

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 818

Introduced by Arch, 14; at the request of the Governor.

Read first time January 25, 2023

Committee: Appropriations

1 A BILL FOR AN ACT relating to funds; to amend sections 9-1,101 and
2 48-145, Reissue Revised Statutes of Nebraska, and sections 61-305,
3 75-109.01, and 86-163, Revised Statutes Cumulative Supplement, 2022;
4 to provide for fund transfers; to change and eliminate provisions
5 regarding the sources, uses, and transfers of funds; to harmonize
6 provisions; to repeal the original sections; to outright repeal
7 sections 81-1278, 81-1279, and 81-1280, Reissue Revised Statutes of
8 Nebraska, and sections 86-127 and 86-579, Revised Statutes
9 Cumulative Supplement, 2022; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. The State Treasurer shall transfer an amount as directed
2 by the budget administrator of the budget division of the Department of
3 Administrative Services, pursuant to subsections (2) and (3) of section
4 82-331, not to exceed \$1,000,000, from the General Fund to the Nebraska
5 Cultural Preservation Endowment Fund on December 31, 2023, or as soon
6 thereafter as administratively possible.

7 Sec. 2. The State Treasurer shall transfer an amount as directed by
8 the budget administrator of the budget division of the Department of
9 Administrative Services, pursuant to subsections (2) and (3) of section
10 82-331, not to exceed \$1,000,000, from the General Fund to the Nebraska
11 Cultural Preservation Endowment Fund on December 31, 2024, or as soon
12 thereafter as administratively possible.

13 Sec. 3. The State Treasurer shall transfer \$5,000,000 from the
14 Prison Overcrowding Contingency Fund to the Vocational and Life Skills
15 Programming Fund, on or after July 1, 2023, but before June 30, 2024, on
16 such dates and in such amounts as directed by the budget administrator of
17 the budget division of the Department of Administrative Services.

18 Sec. 4. The State Treasurer shall transfer \$5,000,000 from the
19 Prison Overcrowding Contingency Fund to the Vocational and Life Skills
20 Programming Fund, on or after July 1, 2024, but before June 30, 2025, on
21 such dates and in such amounts as directed by the budget administrator of
22 the budget division of the Department of Administrative Services.

23 Sec. 5. The State Treasurer shall transfer the remaining balance of
24 the Nebraska Competitive Telephone Marketplace Fund to the General Fund
25 on or before June 30, 2024, on such date as directed by the budget
26 administrator of the budget division of the Department of Administrative
27 Services.

28 Sec. 6. The State Treasurer shall transfer the remaining balance of
29 the Nebraska Agricultural Products Research Fund to the General Fund on
30 or before June 30, 2024, on such date as directed by the budget
31 administrator of the budget division of the Department of Administrative

1 Services.

2 Sec. 7. Section 9-1,101, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 9-1,101 (1) The Nebraska Bingo Act, the Nebraska County and City
5 Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
6 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, and section
7 9-701 shall be administered and enforced by the Charitable Gaming
8 Division of the Department of Revenue, which division is hereby created.
9 The Department of Revenue shall make annual reports to the Governor,
10 Legislature, Auditor of Public Accounts, and Attorney General on all tax
11 revenue received, expenses incurred, and other activities relating to the
12 administration and enforcement of such acts. The report submitted to the
13 Legislature shall be submitted electronically.

14 (2) The Charitable Gaming Operations Fund is hereby created. Any
15 money in the fund available for investment shall be invested by the state
16 investment officer pursuant to the Nebraska Capital Expansion Act and the
17 Nebraska State Funds Investment Act.

18 (3)(a) Forty percent of the taxes collected pursuant to sections
19 9-239, 9-344, 9-429, and 9-648 shall be available to the Charitable
20 Gaming Division for administering and enforcing the acts listed in
21 subsection (1) of this section and providing administrative support for
22 the Nebraska Commission on Problem Gambling. The remaining sixty percent
23 shall be transferred to the General Fund. Any portion of the forty
24 percent not used by the division in the administration and enforcement of
25 such acts and section shall be distributed as provided in this
26 subsection.

27 (b) Beginning July 1, 2019, through June 30, ~~2025~~ 2023, on or before
28 the last day of the last month of each calendar quarter, the State
29 Treasurer shall transfer one hundred thousand dollars from the Charitable
30 Gaming Operations Fund to the Compulsive Gamblers Assistance Fund.

31 (c) Any money remaining in the Charitable Gaming Operations Fund

1 after the transfer pursuant to subdivision (b) of this subsection not
2 used by the Charitable Gaming Division in its administration and
3 enforcement duties pursuant to this section may be transferred to the
4 General Fund and the Compulsive Gamblers Assistance Fund at the direction
5 of the Legislature.

6 (4) The Tax Commissioner shall employ investigators who shall be
7 vested with the authority and power of a law enforcement officer to carry
8 out the laws of this state administered by the Tax Commissioner or the
9 Department of Revenue and to enforce sections 28-1101 to 28-1117 relating
10 to possession of a gambling device. For purposes of enforcing sections
11 28-1101 to 28-1117, the authority of the investigators shall be limited
12 to investigating possession of a gambling device, notifying local law
13 enforcement authorities, and reporting suspected violations to the county
14 attorney for prosecution.

15 (5) The Charitable Gaming Division may charge a fee for publications
16 and listings it produces. The fee shall not exceed the cost of
17 publication and distribution of such items. The division may also charge
18 a fee for making a copy of any record in its possession equal to the
19 actual cost per page. The division shall remit the fees to the State
20 Treasurer for credit to the Charitable Gaming Operations Fund.

21 (6) For administrative purposes only, the Nebraska Commission on
22 Problem Gambling shall be located within the Charitable Gaming Division.
23 The division shall provide office space, furniture, equipment, and
24 stationery and other necessary supplies for the commission. Commission
25 staff shall be appointed, supervised, and terminated by the director of
26 the Gamblers Assistance Program pursuant to section 9-1004.

27 Sec. 8. Section 48-145, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 48-145 To secure the payment of compensation under the Nebraska
30 Workers' Compensation Act:

31 (1) Every employer in the occupations described in section 48-106,

1 except the State of Nebraska and any governmental agency created by the
2 state, shall either (a) insure and keep insured its liability under such
3 act in some corporation, association, or organization authorized and
4 licensed to transact the business of workers' compensation insurance in
5 this state, (b) in the case of an employer who is a lessor of one or more
6 commercial vehicles leased to a self-insured motor carrier, be a party to
7 an effective agreement with the self-insured motor carrier under section
8 48-115.02, (c) be a member of a risk management pool authorized and
9 providing group self-insurance of workers' compensation liability
10 pursuant to the Intergovernmental Risk Management Act, or (d) with
11 approval of the Nebraska Workers' Compensation Court, self-insure its
12 workers' compensation liability.

13 An employer seeking approval to self-insure shall make application
14 to the compensation court in the form and manner as the compensation
15 court may prescribe, meet such minimum standards as the compensation
16 court shall adopt and promulgate by rule and regulation, and furnish to
17 the compensation court satisfactory proof of financial ability to pay
18 direct the compensation in the amount and manner when due as provided for
19 in the Nebraska Workers' Compensation Act. Approval is valid for the
20 period prescribed by the compensation court unless earlier revoked
21 pursuant to this subdivision or subsection (1) of section 48-146.02.
22 Notwithstanding subdivision (1)(d) of this section, a professional
23 employer organization shall not be eligible to self-insure its workers'
24 compensation liability. The compensation court may by rule and regulation
25 require the deposit of an acceptable security, indemnity, trust, or bond
26 to secure the payment of compensation liabilities as they are incurred.
27 The agreement or document creating a trust for use under this section
28 shall contain a provision that the trust may only be terminated upon the
29 consent and approval of the compensation court. Any beneficial interest
30 in the trust principal shall be only for the benefit of the past or
31 present employees of the self-insurer and any persons to whom the self-

1 insurer has agreed to pay benefits under subdivision (11) of section
2 48-115 and section 48-115.02. Any limitation on the termination of a
3 trust and all other restrictions on the ownership or transfer of
4 beneficial interest in the trust assets contained in such agreement or
5 document creating the trust shall be enforceable, except that any
6 limitation or restriction shall be enforceable only if authorized and
7 approved by the compensation court and specifically delineated in the
8 agreement or document. The trustee of any trust created to satisfy the
9 requirements of this section may invest the trust assets in the same
10 manner authorized under subdivisions (1)(a) through (i) of section
11 30-3209 for corporate trustees holding retirement or pension funds for
12 the benefit of employees or former employees of cities, villages, school
13 districts, or governmental or political subdivisions, except that the
14 trustee shall not invest trust assets into stocks, bonds, or other
15 obligations of the trustor. If, as a result of such investments, the
16 value of the trust assets is reduced below the acceptable trust amount
17 required by the compensation court, then the trustor shall deposit
18 additional trust assets to account for the shortfall.

19 Notwithstanding any other provision of the Nebraska Workers'
20 Compensation Act, a three-judge panel of the compensation court may,
21 after notice and hearing, revoke approval as a self-insurer if it finds
22 that the financial condition of the self-insurer or the failure of the
23 self-insurer to comply with an obligation under the act poses a serious
24 threat to the public health, safety, or welfare. The Attorney General,
25 when requested by the administrator of the compensation court, may file a
26 motion pursuant to section 48-162.03 for an order directing a self-
27 insurer to appear before a three-judge panel of the compensation court
28 and show cause as to why the panel should not revoke approval as a self-
29 insurer pursuant to this subdivision. The Attorney General shall be
30 considered a party for purposes of such motion. The Attorney General may
31 appear before the three-judge panel and present evidence that the

1 financial condition of the self-insurer or the failure of the self-
2 insurer to comply with an obligation under the act poses a serious threat
3 to the public health, safety, or welfare. The presiding judge shall rule
4 on a motion of the Attorney General pursuant to this subdivision and, if
5 applicable, shall appoint judges of the compensation court to serve on
6 the three-judge panel. The presiding judge shall not serve on such panel.
7 Appeal from a revocation pursuant to this subdivision shall be in
8 accordance with section 48-185. No such appeal shall operate as a
9 supersedeas unless the self-insurer executes to the compensation court a
10 bond with one or more sureties authorized to do business within the State
11 of Nebraska in an amount determined by the three-judge panel to be
12 sufficient to satisfy the obligations of the self-insurer under the act;

13 (2) An approved self-insurer shall furnish to the State Treasurer an
14 annual amount equal to two and one-half percent of the prospective loss
15 costs for like employment but in no event less than twenty-five dollars.
16 Prospective loss costs is defined in section 48-151. The compensation
17 court is the sole judge as to the prospective loss costs that shall be
18 used. All money which a self-insurer is required to pay to the State
19 Treasurer, under this subdivision, shall be computed and tabulated under
20 oath as of January 1 and paid to the State Treasurer immediately
21 thereafter. The compensation court or designee of the compensation court
22 may audit the payroll of a self-insurer at the compensation court's
23 discretion. All money paid by a self-insurer under this subdivision shall
24 be credited to the Compensation Court Cash ~~General~~ Fund;

25 (3) Every employer who fails, neglects, or refuses to comply with
26 the conditions set forth in subdivision (1) or (2) of this section shall
27 be required to respond in damages to an employee for personal injuries,
28 or when personal injuries result in the death of an employee, then to his
29 or her dependents; and

30 (4) Any security, indemnity, trust, or bond provided by a self-
31 insurer pursuant to subdivision (1) of this section shall be deemed a

1 surety for the purposes of the payment of valid claims of the self-
2 insurer's employees and the persons to whom the self-insurer has agreed
3 to pay benefits under the Nebraska Workers' Compensation Act pursuant to
4 subdivision (11) of section 48-115 and section 48-115.02 as generally
5 provided in the act.

6 Sec. 9. Section 61-305, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 61-305 (1) The Perkins County Canal Project Fund is created. The
9 fund shall be administered by the Department of Natural Resources. The
10 State Treasurer shall credit to the fund any money transferred by the
11 Legislature and such grants, loans, donations, gifts, bequests, or other
12 money received from any federal or state agency or public or private
13 source for use by the department for the canal project. Any money in the
14 Perkins County Canal Project Fund available for investment shall be
15 invested by the state investment officer pursuant to the Nebraska Capital
16 Expansion Act and the Nebraska State Funds Investment Act. Any investment
17 earnings from investment of money in the fund shall be credited to the
18 fund.

19 (2)(a) The department shall use the fund to develop, construct,
20 manage, and operate the Perkins County Canal ~~for design, engineering,~~
21 ~~permitting, and options to purchase land related to building a canal~~ as
22 outlined by the South Platte River Compact and to contract with an
23 independent firm for the purposes of completing a study of such canal.
24 The study shall include, but may not be limited to, the following:

25 (i) Costs of completion of a canal and adjoining reservoirs as
26 outlined in the South Platte River Compact;

27 (ii) A timeline for completion of a canal and adjoining reservoirs
28 as outlined in the South Platte River Compact;

29 (iii) A cost-effectiveness study examining alternatives, including
30 alternatives that may reduce environmental or financial impacts; and

31 (iv) The impacts of the canal on drinking water supplies for the

1 cities of Lincoln and Omaha.

2 (b) The department shall provide the findings of such study
3 electronically to the Clerk of the Legislature and present the findings
4 at a public hearing held by the Appropriations Committee of the
5 Legislature on or before December 31, 2022.

6 Sec. 10. Section 75-109.01, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 75-109.01 Except as otherwise specifically provided by law, the
9 Public Service Commission shall have jurisdiction, as prescribed, over
10 the following subjects:

11 (1) Common carriers, generally, pursuant to sections 75-101 to
12 75-158;

13 (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse
14 Act and sections 89-1,104 to 89-1,108;

15 (3) Manufactured homes and recreational vehicles pursuant to the
16 Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

17 (4) Modular housing units pursuant to the Nebraska Uniform Standards
18 for Modular Housing Units Act;

19 (5) Motor carrier registration, licensure, and safety pursuant to
20 sections 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

21 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
22 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
23 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with
24 the provisions of the Major Oil Pipeline Siting Act, the provisions of
25 the Major Oil Pipeline Siting Act control;

26 (7) Railroad carrier safety pursuant to sections 74-918, 74-919,
27 74-1323, and 75-401 to 75-430;

28 (8) Telecommunications carriers pursuant to the Automatic Dialing-
29 Announcing Devices Act, the Emergency Telephone Communications Systems
30 Act, the Enhanced Wireless 911 Services Act, the Intrastate Pay-Per-Call
31 Regulation Act, the Nebraska Telecommunications Regulation Act, the

1 Nebraska Telecommunications Universal Service Fund Act, the
2 Telecommunications Relay System Act, the Telephone Consumer Slamming
3 Prevention Act, and sections 86-574 to 86-578 ~~86-579~~, 86-1307, and
4 86-1308;

5 (9) Transmission lines and rights-of-way pursuant to sections 70-301
6 and 75-702 to 75-724;

7 (10) Water service pursuant to the Water Service Regulation Act; and

8 (11) Jurisdictional utilities governed by the State Natural Gas
9 Regulation Act. If the provisions of Chapter 75 are inconsistent with the
10 provisions of the State Natural Gas Regulation Act, the provisions of the
11 State Natural Gas Regulation Act control.

12 Sec. 11. Section 86-163, Revised Statutes Cumulative Supplement,
13 2022, is amended to read:

14 86-163 The commission shall file with the Clerk of the Legislature
15 an annual report on or before September 30 of each year on the status of
16 the Nebraska telecommunications industry. The report shall be submitted
17 in electronic format. The report shall:

18 (1) Describe the quality of telecommunications service being
19 provided to the citizens of Nebraska;

20 (2) Describe the availability of diverse and affordable
21 telecommunications service to all of the people of Nebraska;

22 (3) Describe the level of telecommunications service rates;

23 (4) Describe the use and continued need for the Nebraska
24 Telecommunications Universal Service Fund;

25 (5) Describe the availability and location of 911 service and E-911
26 service as required by section 86-437;

27 (6) Describe the availability and location of wireless 911 service
28 or enhanced wireless 911 service as required by section 86-460;

29 (7) Address the need for further legislation to achieve the purposes
30 of the Nebraska Telecommunications Regulation Act; and

31 ~~(8) Address the funding level of the Nebraska Competitive Telephone~~

1 ~~Marketplace Fund and an accounting of commission expenses related to its~~
2 ~~duties under section 86-127; and~~

3 (8) (9) Assess, based on information provided by public safety
4 answering points, the level of wireless E-911 location accuracy
5 compliance for wireless carriers.

6 Sec. 12. The HCBS Enhanced FMAP Fund is created. The fund shall be
7 used to enhance and expand home and community-based services (HCBS)
8 spending as outlined in the federal American Rescue Plan Act of 2021, 42
9 U.S.C. 802, as amended. The fund shall be administered by the Department
10 of Health and Human Services. The fund shall consist of transfers
11 authorized by the Legislature and any gifts, grants, or bequests for such
12 purposes from any source, including federal, state, public, and private
13 sources. Any money in the fund available for investment may be invested
14 by the state investment officer pursuant to the Nebraska Capital
15 Expansion Act and the Nebraska State Funds Investment Act.

16 Sec. 13. Original sections 9-1,101 and 48-145, Reissue Revised
17 Statutes of Nebraska, and sections 61-305, 75-109.01, and 86-163, Revised
18 Statutes Cumulative Supplement, 2022, are repealed.

19 Sec. 14. The following sections are outright repealed: Sections
20 81-1278, 81-1279, and 81-1280, Reissue Revised Statutes of Nebraska, and
21 sections 86-127 and 86-579, Revised Statutes Cumulative Supplement, 2022.

22 Sec. 15. Since an emergency exists, this act takes effect when
23 passed and approved according to law.