

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 906**

Introduced by Speaker Adams, 24; at the request of the Governor.

Read first time January 15, 2014

Committee: Appropriations

A BILL

1 FOR AN ACT relating to appropriations; to amend sections 2-3225 and  
2 2-3226.05, Reissue Revised Statutes of Nebraska, and  
3 section 84-612, Revised Statutes Supplement, 2013; to  
4 transfer funds; to create and eliminate funds; to  
5 harmonize provisions; to repeal the original sections; to  
6 outright repeal sections 2-3226.06, 2-3226.07, 2-3226.08,  
7 and 2-3226.09, Reissue Revised Statutes of Nebraska; and  
8 to declare an emergency.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. The State Treasurer shall transfer \$6,800,000  
2 from the Health and Human Services Cash Fund to the General Fund on  
3 or before July 15, 2014, on such date as directed by the budget  
4 administrator of the budget division of the Department of  
5 Administrative Services.

6           Sec. 2. The Republican River Compact Litigation  
7 Contingency Cash Fund is created. The State Treasurer shall use the  
8 fund to make payments in an amount up to five million five hundred  
9 thousand dollars in accordance with any order of the United States  
10 Supreme Court pursuant to Kansas v. Nebraska, No. 126 Original. Such  
11 payment or payments shall only be made by the State Treasurer upon  
12 written certification by the Attorney General of the amount of the  
13 judgment and the date payment is due. The fund shall receive revenue  
14 from fund transfers as authorized by the Legislature and from fees,  
15 charges, and any other revenue source specifically designated by the  
16 Legislature for deposit in the fund. Further, upon the written  
17 certification of the Attorney General to the Director of  
18 Administrative Services that the State of Nebraska has satisfied in  
19 full its payment requirements ordered by the court pursuant to Kansas  
20 v. Nebraska, No. 126 Original, the fund shall be terminated and any  
21 remaining balance shall be transferred to the Cash Reserve Fund. Any  
22 money in the Republican River Compact Litigation Contingency Cash  
23 Fund available for investment shall be invested by the state  
24 investment officer pursuant to the Nebraska Capital Expansion Act and  
25 the Nebraska State Funds Investment Act.

1                   Sec. 3. Section 2-3225, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   2-3225 (1)(a) Each district shall have the power and  
4 authority to levy a tax of not to exceed four and one-half cents on  
5 each one hundred dollars of taxable valuation annually on all of the  
6 taxable property within such district unless a higher levy is  
7 authorized pursuant to section 77-3444.

8                   (b) Each district shall also have the power and authority  
9 to levy a tax equal to the dollar amount by which its restricted  
10 funds budgeted to administer and implement ground water management  
11 activities and integrated management activities under the Nebraska  
12 Ground Water Management and Protection Act exceed its restricted  
13 funds budgeted to administer and implement ground water management  
14 activities and integrated management activities for FY2003-04, not to  
15 exceed one cent on each one hundred dollars of taxable valuation  
16 annually on all of the taxable property within the district.

17                   (c) In addition to the power and authority granted in  
18 subdivisions (1)(a) and (b) of this section, each district located in  
19 a river basin, subbasin, or reach that has been determined to be  
20 fully appropriated pursuant to section 46-714 or designated  
21 overappropriated pursuant to section 46-713 by the Department of  
22 Natural Resources shall also have the power and authority to levy a  
23 tax equal to the dollar amount by which its restricted funds budgeted  
24 to administer and implement ground water management activities and  
25 integrated management activities under the Nebraska Ground Water

1 Management and Protection Act exceed its restricted funds budgeted to  
2 administer and implement ground water management activities and  
3 integrated management activities for FY2005-06, not to exceed three  
4 cents on each one hundred dollars of taxable valuation on all of the  
5 taxable property within the district for fiscal year 2006-07 and each  
6 fiscal year thereafter through fiscal year 2017-18.

7 (d) In addition to the power and authority granted in  
8 subdivisions (a) through (c) of this subsection, a district with  
9 jurisdiction that includes a river subject to an interstate compact  
10 among three or more states and that also includes one or more  
11 irrigation districts within the compact river basin may annually levy  
12 a tax not to exceed ten cents per one hundred dollars of taxable  
13 valuation of all taxable property in the district. The proceeds of  
14 such tax may be used for the payment of principal and interest on  
15 bonds and refunding bonds issued pursuant to section 2-3226.01, ~~or~~  
16 ~~for the repayment of financial assistance received by the district~~  
17 ~~pursuant to section 2-3226.07.~~ Such levy is not includable in the  
18 computation of other limitations upon the district's tax levy.

19 (2) The proceeds of the tax levies authorized in  
20 subdivisions (1)(a) through (c) of this section shall be used,  
21 together with any other funds which the district may receive from any  
22 source, for the operation of the district. When adopted by the board,  
23 the tax levies authorized in subdivisions (1)(a) through (d) of this  
24 section shall be certified by the secretary to the county clerk of  
25 each county which in whole or in part is included within the

1 district. Such levy shall be handled by the counties in the same  
2 manner as other levies, and proceeds shall be remitted to the  
3 district treasurer. Such levy shall not be considered a part of the  
4 general county levy and shall not be considered in connection with  
5 any limitation on levies of such counties.

6 Sec. 4. Section 2-3226.05, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 2-3226.05 (1) A district with an integrated management  
9 plan as described in subsection (1) of section 2-3226.01 may levy an  
10 occupation tax upon the activity of irrigation of agricultural lands  
11 within such district on an annual basis, not to exceed ten dollars  
12 per irrigated acre, the proceeds of which may be used for (a)  
13 repaying principal and interest on any bonds or refunding bonds  
14 issued pursuant to section 2-3226.01 for one or more projects under  
15 section 2-3226.04, ~~(b) the repayment of financial assistance received~~  
16 ~~by the district pursuant to section 2-3226.07, or (c) or (b) payment~~  
17 of all or any part of the costs and expenses of one or more qualified  
18 projects described in section 2-3226.04. If such district has more  
19 than one river basin as described in section 2-1504 within its  
20 jurisdiction, such district shall confine such occupation tax  
21 authorized in this section to the geographic area affected by an  
22 integrated management plan adopted in accordance with section 46-715.

23 (2)(a) Acres classified by the county assessor as  
24 irrigated shall be subject to such district's occupation tax unless  
25 on or before March 1 in each year the record owner certifies to the

1 district the nonirrigation status of such acres.

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

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

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

21 (3) Any such occupation tax shall remain in effect so  
22 long as the natural resources district has bonds outstanding which  
23 have been issued stating such occupation tax as an available source  
24 for payment and for the purpose of paying all or any part of the  
25 costs and expenses of one or more projects authorized pursuant to

1 section 2-3226.04.

2 (4) Such occupation taxes shall be certified to,  
3 collected by, and accounted for by the county treasurer at the same  
4 time and in the same manner as general real estate taxes, and such  
5 occupation taxes shall be and remain a perpetual lien against such  
6 real estate until paid. Such occupation taxes shall become delinquent  
7 at the same time and in the same manner as general real property  
8 taxes. The county treasurer shall publish and post a list of  
9 delinquent occupation taxes with the list of real property subject to  
10 sale for delinquent property taxes provided for in section 77-1804.  
11 In addition, the list shall be provided to natural resources  
12 districts which levied the delinquent occupation taxes. The list  
13 shall include the record owner's name, the parcel identification  
14 number, and the amount of delinquent occupation tax. For services  
15 rendered in the collection of the occupation tax, the county  
16 treasurer shall receive the fee provided for collection of general  
17 natural resources district money under section 33-114.

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

1 applicable.

2           Sec. 5. Section 84-612, Revised Statutes Supplement,  
3 2013, is amended to read:

4           84-612 (1) There is hereby created within the state  
5 treasury a fund known as the Cash Reserve Fund which shall be under  
6 the direction of the State Treasurer. The fund shall only be used  
7 pursuant to this section.

8           (2) The State Treasurer shall transfer funds from the  
9 Cash Reserve Fund to the General Fund upon certification by the  
10 Director of Administrative Services that the current cash balance in  
11 the General Fund is inadequate to meet current obligations. Such  
12 certification shall include the dollar amount to be transferred. Any  
13 transfers made pursuant to this subsection shall be reversed upon  
14 notification by the Director of Administrative Services that  
15 sufficient funds are available.

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

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

25           (5) The State Treasurer shall transfer a total of thirty-



1 seven million dollars from the Cash Reserve Fund to the General Fund  
2 on or before June 30, 2012, on such dates and in such amounts as  
3 directed by the budget administrator of the budget division of the  
4 Department of Administrative Services.

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

10 (7) The State Treasurer, at the direction of the budget  
11 administrator of the budget division of the Department of  
12 Administrative Services, shall transfer not to exceed twelve million  
13 dollars in total between July 1, 2011, and November 30, 2012, from  
14 the Cash Reserve Fund to the Ethanol Production Incentive Cash Fund,  
15 for ethanol production incentive credits, on such dates and in such  
16 amounts as certified by the Tax Commissioner.

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

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

1 Administrative Services, shall transfer eighty million dollars from  
2 the Cash Reserve Fund to the Nebraska Capital Construction Fund on or  
3 before August 15, 2012.

4 (10) The State Treasurer, at the direction of the budget  
5 administrator of the budget division of the Department of  
6 Administrative Services, shall transfer one million dollars from the  
7 Cash Reserve Fund to the Affordable Housing Trust Fund on or before  
8 August 15, 2012.

9 (11) The State Treasurer shall transfer ten million  
10 dollars from the Cash Reserve Fund to the General Fund on or before  
11 June 30, 2013, on such date as directed by the budget administrator  
12 of the budget division of the Department of Administrative Services.

13 (12) The State Treasurer, at the direction of the budget  
14 administrator of the budget division of the Department of  
15 Administrative Services, shall transfer not to exceed forty-three  
16 million fifteen thousand four hundred fifty-nine dollars in total  
17 from the Cash Reserve Fund to the Nebraska Capital Construction Fund  
18 between July 1, 2013, and June 30, 2017.

19 (13) The State Treasurer shall transfer up to five  
20 million five hundred thousand dollars from the Cash Reserve Fund to  
21 the Republican River Compact Litigation Contingency Cash Fund on or  
22 before June 30, 2015, on such dates and in such amounts as directed  
23 by the budget administrator of the budget division of the Department  
24 of Administrative Services.

25 Sec. 6. Original sections 2-3225 and 2-3226.05, Reissue

1 Revised Statutes of Nebraska, and section 84-612, Revised Statutes  
2 Supplement, 2013, are repealed.

3           Sec. 7. The following sections are outright repealed:  
4 Sections 2-3226.06, 2-3226.07, 2-3226.08, and 2-3226.09, Reissue  
5 Revised Statutes of Nebraska.

6           Sec. 8. Since an emergency exists, this act takes effect  
7 when passed and approved according to law.