unexpended balances resulted from General Fund transfers to the Nebraska State Patrol Cash Fund or from General Fund appropriations. Any transfers made shall be subject to a final reconciliation of available investigation cash fund balances as of June 30, 2008, by the Nebraska State Patrol.

It is the intent of the Legislature that the Nebraska State Patrol have available a total of \$115,000 from the General Fund for FY2008-09 to be used in making drug purchases, for enforcing Nebraska laws relating to felonies, for enforcing the Nebraska liquor laws, and for payment of investigative expenses;

(b) From the Tobacco Products Administration Cash Fund to the General Fund: ~~\$-0-~~ \$12,000,000 on or before June 15, 2009, on such date as directed by the budget administrator;

(c) From the Securities Act Cash Fund to the General Fund: ~~\$7,500,000~~ \$9,500,000 on or before September 30, 2008, and ~~\$3,500,000~~ \$9,500,000 on or before March 31, 2009, on such dates as directed by the budget administrator;

(d) From the ~~Department of~~ Health and Human Services Cash Fund to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases Cash Fund: \$500,000, pursuant to Laws 1983, LB 192, section 2;

(e) From the Department of Insurance Cash Fund to the General Fund: \$1,500,000 on or before September 30, 2008, and \$1,500,000 on or before March 31, 2009, on such dates as directed by the budget administrator;

(f) From the Roads Operations Cash Fund to the Carrier Enforcement Cash Fund: ~~\$7,055,791-~~ \$7,433,932. Transfers shall be made in four equal quarterly amounts on or before July 15, October 15, January 15, and April 15;

(g) From the Carrier Enforcement Cash Fund to the Nebraska Public Safety Communication System Cash Fund: \$378,141 on or before July 5, 2008;

(h) From the Petroleum Release Remedial Action Cash Fund to the Underground Storage Tank Fund: \$50,000 on or before July 5, 2008;

(i) From the State Building Revolving Fund to the Capitol Security Revolving Fund: \$533,619. Transfers shall be made in four equal quarterly amounts on or before July 15, October 15, January 15, and April 15.

Transfers shall be made to pay non-General Fund costs associated with the operation of the State Capitol Security Division of the Nebraska State Patrol;

(j) From the Highway Trust Fund to the Motor Fuel Tax Enforcement and Collection Cash Fund: \$2,000,000. Transfers shall be made in twelve equal monthly amounts;

(k) From the Highway Trust Fund to the Motor Carrier Division Cash Fund: Up to a maximum of \$900,000. Transfers shall be made as required by the Department of Motor Vehicles to operate the Division of Motor Carrier Services;

(l) From the Highway Trust Fund to the License Plate Cash Fund: Up to a maximum of \$1,950,000. Transfers shall be made as required by the Department of Motor Vehicles to meet the expenditures of plate and sticker production;

(m) From the Flexible Spending Trust Fund to the Health and Life Benefit Administration Cash Fund: \$68,000, except if the total available unobligated balance of forfeitures in the Flexible Spending Trust Fund as of June 30, 2008, is less than \$68,000, then the State Treasurer shall transfer the difference, not to exceed \$68,000, from the Health History Account of the State Employees Insurance Fund. Transfers shall be made to pay the costs associated with the administration of the Flexible Spending Account program;

(n) From the Health History Account of the State Employees Insurance Fund to the Health and Life Benefit Administration Cash Fund: \$644,252;

(o) From the Severance Tax Fund to the Municipal Rate Negotiations Revolving Loan Fund: \$30,000, pursuant to section 57-705; and

(p) From the Severance Tax Fund to the State Energy Office Cash Fund: \$300,000, pursuant to section 57-705. Transfers shall be made in twelve equal monthly amounts.

Sec. 9. Notwithstanding any other provision of law, for bonds issued on or after the operative date of this section, funds received by the issuer pursuant to section 77-2602 shall not be pledged for repayment of bonds.

Sec. 10. Section 9 of this act becomes operative on July 1, 2008. The other sections of this act become operative on their effective date.

Sec. 11. Original section 54-857, Reissue Revised Statutes of Nebraska, sections 2-958.01, 29-3921, and 84-510, Revised Statutes Cumulative Supplement, 2006, sections 71-7608 and 81-3119, Revised Statutes Supplement, 2007, Laws 2007, LB 321, section 281, and section 71-7611, Revised Statutes Supplement, 2007, as amended by section 2, Legislative Bill 480, One Hundredth Legislature, Second Session, 2008, are repealed.

Sec. 12. Since an emergency exists, this act takes effect when passed and approved according to law.