

AMENDMENTS TO LB 229

(Amendments to E & R amendments, ER76)

Introduced by Langemeier

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

3           Section 1. Section 61-218, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           61-218 (1) The Water Resources Cash Fund is created. The  
6 fund shall be administered by the Department of Natural Resources.  
7 ~~Transfers may be made from the fund to the General Fund at the~~  
8 ~~direction of the Legislature.~~ Any money in the Water Resources Cash  
9 ~~Fund~~ fund available for investment shall be invested by the state  
10 investment officer pursuant to the Nebraska Capital Expansion Act  
11 and the Nebraska State Funds Investment Act.

12           (2) The State Treasurer shall credit to the fund such  
13 money as is (a) transferred to the fund by the Legislature, (b)  
14 paid to the state as fees, deposits, payments, and repayments  
15 relating to the fund, both principal and interest, (c) donated as  
16 gifts, bequests, or other contributions to such fund from public  
17 or private entities, ~~and~~ (d) made available by any department or  
18 agency of the United States if so directed by such department or  
19 agency, and (e) allocated pursuant to section 81-15,175.

20           (3) The fund shall be expended by the department (a) to  
21 aid management actions taken to reduce consumptive uses of water  
22 ~~and~~ or to enhance streamflows or ground water recharge in river

1 basins, subbasins, or reaches which are deemed by the department  
2 overappropriated pursuant to section 46-713 or fully appropriated  
3 pursuant to section 46-714 or are bound by an interstate compact or  
4 decree or a formal state contract or agreement, (b) for purposes  
5 of projects or proposals described in the grant application as  
6 set forth in subdivision (2) (h) of section 81-15,175, and (c) and  
7 ~~(b)~~ to the extent funds are not expended pursuant to ~~subdivision~~  
8 ~~(a)~~ subdivisions (a) and (b) of this subsection, the department  
9 may conduct a statewide assessment of short-term and long-term  
10 water management activities and funding needs to meet statutory  
11 requirements in sections 46-713 to 46-718 and 46-739 and any  
12 requirements of an interstate compact or decree or formal state  
13 contract or agreement. The fund shall not be used to pay for  
14 administrative expenses or any salaries for the department or any  
15 political subdivision.

16 (4) It is the intent of the Legislature that ~~two million~~  
17 ~~seven hundred thousand~~ three million three hundred thousand dollars  
18 be transferred each fiscal year from the General Fund to the Water  
19 Resources Cash Fund for ~~FY2009-10~~ FY2011-12 through FY2018-19.

20 (5) (a) Expenditures from the Water Resources Cash  
21 Fund may be made to natural resources districts eligible under  
22 subsection (3) of this section for activities to either achieve a  
23 sustainable balance of consumptive water uses or assure compliance  
24 with an interstate compact or decree or a formal state contract  
25 or agreement and shall require a match of local funding in an  
26 amount equal to or greater than forty percent of the total cost  
27 of carrying out the eligible activity. The department shall, no

1 later than August 1 of each year, beginning in 2007, determine the  
2 amount of funding that will be made available to natural resources  
3 districts from the Water Resources Cash Fund and notify natural  
4 resources districts of this determination. The department shall  
5 adopt and promulgate rules and regulations governing application  
6 for and use of the Water Resources Cash Fund by natural resources  
7 districts. Such rules and regulations shall, at a minimum, include  
8 the following components:

9 (i) Require an explanation of how the planned activity  
10 will achieve a sustainable balance of consumptive water uses or  
11 will assure compliance with an interstate compact or decree or a  
12 formal state contract or agreement as required by section 46-715  
13 and the controls, rules, and regulations designed to carry out the  
14 activity; and

15 (ii) A schedule of implementation of the activity or its  
16 components, including the local match as set forth in subdivision  
17 (5) (a) of this section.

18 (b) Any natural resources district that fails to  
19 implement and enforce its controls, rules, and regulations as  
20 required by section 46-715 shall not be eligible for funding  
21 from the Water Resources Cash Fund until it is determined by the  
22 department that compliance with the provisions required by section  
23 46-715 has been established.

24 (6) The Department of Natural Resources shall submit an  
25 annual report to the Legislature no later than October 1 of each  
26 year, beginning in the year 2007, that shall detail the use of the  
27 Water Resources Cash Fund in the previous year. The report shall

1 provide:

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

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

7 (7) (a) Prior to the application deadline for fiscal year  
8 2011-12, the Department of Natural Resources shall apply for a  
9 grant of nine million nine hundred thousand dollars from the  
10 Nebraska Environmental Trust Fund, to be paid out in three annual  
11 installments of three million three hundred thousand dollars. The  
12 purposes listed in the grant application shall be consistent with  
13 the uses of the Water Resources Cash Fund provided in this section  
14 and shall be used to aid management actions taken to reduce  
15 consumptive uses of water, to enhance streamflows, to recharge  
16 ground water, or to support wildlife habitat in any river basin  
17 determined to be fully appropriated pursuant to section 46-714 or  
18 designated as overappropriated pursuant to section 46-713.

19 (b) If the application is granted, funds received from  
20 such grant shall be remitted to the State Treasurer for credit to  
21 the Water Resources Cash Fund for the purpose of supporting the  
22 projects set forth in the grant application. The department shall  
23 include in its grant application documentation that the Legislature  
24 has authorized a transfer of three million three hundred thousand  
25 dollars from the General Fund into the Water Resources Cash Fund  
26 for each of fiscal years 2011-12 and 2012-13 and has stated its  
27 intent to transfer three million three hundred thousand dollars to

1 the Water Resources Cash Fund for fiscal year 2013-14.

2 (c) It is the intent of the Legislature that the  
3 department apply for an additional three-year grant that would  
4 begin in fiscal year 2014-15 if the criteria established in  
5 subsection (4) of section 81-15,175 are achieved.

6 (8) The department shall establish a subaccount within  
7 the Water Resources Cash Fund for the accounting of all money  
8 received as a grant from the Nebraska Environmental Trust Fund as  
9 the result of an application made pursuant to subsection (7) of  
10 this section. At the end of each calendar month, the department  
11 shall calculate the amount of interest earnings accruing to the  
12 subaccount and shall notify the State Treasurer who shall then  
13 transfer a like amount from the Water Resources Cash Fund to the  
14 Nebraska Environmental Trust Fund.

15 Sec. 2. Section 81-15,174, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 81-15,174 The Nebraska Environmental Trust Fund is  
18 created. The fund shall be maintained in the state accounting  
19 system as a cash fund. Except as otherwise provided in this  
20 section, the fund shall be used to carry out the purposes of  
21 the Nebraska Environmental Trust Act, including the payment of  
22 administrative costs. Money in the fund shall include proceeds  
23 credited pursuant to section 9-812 and proceeds designated by  
24 the board pursuant to section 81-15,173. Any money in the fund  
25 available for investment shall be invested by the state investment  
26 officer pursuant to the Nebraska Capital Expansion Act and the  
27 Nebraska State Funds Investment Act.

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

6           The State Treasurer shall transfer one million dollars  
7 from the Nebraska Environmental Trust Fund to the Water Resources  
8 Trust Fund on July 1, 2004.

9           The State Treasurer shall transfer two million seven  
10 hundred sixty thousand seven hundred sixty dollars from the  
11 Nebraska Environmental Trust Fund to the University of Nebraska  
12 Central Administration Designated Cash Fund on March 1, 2007,  
13 unless LR 259CA is approved by the voters in the November 2006  
14 general election, then the transfer shall occur on November 15,  
15 2006.

16           Sec. 3. Section 81-15,175, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           81-15,175 (1) The board may make an annual allocation  
19 each fiscal year from the Nebraska Environmental Trust Fund to  
20 the Nebraska Environmental Endowment Fund as provided in section  
21 81-15,174.01. The board shall make annual allocations from the  
22 Nebraska Environmental Trust Fund and may make annual allocations  
23 each fiscal year from the Nebraska Environmental Endowment Fund  
24 for projects which conform to the environmental categories of the  
25 board established pursuant to section 81-15,176 and to the extent  
26 the board determines those projects to have merit. The board  
27 shall establish a calendar annually for receiving and evaluating

1 proposals and awarding grants. To evaluate the economic, financial,  
2 and technical feasibility of proposals, the board may establish  
3 subcommittees, request or contract for assistance, or establish  
4 advisory groups. Private citizens serving on advisory groups shall  
5 be reimbursed for their actual and necessary expenses pursuant to  
6 sections 81-1174 to 81-1177.

7 (2) The board shall establish rating systems for ranking  
8 proposals which meet the board's environmental categories and other  
9 criteria. The rating systems shall include, but not be limited to,  
10 the following considerations:

11 (a) Conformance with categories established pursuant to  
12 section 81-15,176;

13 (b) Amount of funds committed from other funding sources;

14 (c) Encouragement of public-private partnerships;

15 (d) Geographic mix of projects over time;

16 (e) Cost-effectiveness and economic impact;

17 (f) Direct environmental impact; and

18 (g) Environmental benefit to the general public and the  
19 long-term nature of such public benefit; and-

20 (h) Applications recommended by the Director of Natural  
21 Resources and submitted by the Department of Natural Resources  
22 pursuant to subsection (7) of section 61-218 shall be awarded  
23 fifty priority points in the ranking process for the 2011 grant  
24 application if the Legislature has authorized annual transfers of  
25 three million three hundred thousand dollars to the Water Resources  
26 Cash Fund for each of fiscal years 2011-12 and 2012-13 and has  
27 stated its intent to transfer three million three hundred thousand

1 dollars to the Water Resources Cash Fund in fiscal year 2013-14.  
2 Priority points shall be awarded if the proposed programs set  
3 forth in the grant application are consistent with the purposes  
4 of reducing consumptive uses of water, enhancing streamflows,  
5 recharging ground water, or supporting wildlife habitat in any  
6 river basin determined to be fully appropriated pursuant to section  
7 46-714 or designated as overappropriated pursuant to section  
8 46-713.

9 (3) A grant awarded under this section pursuant to an  
10 application made under subsection (7) of section 61-218 shall be  
11 paid out in the following manner:

12 (a) The initial three million three hundred thousand  
13 dollar installment shall be remitted to the State Treasurer for  
14 credit to the Water Resources Cash Fund no later than fifteen  
15 business days after the date that the grant is approved by the  
16 board;

17 (b) The second three million three hundred thousand  
18 dollar installment shall be remitted to the State Treasurer for  
19 credit to the Water Resources Cash Fund no later than May 15, 2013;  
20 and

21 (c) The third three million three hundred thousand dollar  
22 installment shall be remitted to the State Treasurer for credit  
23 to the Water Resources Cash Fund no later than May 15, 2014  
24 if the Legislature has authorized a transfer of three million  
25 three hundred thousand dollars from the General Fund to the Water  
26 Resources Cash Fund for fiscal year 2013-14.

27 (4) It is the intent of the Legislature that the



1 Department of Natural Resources apply for an additional three-year  
2 grant from the Nebraska Environmental Trust Fund that would begin  
3 in fiscal year 2014-15 and such application shall be awarded fifty  
4 priority points in the ranking process as set forth in subdivision  
5 (2) (h) of this section if the following criteria are met:

6 (a) The Natural Resources Committee of the Legislature  
7 has examined options for water funding and has submitted a report  
8 to the Clerk of the Legislature and the Governor by December 1,  
9 2012, setting forth:

10 (i) An outline and priority listing of water management  
11 and funding needs in Nebraska, including instream flows,  
12 residential, agricultural, recreational, and municipal needs,  
13 interstate obligations, water quality issues, and natural habitats  
14 preservation; and

15 (ii) An outline of statewide funding options which create  
16 a dedicated, sustainable funding source to meet the needs set forth  
17 in the report; and

18 (iii) Recommendations for legislation;

19 (b) The projects and activities funded by the department  
20 through grants from the Nebraska Environmental Trust Fund under  
21 this section have resulted in enhanced stream flows, reduced  
22 consumptive uses of water, recharged ground water, supported  
23 wildlife habitat, or otherwise contributed towards conserving,  
24 enhancing, and restoring Nebraska's ground water and surface water  
25 resources. On or before July 1, 2014, the department shall submit  
26 a report to the Natural Resources Committee of the Legislature  
27 providing demonstrable evidence of the benefits accrued from such

1 projects and activities; and

2 (c) In addition to the grant reporting requirements of  
3 the trust, on or before July 1, 2014, the department provides to  
4 the board a report which includes documentation that:

5 (i) Expenditures from the Water Resources Cash Fund  
6 made to natural resources districts have met the matching fund  
7 requirements provided in subdivision (5)(a) of section 61-218;

8 (ii) Ten percent or less of the matching fund  
9 requirements has been provided by in-kind contributions for  
10 expenses incurred for projects enumerated in the grant application.

11 In-kind contributions shall not include land or land rights; and

12 (iii) All other projects and activities funded by the  
13 department through grants from the Nebraska Environmental Trust  
14 Fund under this section were matched not less than forty percent of  
15 the project or activity cost by other funding sources.

16 ~~(3)~~ (5) The board may establish a subcommittee to  
17 rate grant applications. If the board uses a subcommittee, the  
18 subcommittee shall (a) use the rating systems established by the  
19 board under subsection (2) of this section, (b) assign a numeric  
20 value to each rating criterion, combine these values into a total  
21 score for each application, and rank the applications by the total  
22 scores, (c) recommend an amount of funding for each application,  
23 which amount may be more or less than the requested amount, and  
24 (d) submit the ranked list and recommended funding to the board  
25 for its approval or disapproval. A motion to deviate from the  
26 subcommittee's recommendations must specify the reason for doing so  
27 and be adopted with an affirmative vote of not fewer than eight

1 members of the board.

2           ~~(4)~~ (6) The board may commit funds to multiyear projects,  
3 subject to available funds and appropriations. No commitment shall  
4 exceed three years without formal action by the board to renew the  
5 grant or contract. Multiyear commitments may be exempt from the  
6 rating process except for the initial application and requests to  
7 renew the commitment.

8           ~~(5)~~ (7) The board shall adopt and promulgate rules and  
9 regulations and publish guidelines governing allocations from the  
10 fund. The board shall conduct annual reviews of existing projects  
11 for compliance with project goals and grant requirements.

12           ~~(6)~~ (8) Every five years the board may evaluate the  
13 long-term effects of the projects it funds. The evaluation may  
14 assess a sample of such projects. The board may hire an independent  
15 consultant to conduct the evaluation and may report the evaluation  
16 findings to the Legislature and the Governor.

17           Sec. 4. The State Treasurer shall transfer \$600,000 from  
18 the General Fund to the Water Resources Cash Fund on or before June  
19 30, 2012, on such date as directed by the budget administrator of  
20 the budget division of the Department of Administrative Services,  
21 pursuant to section 61-218.

22           Sec. 5. The State Treasurer shall transfer \$600,000 from  
23 the General Fund to the Water Resources Cash Fund on or before June  
24 30, 2013, on such date as directed by the budget administrator of  
25 the budget division of the Department of Administrative Services,  
26 pursuant to section 61-218.

27           Sec. 6. Original sections 81-15,174 and 81-15,175,

1 Reissue Revised Statutes of Nebraska, and section 61-218, Revised  
2 Statutes Cumulative Supplement, 2010, are repealed.

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