

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 957

Introduced by Speaker Hadley, 37; at the request of the Governor.

Read first time January 14, 2016

Committee: Appropriations

1 A BILL FOR AN ACT relating to funds; to amend sections 60-1513 and
2 84-1227, Reissue Revised Statutes of Nebraska, section 60-6,211.05,
3 Revised Statutes Cumulative Supplement, 2014, and sections 66-204
4 and 84-612, Revised Statutes Supplement, 2015; to authorize
5 transfers; to provide for transfers; to authorize uses of funds; to
6 repeal the original sections; and to declare an emergency.

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

1 Section 1. Section 60-6,211.05, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 60-6,211.05 (1) If an order is granted under section 60-6,196 or
4 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the court may order
5 that the defendant install an ignition interlock device of a type
6 approved by the Director of Motor Vehicles on each motor vehicle operated
7 by the defendant during the period of revocation. Upon sufficient
8 evidence of installation, the defendant may apply to the director for an
9 ignition interlock permit pursuant to section 60-4,118.06. The device
10 shall, without tampering or the intervention of another person, prevent
11 the defendant from operating the motor vehicle when the defendant has an
12 alcohol concentration greater than three-hundredths of one gram or more
13 by weight of alcohol per one hundred milliliters of his or her blood or
14 three-hundredths of one gram or more by weight of alcohol per two hundred
15 ten liters of his or her breath. The Department of Motor Vehicles shall
16 issue an ignition interlock permit to the defendant under section
17 60-4,118.06 only upon sufficient proof that a defendant has installed an
18 ignition interlock device on any motor vehicle that the defendant will
19 operate during his or her release.

20 (2) If the court orders installation of an ignition interlock device
21 and issuance of an ignition interlock permit pursuant to subsection (1)
22 of this section, the court may also order the use of a continuous alcohol
23 monitoring device and abstention from alcohol use at all times. The
24 device shall, without tampering or the intervention of another person,
25 test and record the alcohol consumption level of the defendant on a
26 periodic basis and transmit such information to probation authorities.

27 (3) Any order issued by the court pursuant to this section shall not
28 take effect until the defendant is eligible to operate a motor vehicle
29 pursuant to subsection (8) of section 60-498.01. A person shall be
30 eligible to be issued an ignition interlock permit allowing operation of
31 a motor vehicle equipped with an ignition interlock device if he or she

1 is not subject to any other suspension, cancellation, required no-driving
2 period, or period of revocation and has successfully completed the
3 ignition interlock permit application process. The Department of Motor
4 Vehicles shall review its records and the driving record abstract of any
5 person who applies for an ignition interlock permit allowing operation of
6 a motor vehicle equipped with an ignition interlock device to determine
7 (a) the applicant's eligibility for an ignition interlock permit, (b) the
8 applicant's previous convictions under section 60-6,196, 60-6,197, or
9 60-6,197.06 or any previous administrative license revocation, if any,
10 and (c) if the applicant is subject to any required no-drive periods
11 before the ignition interlock permit may be issued.

12 (4)(a) If the court orders an ignition interlock device or the Board
13 of Pardons orders an ignition interlock device under section 83-1,127.02,
14 the court or the Board of Pardons shall order the defendant to apply for
15 an ignition interlock permit as provided in section 60-4,118.06 which
16 indicates that the defendant is only allowed to operate a motor vehicle
17 equipped with an ignition interlock device.

18 (b) Such court order shall remain in effect for a period of time as
19 determined by the court not to exceed the maximum term of revocation
20 which the court could have imposed according to the nature of the
21 violation and shall allow operation by the defendant of only an ignition-
22 interlock-equipped motor vehicle.

23 (c) Such Board of Pardons order shall remain in effect for a period
24 of time not to exceed any period of revocation the applicant is subject
25 to at the time the application for a reprieve is made.

26 (5) Any person restricted to operating a motor vehicle equipped with
27 an ignition interlock device, pursuant to a Board of Pardons order, who
28 operates upon the highways of this state a motor vehicle without such
29 device or if the device has been disabled, bypassed, or altered in any
30 way, shall be punished as provided in subsection (3) of section
31 83-1,127.02.

1 (6) If a person ordered to use a continuous alcohol monitoring
2 device and abstain from alcohol use pursuant to a court order as provided
3 in subsection (2) of this section violates the provisions of such court
4 order by removing, tampering with, or otherwise bypassing the continuous
5 alcohol monitoring device or by consuming alcohol while required to use
6 such device, he or she shall have his or her ignition interlock permit
7 revoked and be unable to apply for reinstatement for the duration of the
8 revocation period imposed by the court.

9 (7) The director shall adopt and promulgate rules and regulations
10 regarding the approval of ignition interlock devices, the means of
11 installing ignition interlock devices, and the means of administering the
12 ignition interlock permit program.

13 (8)(a) The costs incurred in order to comply with the ignition
14 interlock requirements of this section shall be paid directly to the
15 ignition interlock provider by the person complying with an order for an
16 ignition interlock permit and installation of an ignition interlock
17 device.

18 (b) If the Department of Motor Vehicles has determined the person to
19 be indigent and incapable of paying for the cost of installation,
20 removal, or maintenance of the ignition interlock device in accordance
21 with this section, such costs shall be paid out of the Department of
22 Motor Vehicles Ignition Interlock Fund if such funds are available,
23 according to rules and regulations adopted and promulgated by the
24 department. Such costs shall also be paid out of the Department of Motor
25 Vehicles Ignition Interlock Fund if such funds are available and if the
26 court or the Board of Pardons, whichever is applicable, has determined
27 the person to be indigent and incapable of paying for the cost of
28 installation, removal, or maintenance of the ignition interlock device in
29 accordance with this section. The Department of Motor Vehicles Ignition
30 Interlock Fund is created. Money in the Department of Motor Vehicles
31 Ignition Interlock Fund may be used for transfers to the General Fund or

1 the Vehicle Title and Registration System Replacement and Maintenance
2 Cash Fund at the direction of the Legislature. Any money in the
3 Department of Motor Vehicles Ignition Interlock Fund available for
4 investment shall be invested by the state investment officer pursuant to
5 the Nebraska Capital Expansion Act and the Nebraska State Funds
6 Investment Act.

7 (9)(a)(i) An ignition interlock service facility shall notify the
8 appropriate district probation office or the appropriate court, as
9 applicable, of any evidence of tampering with or circumvention of an
10 ignition interlock device, or any attempts to do so, when the facility
11 becomes aware of such evidence. Failure of the facility to provide
12 notification as provided in this subdivision is a Class V misdemeanor.

13 (ii) An ignition interlock service facility shall notify the
14 Department of Motor Vehicles, if the ignition interlock permit is issued
15 pursuant to sections 60-498.01 to 60-498.04, of any evidence of tampering
16 with or circumvention of an ignition interlock device, or any attempts to
17 do so, when the facility becomes aware of such evidence. Failure of the
18 facility to provide notification as provided in this subdivision is a
19 Class V misdemeanor.

20 (b) If a district probation office receives evidence of tampering
21 with or circumvention of an ignition interlock device, or any attempts to
22 do so, from an ignition interlock service facility, the district
23 probation office shall notify the appropriate court of such violation.
24 The court shall immediately schedule an evidentiary hearing to be held
25 within fourteen days after receiving such evidence, either from the
26 district probation office or an ignition interlock service facility, and
27 the court shall cause notice of the hearing to be given to the person
28 operating a motor vehicle pursuant to an order under subsection (1) of
29 this section. If the person who is the subject of such evidence does not
30 appear at the hearing and show cause why the order made pursuant to
31 subsection (1) of this section should remain in effect, the court shall

1 rescind the original order. Nothing in this subsection shall apply to an
2 order made by the Board of Pardons pursuant to section 83-1,127.02.

3 (10) Notwithstanding any other provision of law, the issuance of an
4 ignition interlock permit by the Department of Motor Vehicles under
5 section 60-498.01 or an order for the installation of an ignition
6 interlock device and ignition interlock permit made pursuant to
7 subsection (1) of this section as part of a conviction, as well as the
8 administration of such court order by the Office of Probation
9 Administration for the installation, maintenance, and removal of such
10 device, as applicable, shall not be construed to create an order of
11 probation when an order of probation has not been issued.

12 Sec. 2. Section 60-1513, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 60-1513 The Department of Motor Vehicles Cash Fund is hereby
15 created. The fund shall be administered by the Director of Motor
16 Vehicles. The fund shall be used by the Department of Motor Vehicles to
17 carry out its duties as deemed necessary by the Director of Motor
18 Vehicles, except that transfers from the fund to the General Fund or the
19 Vehicle Title and Registration System Replacement and Maintenance Cash
20 Fund may be made at the direction of the Legislature. Any money in the
21 Department of Motor Vehicles Cash Fund available for investment shall be
22 invested by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act.

24 The State Treasurer shall transfer \$5,325,000 from the Department of
25 Motor Vehicles Cash Fund to the Vehicle Title and Registration System
26 Replacement and Maintenance Cash Fund on or before June 30, 2017, as
27 directed by the budget administrator of the budget division of the
28 Department of Administrative Services.

29 Sec. 3. Section 66-204, Revised Statutes Supplement, 2015, is
30 amended to read:

31 66-204 (1) The Clean-burning Motor Fuel Development Fund is created.

1 The fund shall consist of grants, private contributions, and all other
2 sources.

3 (2) The fund shall be used by the State Energy Office to provide
4 rebates under the Nebraska Clean-burning Motor Fuel Development Act up to
5 the amount transferred under subsection (3) of this section. No more than
6 thirty-five percent of the fund annually shall be used as rebates for
7 flex-fuel dispensers and conversions of motor vehicles to allow the use
8 of gasoline containing at least fifteen percent by volume ethanol. The
9 State Energy Office may use the fund for necessary costs in the
10 administration of the act up to an amount not exceeding ten percent of
11 the fund annually.

12 (3) Within five days after August 30, 2015, the State Treasurer
13 shall transfer five hundred thousand dollars from the General Fund to the
14 Clean-burning Motor Fuel Development Fund to carry out the Nebraska
15 Clean-burning Motor Fuel Development Act.

16 (4) Any money in the fund available for investment shall be invested
17 by the state investment officer pursuant to the Nebraska Capital
18 Expansion Act and the Nebraska State Funds Investment Act.

19 Sec. 4. Section 84-612, Revised Statutes Supplement, 2015, is
20 amended to read:

21 84-612 (1) There is hereby created within the state treasury a fund
22 known as the Cash Reserve Fund which shall be under the direction of the
23 State Treasurer. The fund shall only be used pursuant to this section.

24 (2) The State Treasurer shall transfer funds from the Cash Reserve
25 Fund to the General Fund upon certification by the Director of
26 Administrative Services that the current cash balance in the General Fund
27 is inadequate to meet current obligations. Such certification shall
28 include the dollar amount to be transferred. Any transfers made pursuant
29 to this subsection shall be reversed upon notification by the Director of
30 Administrative Services that sufficient funds are available.

31 (3) In addition to receiving transfers from other funds, the Cash

1 Reserve Fund shall receive federal funds received by the State of
2 Nebraska for undesignated general government purposes, federal revenue
3 sharing, or general fiscal relief of the state.

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

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

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

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

24 (8) The State Treasurer shall transfer fourteen million five hundred
25 thousand dollars from the Cash Reserve Fund to the Nebraska Capital
26 Construction Fund on or before June 30, 2015, on such date as directed by
27 the budget administrator of the budget division of the Department of
28 Administrative Services.

29 (9) The State Treasurer shall transfer fifty million five hundred
30 thousand dollars from the Cash Reserve Fund to the General Fund on or
31 before December 31, 2014, on such date as directed by the budget

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

3 (10) The State Treasurer shall transfer up to five million five
4 hundred thousand dollars from the Cash Reserve Fund to the Republican
5 River Compact Litigation Contingency Cash Fund on or before June 30,
6 2015, on such dates and in such amounts as directed by the budget
7 administrator of the budget division of the Department of Administrative
8 Services.

9 (11) The State Treasurer shall transfer up to seventeen million two
10 hundred one thousand one hundred twelve dollars from the Cash Reserve
11 Fund to the General Fund on or before June 30, 2015, on such date and in
12 such amount as directed by the budget administrator of the budget
13 division of the Department of Administrative Services.

14 (12) The State Treasurer shall transfer twenty-five million dollars
15 from the Cash Reserve Fund to the Nebraska Capital Construction Fund on
16 or after July 1, 2015, but before July 15, 2015, on such date as directed
17 by the budget administrator of the budget division of the Department of
18 Administrative Services for the Global Center for Advanced
19 Interprofessional Learning.

20 (13) The State Treasurer shall transfer eight million dollars from
21 the Cash Reserve Fund to the Oral Health Training and Services Fund, on
22 or after July 1, 2015, but before July 15, 2015, on such date as directed
23 by the budget administrator of the budget division of the Department of
24 Administrative Services.

25 (14) The State Treasurer shall transfer the following amounts from
26 the Cash Reserve Fund to the Nebraska Capital Construction Fund on such
27 dates as directed by the budget administrator of the budget division of
28 the Department of Administrative Services:

29 (a) Seven million eight hundred four thousand two hundred ninety-two
30 dollars on or after June 15, 2016, but before June 30, 2016;

31 (b) Seven million one hundred sixty thousand four hundred twelve

1 dollars on or after June 15, 2019, but before June 30, 2019;

2 (c) Nine million four hundred ninety-two thousand five hundred
3 sixty-eight dollars on or after June 15, 2021, but before June 30, 2021;
4 and

5 (d) Three million seven hundred eighty-three thousand seven hundred
6 thirty-four dollars after June 15, 2023, but before June 30, 2023.

7 (15) The State Treasurer shall transfer twenty-six million, two
8 hundred seventy-five thousand, five hundred fifty-eight dollars from the
9 Cash Reserve Fund to the Nebraska Capital Construction Fund on or before
10 June 30, 2016, on such date as directed by the budget administrator of
11 the budget division of the Department of Administrative Services.

12 Sec. 5. Section 84-1227, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 84-1227 There is hereby established in the state treasury a special
15 fund to be known as the Records Management Cash Fund which, when
16 appropriated by the Legislature, shall be expended by the Secretary of
17 State for the purposes of providing records management services and
18 assistance to local agencies, for development and maintenance of the
19 portal for providing electronic access to public records or electronic
20 information and services, and for grants to a state or local agency as
21 provided in subdivision (1)(j) of section 84-1204. All fees and charges
22 for the purpose of records management services and analysis received by
23 the Secretary of State from the local agencies shall be remitted to the
24 State Treasurer for credit to such fund. Transfers may be made from the
25 fund to the General Fund at the direction of the Legislature. The State
26 Treasurer, at the direction of the budget administrator of the budget
27 division of the Department of Administrative Services, shall transfer
28 five hundred thousand dollars from the Records Management Cash Fund to
29 the Information Management Revolving Fund on or before June 30, 2016. The
30 State Treasurer, at the direction of the budget administrator of the
31 budget division of the Department of Administrative Services, shall

1 transfer five hundred thousand dollars from the Records Management Cash
2 Fund to the Information Management Revolving Fund on or before June 30,
3 2017. Any money in the Records Management Cash Fund available for
4 investment shall be invested by the state investment officer pursuant to
5 the Nebraska Capital Expansion Act and the Nebraska State Funds
6 Investment Act.

7 Sec. 6. Original sections 60-1513 and 84-1227, Reissue Revised
8 Statutes of Nebraska, section 60-6,211.05, Revised Statutes Cumulative
9 Supplement, 2014, and sections 66-204 and 84-612, Revised Statutes
10 Supplement, 2015, are repealed.

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