

AMENDMENTS TO LB 33

Introduced by Appropriations

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. There is hereby appropriated \$3,000,000 from  
4 the General Fund for FY2006-07 to the Department of Natural  
5 Resources, for Program 310, to aid in carrying out the provisions  
6 of this legislative bill.

7           No expenditures for permanent and temporary salaries and  
8 per diems for state employees shall be made from funds appropriated  
9 in this section.

10          Sec. 2. (1) The Water Resources Cash Fund is created. The  
11 fund shall be administered by the Department of Natural Resources.  
12 Any money in the fund available for investment shall be invested  
13 by the state investment officer pursuant to the Nebraska Capital  
14 Expansion Act and the Nebraska State Funds Investment Act.

15          (2) The State Treasurer shall credit to the fund such  
16 money as is (a) transferred to the fund by the Legislature, (b)  
17 paid to the state as fees, deposits, payments, and repayments  
18 relating to the fund, both principal and interest, (c) donated as  
19 gifts, bequests, or other contributions to such fund from public or  
20 private entities, (d) made available by any department or agency of  
21 the United States if so directed by such department or agency, and  
22 (e) credited to the fund from the excise taxes imposed by section  
23 66-1345.01 beginning January 1, 2013.

1           (3) The fund shall be expended by the department to aid  
2 compliance efforts regarding the reduction of consumptive uses of  
3 water in regard to programs dealing with those natural resources  
4 districts which are deemed overappropriated by the department  
5 pursuant to section 46-713 or are bound by an interstate compact  
6 or decree. The fund shall not be used to pay for administrative  
7 expenses or any salaries for the department or any political  
8 subdivision.

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

13           Sec. 3. Section 61-210, Revised Statutes Supplement,  
14 2006, is amended to read:

15           61-210 The Department of Natural Resources Cash Fund  
16 is created. The State Treasurer shall credit to such fund such  
17 money as is specifically appropriated or reappropriated by the  
18 Legislature. The State Treasurer shall also credit such fund with  
19 payments, if any, accepted for services rendered by the department  
20 and fees collected pursuant to subsection (6) of section 46-606  
21 and section 61-209. The funds made available to the Department  
22 of Natural Resources by the United States, through the Natural  
23 Resources Conservation Service of the Department of Agriculture or  
24 through any other agencies, shall be credited to the fund by the  
25 State Treasurer. Any money in the fund available for investment  
26 shall be invested by the state investment officer pursuant to  
27 the Nebraska Capital Expansion Act and the Nebraska State Funds

1 Investment Act. The Department of Natural Resources shall allocate  
2 money from the fund to pay costs of the programs or activities  
3 of the department. The Director of Administrative Services, upon  
4 receipt of proper vouchers approved by the department, shall issue  
5 warrants on the fund, and the State Treasurer shall countersign  
6 and pay from, but never in excess of, the amounts to the credit  
7 of the fund. ~~The State Treasurer shall transfer any money in the~~  
8 ~~Department of Water Resources Cash Fund and in the Nebraska Natural~~  
9 ~~Resources Commission Cash Fund on July 1, 2000, to the Department~~  
10 ~~of Natural Resources Cash Fund.~~

11 Sec. 4. Section 66-1345, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 66-1345 (1) There is hereby created the Ethanol  
14 Production Incentive Cash Fund which shall be used by the board  
15 to pay the credits created in section 66-1344 to the extent  
16 provided in this section. Any money in the fund available for  
17 investment shall be invested by the state investment officer  
18 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
19 State Funds Investment Act. The State Treasurer shall transfer to  
20 the Ethanol Production Incentive Cash Fund such money as shall be  
21 (a) appropriated to the Ethanol Production Incentive Cash Fund by  
22 the Legislature, (b) given as gifts, bequests, grants, or other  
23 contributions to the Ethanol Production Incentive Cash Fund from  
24 public or private sources, (c) made available due to failure to  
25 fulfill conditional requirements pursuant to investment agreements  
26 entered into prior to April 30, 1992, (d) received as return on  
27 investment of the Ethanol Authority and Development Cash Fund, (e)

1 credited to the Ethanol Production Incentive Cash Fund from the  
2 excise taxes imposed by section 66-1345.01, and (f) credited to the  
3 Ethanol Production Incentive Cash Fund pursuant to sections 66-489,  
4 ~~66-4,134,~~ 66-726, 66-1345.04, and 66-1519.

5 (2) The Department of Revenue shall, at the end of each  
6 calendar month, notify the State Treasurer of the amount of motor  
7 fuel tax that was not collected in the preceding calendar month  
8 due to the credits provided in section 66-1344. The State Treasurer  
9 shall transfer from the Ethanol Production Incentive Cash Fund to  
10 the Highway Trust Fund an amount equal to such credits less the  
11 following amounts:

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

15 (b) For 1996, the amount generated during the calendar  
16 quarter by a three-quarters-cent tax on motor fuel pursuant to such  
17 sections;

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

21 (d) For 1998 and each year thereafter, no reduction.

22 For 1993 through 1997, if the amount generated pursuant  
23 to subdivisions (a), (b), and (c) of this subsection and the  
24 amount transferred pursuant to subsection (1) of this section are  
25 not sufficient to fund the credits provided in section 66-1344,  
26 then the credits shall be funded through the Ethanol Production  
27 Incentive Cash Fund but shall not be funded through either the

1 Highway Cash Fund or the Highway Trust Fund. For 1998 and each year  
2 thereafter, the credits provided in such section shall be funded  
3 through the Ethanol Production Incentive Cash Fund but shall not be  
4 funded through either the Highway Cash Fund or the Highway Trust  
5 Fund.

6 If, during any month, the amount of money in the Ethanol  
7 Production Incentive Cash Fund is not sufficient to reimburse the  
8 Highway Trust Fund for credits earned pursuant to section 66-1344,  
9 the Department of Revenue shall suspend the transfer of credits by  
10 ethanol producers until such time as additional funds are available  
11 in the Ethanol Production Incentive Cash Fund for transfer to the  
12 Highway Trust Fund. Thereafter, the Department of Revenue shall, at  
13 the end of each month, allow transfer of accumulated credits earned  
14 by each ethanol producer on a prorated basis derived by dividing  
15 the amount in the fund by the aggregate amount of accumulated  
16 credits earned by all ethanol producers.

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

22 (4) On December 31, 2012, the State Treasurer shall  
23 transfer ~~one-half~~ of the unexpended and unobligated funds,  
24 including all subsequent investment interest, 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. The Department of Agriculture shall assist the State  
3 Treasurer in determining the amounts to be transferred to the  
4 funds. The remaining one-half of the unexpended and unobligated  
5 funds shall be transferred to the General Fund. Water Resources  
6 Cash Fund.

7 (5) Whenever the unobligated balance in the Ethanol  
8 Production Incentive Cash Fund exceeds twenty million dollars, the  
9 Department of Revenue shall notify the Department of Agriculture at  
10 which time the Department of Agriculture shall suspend collection  
11 of the excise tax levied pursuant to section 66-1345.01. If, after  
12 suspension of the collection of such excise tax, the balance of  
13 the fund falls below ten million dollars, the Department of Revenue  
14 shall notify the Department of Agriculture which shall resume  
15 collection of the excise tax.

16 (6) On or before December 1, 2003, and each December  
17 1 thereafter, the Department of Revenue and the Nebraska Ethanol  
18 Board shall jointly submit a report to the Legislature which shall  
19 project the anticipated revenue and expenditures from the Ethanol  
20 Production Incentive Cash Fund through the termination of the  
21 ethanol production incentive programs pursuant to section 66-1344.  
22 The initial report shall include a projection of the amount  
23 of ethanol production for which the Department of Revenue has  
24 entered agreements to provide ethanol production credits pursuant  
25 to section 66-1344.01 and any additional ethanol production which  
26 the Department of Revenue and the Nebraska Ethanol Board reasonably  
27 anticipate may qualify for credits pursuant to section 66-1344.

1           Sec. 5. Section 66-1345.01, Revised Statutes Cumulative  
2 Supplement, 2006, 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  
18 corn and three-fourths cent per hundredweight for grain sorghum.  
19 For any sale or delivery of corn or grain sorghum occurring on  
20 or after October 1, 2005, and before October 1, 2010, the tax is  
21 seven-eighths cent per bushel for corn and seven-eighths cent per  
22 hundredweight for grain sorghum. For any sale or delivery of corn  
23 or grain sorghum occurring on or after October 1, 2012, and before  
24 October 1, 2019, the tax is one-half cent per bushel for corn and  
25 one-half cent per hundredweight for grain sorghum. The tax shall  
26 be in addition to any fee imposed pursuant to sections 2-3623 and  
27 2-4012.

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

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

20           The excise tax shall be deducted whether the corn or  
21 grain sorghum is stored in this or any other state. The excise  
22 tax shall not apply to the sale of corn or grain sorghum to the  
23 federal government for ultimate use or consumption by the people  
24 of the United States when the State of Nebraska is prohibited from  
25 imposing such tax by the Constitution of the United States and laws  
26 enacted pursuant thereto.

27           Sec. 6. Section 66-1345.02, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           66-1345.02 (1) The first purchaser, at the time of sale  
3 or delivery, shall retain the excise tax as provided in section  
4 66-1345.01 and shall maintain the necessary records of the excise  
5 tax for each sale or delivery of corn or grain sorghum. Records  
6 maintained by the first purchaser shall provide (a) the name and  
7 address of the seller or deliverer, (b) the date of the sale or  
8 delivery, (c) the number of bushels of corn or hundredweight of  
9 grain sorghum sold or delivered, and (d) the amount of excise  
10 tax retained on each sale or delivery. The records shall be open  
11 for inspection and audit by authorized representatives of the  
12 Department of Agriculture during normal business hours observed by  
13 the first purchaser.

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

21           (3) The department shall remit the excise tax collected  
22 to the State Treasurer for credit to the Ethanol Production  
23 Incentive Cash Fund within thirty days after the end of each  
24 quarter through December 31, 2010. Beginning January 1, 2013,  
25 the department shall remit the excise tax collected to the State  
26 Treasurer for credit to the Water Resources Cash Fund within thirty  
27 days after the end of each quarter.

1           (4) The department shall calculate its costs in  
2 collecting and enforcing the excise tax imposed by section  
3 66-1345.01 and shall report such costs to the budget division of  
4 the Department of Administrative Services within thirty days after  
5 the end of the fiscal year. Sufficient funds to cover such costs  
6 shall be transferred from the Ethanol Production Incentive Cash  
7 Fund to the Management Services Expense Revolving Fund at the end  
8 of each calendar month, with such transfers ending December 31,  
9 2010. Beginning January 1, 2013, the department shall calculate its  
10 costs in collecting and enforcing the excise tax imposed by section  
11 66-1345.01 and shall report such costs to the budget division  
12 of the Department of Administrative Services within thirty days  
13 after the end of the fiscal year. Sufficient funds to cover such  
14 costs shall be transferred from the Water Resources Cash Fund to  
15 the Management Services Expense Revolving Fund at the end of each  
16 calendar month. Funds shall be transferred upon the receipt of  
17 a report of costs incurred by the Department of Agriculture for  
18 the previous calendar month by the Department of Administrative  
19 Services.

20           Sec. 7. The State Treasurer shall transfer \$2,700,000  
21 from the General Fund to the Water Resources Cash Fund, on  
22 or before June 30, 2008, on such date as directed by the  
23 budget administrator of the budget division of the Department  
24 of Administrative Services.

25           Sec. 8. The State Treasurer shall transfer \$2,700,000  
26 from the General Fund to the Water Resources Cash Fund, on  
27 or before June 30, 2009, on such date as directed by the

1 budget administrator of the budget division of the Department  
2 of Administrative Services.

3           Sec. 9. Original sections 61-210, 66-1345, 66-1345.01,  
4 and 66-1345.02, Revised Statutes Cumulative Supplement, 2006, are  
5 repealed.

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