

## LEGISLATIVE BILL 408

Approved by the Governor May 26, 2003

Introduced by Speaker Bromm, 23; at the request of the Governor

AN ACT relating to state government; to amend sections 39-1390, 81-523, and 81-1561, Reissue Revised Statutes of Nebraska, and sections 60-1303, 77-912, 81-15,174, 86-527, and 86-579, Revised Statutes Supplement, 2002; to authorize fund transfers as prescribed; to provide for the administration of funds; to change the disposition of certain taxes; to harmonize provisions; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 39-1390, Reissue Revised Statutes of Nebraska, is amended to read:

39-1390. The State Recreation Road Fund is created. The money in the fund shall be transferred by the State Treasurer, on the first day of each month, to the Department of Roads and shall be expended by the Director-State Engineer with the approval of the Governor for construction and maintenance of dustless-surface roads to be designated as state recreation roads as provided in this section, except that for the period beginning July 1, 2003, and ending June 30, 2005, transfers may be made to the General Fund at the direction of the Legislature. Except as to roads under contract as of March 15, 1972, only those roads, excluding state highways, giving direct and immediate access to or located within state parks, state recreation areas, or other recreational or historical areas, shall be eligible for designation as state recreation roads. Such eligibility shall be determined by the Game and Parks Commission and certified to the Director-State Engineer, who shall, after receiving such certification, be authorized to commence construction on such recreation roads as funds are available. After construction of such roads they shall be shown on the map provided by section 39-1311. Preference in construction shall be based on existing or potential traffic use by other than local residents. Unless the State Highway Commission otherwise recommends, such roads upon completion of construction shall be incorporated into the state highway system. If such a road is not incorporated into the state highway system, the Department of Roads and the county within which such road is located shall enter into a maintenance agreement establishing the responsibility for maintenance of the road, the maintenance standards to be met, and the responsibility for maintenance costs. Any money in the ~~fund~~ State Recreation Road 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 60-1303, Revised Statutes Supplement, 2002, is amended to read:

60-1303. (1) The Nebraska State Patrol is hereby designated as the agency to operate the weighing stations and portable scales and to perform carrier enforcement duties.

(2)(a) On and after July 20, 2002, officers of the Nebraska State Patrol appointed to operate the weighing stations and portable scales and to perform carrier enforcement duties shall be known as the carrier enforcement division. The Superintendent of Law Enforcement and Public Safety shall appoint officers of the Nebraska State Patrol to the carrier enforcement division, including officers as prescribed in sections 81-2001 to 81-2009, and carrier enforcement officers as prescribed in sections 60-1301 to 60-1309.

(b) The employees within the Nebraska State Patrol designated to operate the weighing stations and portable scales and to perform carrier enforcement duties before July 20, 2002, and not authorized to act under ~~subsections~~ subdivisions (1) through (8) of section 81-2005 shall be known as carrier enforcement officers.

(3) All carrier enforcement officers shall be bonded under the blanket surety bond required by section 11-201. Premiums on the bond shall be paid from the money appropriated for the construction, maintenance, and operation of the state weighing stations.

(4) All employees of the Nebraska State Patrol who are carrier enforcement officers and who are not officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall be members of the State Employees Retirement System of the State of Nebraska. Officers of the Nebraska State Patrol who are carrier enforcement officers on July 20, 2002, who subsequently become officers of the Nebraska State Patrol

with the powers and duties prescribed in sections 81-2001 to 81-2009, and who elect to remain members of the State Employees Retirement System of the State of Nebraska shall continue to participate in the State Employees Retirement System of the State of Nebraska. Carrier enforcement officers shall not receive any expense allowance as provided for by section 81-2002.

(5) The Nebraska State Patrol and the Department of Roads shall have the duty, power, and authority to contract with one another for the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties to ensure that there is adequate personnel in the carrier enforcement division to carry out the duties specified in sections 60-1301 to 60-1309. Through June 30, 2005, the number of full-time equivalent positions funded pursuant to such contract shall be limited to eighty-eight officers, including carrier enforcement officers as prescribed in sections 60-1301 to 60-1309 and officers of the Nebraska State Patrol as prescribed in sections 81-2001 to 81-2009 assigned to the carrier enforcement division. Pursuant to such contract, command of the personnel involved in such carrier enforcement operations shall be with the Nebraska State Patrol. The Department of Roads may use any funds at its disposal for its financing of such carrier enforcement activity in accordance with such contract as long as such funds are used only to finance those activities directly involved with the duties specified in sections 60-1301 to 60-1309. The Nebraska State Patrol shall account for all appropriations and expenditures related to the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties in a budget program that is distinct and separate from budget programs used for non-carrier-enforcement-division-related activities.

(6) The Nebraska State Patrol may adopt, promulgate, and enforce rules and regulations consistent with statutory provisions related to carrier enforcement necessary for (a) the collection of fees, as outlined in sections 60-305.03 and 66-492 and the International Fuel Tax Agreement Act, (b) the inspection of licenses and permits required under the motor fuel laws, and (c) weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles.

(7) There is hereby created the Carrier Enforcement Cash Fund which shall be administered by the Nebraska State Patrol and used for the operation of the carrier enforcement division. Any money in the Carrier Enforcement 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.

(8) The State Treasurer shall transfer nine hundred ninety-three thousand two hundred eighty-one dollars from the Carrier Enforcement Cash Fund to the Nebraska State Patrol Cash Fund within five days after the effective date of this act.

Sec. 3. Section 77-912, Revised Statutes Supplement, 2002, is amended to read:

77-912. The Director of Insurance shall transmit fifty percent of the taxes paid in conformity with Chapter 44, article 1, and Chapter 77, article 9, to the State Treasurer, forty percent of such taxes paid to the General Fund, and ten percent of such taxes paid to the Mutual Finance Assistance Fund promptly upon completion of his or her audit and examination and in no event later than May 1 of each year, except that:

(1) All fire insurance taxes paid pursuant to sections 44-150 and 81-523 shall be remitted to the State Treasurer for credit to the ~~Fire Insurance Tax~~ General Fund;

(2) All workers' compensation insurance taxes paid pursuant to section 44-150 shall be remitted to the State Treasurer for credit to the Compensation Court Cash Fund;

(3) Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, all premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state shall be remitted to the Comprehensive Health Insurance Pool Distributive Fund; and

(4) All taxes paid pursuant to section 77-908 for capitation payments made in accordance with the Managed Care Plan Act shall be remitted to the Department of Health and Human Services Finance and Support Cash Fund.

Sec. 4. Section 81-523, Reissue Revised Statutes of Nebraska, is amended to read:

81-523. (1) For the purpose of maintaining the office of the State Fire Marshal and such other fire prevention activities as the Governor may direct, every foreign and alien insurance company including nonresident attorneys for subscribers to reciprocal insurance exchanges shall, on or before March 1, pay a tax to the Director of Insurance of three-fourths of one

percent of the gross direct writing premiums and assessments received by each of such companies during the preceding calendar year for fire insurance business done in this state.

(2) For the purpose set forth in subsection (1) of this section, every domestic insurance company including resident attorneys for subscribers to reciprocal insurance exchanges shall, on or before March 1, pay a tax to the Director of Insurance of three-eighths of one percent of the gross direct writing premiums and assessments received by each of such companies during the preceding calendar year for fire insurance business done in this state.

(3) The term fire insurance business, as used in subsections (1), (2), and (4) of this section, shall include, but not be limited to, premiums of policies on fire risks on automobiles, whether written under floater form or otherwise.

(4) Return premiums on fire insurance business, subject to the fire insurance tax, in accordance with subsections (1) and (2) of this section, may be deducted from the gross direct writing premiums for the purpose of the tax calculations provided for by subsections (1) and (2) of this section. In the case of mutual companies and assessment associations, the dividends paid or credited to policyholders or members in this state shall be construed to be return premiums.

(5) Any tax collected pursuant to subsections (1) and (2) of this section shall be remitted to the State Treasurer for credit to the General Fund.

(6) There is hereby created a separate cash fund to be known as the Fire Insurance Tax Fund. ~~Any tax collected pursuant to subsections (1) and (2) of this section shall be deposited in the state treasury and shall be credited by the State Treasurer to the Fire Insurance Tax Fund.~~ Expenditures shall be made from such fund to maintain the office of the State Fire Marshal for the purpose of fire investigation, detection and suppression of arson, and other fire prevention activities.

Sec. 5. Section 81-1561, Reissue Revised Statutes of Nebraska, is amended to read:

81-1561. (1) The Tax Commissioner shall deduct and withhold from the litter fee collected a fee sufficient to reimburse himself or herself for the cost of collecting and administering the litter fee and shall deposit such collection fee in the Litter Fee Collection Fund which is hereby created. The Litter Fee Collection Fund shall be appropriated to the Department of Revenue. Any money in the Litter Fee Collection 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 Tax Commissioner shall remit the balance of the litter fee collections to the Department of Environmental Quality. The department shall allocate and distribute funds from the Nebraska Litter Reduction and Recycling Fund in percentage amounts to be determined by the council on an annual basis, after a public hearing on a date to be determined by the council, for the following activities:

~~(1)~~ (a) Programs of public education, motivation, and participation aimed at creating an ethic conducive to the reduction of litter, establishing an attitude against littering and a desire for a clean environment, and securing greater awareness of and compliance with antilitter laws. Such programs shall include:

~~(a)~~ (i) The distribution of informative materials to elementary and secondary schools;

~~(b)~~ (ii) The purchase and erection of roadside signs;

~~(c)~~ (iii) The organization and operation of cleanup drives conducted by local agencies and organizations using volunteer help;

~~(d)~~ (iv) Grants to state and local government units and agencies and private organizations for developing and conducting antilitter programs; and

~~(e)~~ (v) Any other public information method selected by the department, including the use of media;

~~(2)~~ (b) Cleanup of public highways, waterways, recreation lands, urban areas, and public places within the state, including, but not limited to:

~~(a)~~ (i) Grants to cities and counties for payment of personnel employed in the pickup of litter;

~~(b)~~ (ii) Grants for programs aimed at increasing the use of youth and unemployed persons in seasonal and part-time litter pickup programs and to establish work release and other programs to carry out the purposes of the Nebraska Litter Reduction and Recycling Act;

~~(c)~~ (iii) Grants to public and private agencies and persons to conduct surveys of amounts and composition of litter and rates of littering; and

~~(d)~~ (iv) Grants to public and private agencies and persons for research and development in the fields of litter reduction, removal, and disposal, including the evaluation of behavioral science techniques in litter control and the development of new equipment, and to implement such research and development when appropriate; and

~~(3)~~ (c) New or improved community recycling and source separation programs, including, but not limited to:

~~(a)~~ (i) Expansion of existing and creation of new community recycling centers;

~~(b)~~ (ii) Expansion of existing and creation of new source separation programs;

~~(e)~~ (iii) Research and evaluation of markets for the materials and products recovered in source separation and recycling programs; and

~~(d)~~ (iv) Providing advice and assistance on matters relating to recycling and source separation, including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials and products recovered in recycling and source separation, transportation alternatives, and publicity techniques.

(3) The State Treasurer shall transfer four hundred eighty-one thousand one hundred four dollars from the Nebraska Litter Reduction and Recycling Fund to the Department of Environmental Quality Superfund Cash Fund, as administratively created pursuant to section 81-1111.04, on or after July 1, 2003, but no later than July 10, 2003.

(4) The State Treasurer shall transfer two hundred seventy-eight thousand nine hundred twenty-six dollars from the Nebraska Litter Reduction and Recycling Fund to the Livestock Waste Management Cash Fund on or after July 1, 2003, but no later than July 10, 2003.

Sec. 6. Section 81-15,174, Revised Statutes Supplement, 2002, is amended to read:

81-15,174. The Nebraska Environmental Trust Fund is created. The fund shall be maintained in the state accounting system as a cash fund. Except as otherwise provided in this section, the fund shall be used to carry out the purposes of the Nebraska Environmental Trust Act, including the payment of administrative costs. Money in the fund shall include proceeds credited pursuant to section 9-812 and proceeds designated by the board pursuant to section 81-15,173. 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.

The State Treasurer shall transfer nine hundred twenty-five thousand dollars from the Nebraska Environmental Trust Fund to the Department of Natural Resources Water Issues Cash Fund, as administratively created pursuant to section 81-1111.04, on or after July 1, 2003, but no later than July 10, 2003.

~~The State Treasurer shall transfer four million twenty-eight thousand four hundred fifty dollars from the Nebraska Environmental Trust Fund to the Department of Natural Resources Interstate Water Rights Cash Fund within five days after August 16, 2002.~~

~~The State Treasurer shall transfer two hundred twenty-five thousand nine hundred twenty-nine dollars from the Nebraska Environmental Trust Fund to the Low-Level Radioactive Waste Cash Fund within five days after August 16, 2002.~~

Sec. 7. Section 86-527, Revised Statutes Supplement, 2002, is amended to read:

86-527. The Information Technology Infrastructure Fund is hereby created. The fund shall contain revenue from the special privilege tax as provided in section 77-2602, gifts, grants, and such other money as is appropriated or transferred by the Legislature. The fund shall be used to attain the goals listed in section 86-526 and the goals and priorities identified in the statewide technology plan. The fund shall be administered by the department. Expenditures shall be made from the fund to finance the operations of the Information Technology Infrastructure Act in accordance with the appropriations made by the Legislature. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the ~~fund~~ Information Technology Infrastructure 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 Supreme Court is hereby authorized to expend seven hundred sixteen thousand eight hundred dollars directly from the Information Technology Infrastructure Fund in fiscal year 2002-03, for the Supreme Court Automation program, for program costs authorized by the Legislature, which funds shall not require any further administrative reviews or approvals prior to their expenditure.

The State Treasurer shall transfer one million eighty-eight thousand four hundred seventy-two dollars from the Information Technology Infrastructure Fund to the General Fund on or before July 15, 2003.

Sec. 8. Section 86-579, Revised Statutes Supplement, 2002, is amended to read:

86-579. The Nebraska Internet Enhancement Fund is created. The fund shall be used to provide financial assistance to install and deliver broadband or other advanced telecommunications infrastructure and service throughout the state. It is the intent of the Legislature that two hundred fifty thousand dollars shall be appropriated to the fund to be used for startup costs and seed money for FY2001-02. The Public Service Commission may receive gifts, contributions, property, and equipment from public and private sources for purposes of the fund. The fund shall consist of money appropriated by the Legislature, any money transferred pursuant to section 86-127, and gifts, grants, or bequests from any source, including money remitted to the fund pursuant to section 86-577 and any other federal, state, public, and private sources. Money in the fund shall be distributed by the commission pursuant to section 86-580. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the ~~fund~~ Nebraska Internet Enhancement 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 State Treasurer shall transfer one hundred thousand dollars from the Nebraska Internet Enhancement Fund to the General Fund on or before July 15, 2003.

Sec. 9. Original sections 39-1390, 81-523, and 81-1561, Reissue Revised Statutes of Nebraska, and sections 60-1303, 77-912, 81-15,174, 86-527, and 86-579, Revised Statutes Supplement, 2002, are repealed.

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