

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 466**

Introduced by Wallman, 30.

Read first time January 20, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 61-218, 66-1345.01, and 66-1345.02, Revised Statutes  
3 Cumulative Supplement, 2008; to eliminate an excise tax  
4 on corn and grain sorghum; to harmonize provisions; and  
5 to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 61-218, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           61-218 (1) The Water Resources Cash Fund is created. The  
4 fund shall be administered by the Department of Natural Resources.  
5 Any money in the fund available for investment shall be invested  
6 by the state investment officer pursuant to the Nebraska Capital  
7 Expansion Act and the Nebraska State Funds Investment Act.

8           (2) The State Treasurer shall credit to the fund such  
9 money as is (a) transferred to the fund by the Legislature, (b)  
10 paid to the state as fees, deposits, payments, and repayments  
11 relating to the fund, both principal and interest, (c) donated as  
12 gifts, bequests, or other contributions to such fund from public  
13 or private entities, and (d) made available by any department or  
14 agency of the United States if so directed by such department  
15 or agency. ~~7~~ and ~~(e) credited to the fund from the excise taxes~~  
16 ~~imposed by section 66-1345.01 beginning January 1, 2013.~~

17           (3) The fund shall be expended by the department (a)  
18 to aid management actions taken to reduce consumptive uses of  
19 water in river basins, subbasins, or reaches which are deemed  
20 by the department overappropriated pursuant to section 46-713 or  
21 fully appropriated pursuant to section 46-714 or are bound by  
22 an interstate compact or decree or a formal state contract or  
23 agreement and (b) to the extent funds are not expended pursuant to  
24 subdivision (a) of this subsection, the department may conduct a  
25 statewide assessment of short-term and long-term water management

1 activities and funding needs to meet statutory requirements in  
2 sections 46-713 to 46-718 and 46-739 and any requirements of an  
3 interstate compact or decree or formal state contract or agreement.  
4 The fund shall not be used to pay for administrative expenses or  
5 any salaries for the department or any political subdivision.

6 (4) It is the intent of the Legislature that two million  
7 seven hundred thousand dollars be transferred each fiscal year from  
8 the General Fund to the Water Resources Cash Fund for FY2009-10  
9 through FY2011-12 and that ten million dollars be transferred each  
10 fiscal year from the General Fund to the Water Resources Cash Fund  
11 for FY2012-13 through FY2018-19.

12 (5) (a) Expenditures from the Water Resources Cash  
13 Fund may be made to natural resources districts eligible under  
14 subsection (3) of this section for activities to either achieve a  
15 sustainable balance of consumptive water uses or assure compliance  
16 with an interstate compact or decree or a formal state contract  
17 or agreement and shall require a match of local funding in an  
18 amount equal to or greater than forty percent of the total cost  
19 of carrying out the eligible activity. The department shall, no  
20 later than August 1 of each year, beginning in 2007, determine the  
21 amount of funding that will be made available to natural resources  
22 districts from the Water Resources Cash Fund and notify natural  
23 resources districts of this determination. The department shall  
24 adopt and promulgate rules and regulations governing application  
25 for and use of the Water Resources Cash Fund by natural resources

1 districts. Such rules and regulations shall, at a minimum, include  
2 the following components:

3 (i) Require an explanation of how the planned activity  
4 will assure compliance with an interstate compact or decree or a  
5 formal state contract or agreement as required by section 46-715  
6 and the controls, rules, and regulations designed to carry out the  
7 activity; and

8 (ii) A schedule of implementation of the activity or its  
9 components.

10 (b) Any natural resources district that fails to  
11 implement and enforce its controls, rules, and regulations as  
12 required by section 46-715 shall not be eligible for funding  
13 from the Water Resources Cash Fund until it is determined by the  
14 department that compliance with the provisions required by section  
15 46-715 has been established.

16 (6) The Department of Natural Resources shall submit an  
17 annual report to the Legislature no later than October 1 of each  
18 year, beginning in the year 2007, that shall detail the use of the  
19 Water Resources Cash Fund in the previous year. The report shall  
20 provide:

21 (a) Details regarding the use and cost of activities  
22 carried out by the department; and

23 (b) Details regarding the use and cost of activities  
24 carried out by each natural resources district that received funds  
25 from the Water Resources Cash Fund.

1           Sec. 2. Section 66-1345.01, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           66-1345.01 An excise tax is levied upon all corn and  
4 grain sorghum sold through commercial channels in Nebraska or  
5 delivered in Nebraska. For any sale or delivery of corn or grain  
6 sorghum occurring on or after July 1, 1995, and before January  
7 1, 2000, the tax is three-fourths cent per bushel for corn and  
8 three-fourths cent per hundredweight for grain sorghum. For any  
9 sale or delivery of corn or grain sorghum occurring on or after  
10 January 1, 2000, and before January 1, 2001, the tax is one-half  
11 cent per bushel for corn and one-half cent per hundredweight for  
12 grain sorghum. For any sale or delivery of corn or grain sorghum  
13 occurring on or after October 1, 2001, and before October 1, 2004,  
14 the tax is one-half cent per bushel for corn and one-half cent per  
15 hundredweight for grain sorghum. For any sale or delivery of corn  
16 or grain sorghum occurring on or after October 1, 2004, and before  
17 October 1, 2005, the tax is three-fourths cent per bushel for corn  
18 and three-fourths cent per hundredweight for grain sorghum. For any  
19 sale or delivery of corn or grain sorghum occurring on or after  
20 October 1, 2005, and before ~~October 1,~~ December 31, 2012, the tax  
21 is seven-eighths cent per bushel for corn and seven-eighths cent  
22 per hundredweight for grain sorghum. ~~For any sale or delivery of~~  
23 ~~corn or grain sorghum occurring on or after October 1, 2012, and~~  
24 ~~before October 1, 2019, the tax is three-fifths cent per bushel for~~  
25 ~~corn and three-fifths cent per hundredweight for grain sorghum. The~~

1 tax shall be in addition to any fee imposed pursuant to sections  
2 2-3623 and 2-4012.

3           The excise tax shall be imposed at the time of sale or  
4 delivery and shall be collected by the first purchaser. The tax  
5 shall be collected, administered, and enforced in conjunction with  
6 the fees imposed pursuant to sections 2-3623 and 2-4012. The tax  
7 shall be collected, administered, and enforced by the Department of  
8 Agriculture. No corn or grain sorghum shall be subject to the tax  
9 imposed by this section more than once.

10           In the case of a pledge or mortgage of corn or grain  
11 sorghum as security for a loan under the federal price support  
12 program, the excise tax shall be deducted from the proceeds of such  
13 loan at the time the loan is made. If, within the life of the loan  
14 plus thirty days after the collection of the excise tax for corn  
15 or grain sorghum that is mortgaged as security for a loan under  
16 the federal price support program, the grower of the corn or grain  
17 sorghum so mortgaged decides to purchase the corn or grain sorghum  
18 and use it as feed, the grower shall be entitled to a refund of  
19 the excise tax previously paid. The refund shall be payable by the  
20 department upon the grower's written application for a refund. The  
21 application shall have attached proof of the tax deducted.

22           The excise tax shall be deducted whether the corn or  
23 grain sorghum is stored in this or any other state. The excise  
24 tax shall not apply to the sale of corn or grain sorghum to the  
25 federal government for ultimate use or consumption by the people

1 of the United States when the State of Nebraska is prohibited from  
2 imposing such tax by the Constitution of the United States and laws  
3 enacted pursuant thereto.

4           Sec. 3. Section 66-1345.02, Revised Statutes Cumulative  
5 Supplement, 2008, is amended to read:

6           66-1345.02 (1) The first purchaser, at the time of sale  
7 or delivery, shall retain the excise tax as provided in section  
8 66-1345.01 and shall maintain the necessary records of the excise  
9 tax for each sale or delivery of corn or grain sorghum. Records  
10 maintained by the first purchaser shall provide (a) the name and  
11 address of the seller or deliverer, (b) the date of the sale or  
12 delivery, (c) the number of bushels of corn or hundredweight of  
13 grain sorghum sold or delivered, and (d) the amount of excise  
14 tax retained on each sale or delivery. The records shall be open  
15 for inspection and audit by authorized representatives of the  
16 Department of Agriculture during normal business hours observed by  
17 the first purchaser.

18           (2) The first purchaser shall render and have on file  
19 with the department by the last day of each January, April, July,  
20 and October on forms prescribed by the department a statement of  
21 the number of bushels of corn and hundredweight of grain sorghum  
22 sold or delivered in Nebraska. At the time the statement is filed,  
23 the first purchaser shall pay and remit to the department the  
24 excise tax.

25           (3) The department shall remit the excise tax collected

1 to the State Treasurer for credit to the Ethanol Production  
2 Incentive Cash Fund within thirty days after the end of each  
3 quarter through December 31, 2012. Beginning January 1, 2013,  
4 the department shall remit the excise tax collected to the State  
5 Treasurer for credit to the Water Resources Cash Fund within thirty  
6 days after the end of each quarter.

7 (4) The department shall calculate its costs in  
8 collecting and enforcing the excise tax imposed by section  
9 66-1345.01 and shall report such costs to the budget division of  
10 the Department of Administrative Services within thirty days after  
11 the end of the fiscal year. Sufficient funds to cover such costs  
12 shall be transferred from the Ethanol Production Incentive Cash  
13 Fund to the Management Services Expense Revolving Fund at the end  
14 of each calendar month, with such transfers ending December 31,  
15 2012. Beginning January 1, 2013, the Department of Agriculture  
16 shall calculate its costs in collecting and enforcing the excise  
17 tax imposed by section 66-1345.01 and shall report such costs to  
18 the budget division of the Department of Administrative Services  
19 within thirty days after the end of the fiscal year. Sufficient  
20 funds to cover such costs shall be transferred from the Water  
21 Resources Cash Fund to the Management Services Expense Revolving  
22 Fund at the end of each calendar month. Funds shall be transferred  
23 upon the receipt of a report of costs incurred by the Department of  
24 Agriculture for the previous calendar month by the budget division  
25 of the Department of Administrative Services.

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1                   Sec. 4. Original sections 61-218, 66-1345.01, and  
2 66-1345.02, Revised Statutes Cumulative Supplement, 2008, are  
3 repealed.