

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 885

Introduced by Nordquist, 7; Mello, 5.

Read first time January 11, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to energy; to amend sections 11-201, 13-1205,
2 13-2043, 33-151, 57-605, 57-607, 57-701, 57-902, 57-903,
3 57-904, 57-905, 57-906, 57-907, 57-908, 57-909, 57-910,
4 57-910.01, 57-910.02, 57-910.03, 57-910.05, 57-910.06,
5 57-910.07, 57-910.08, 57-910.09, 57-910.10, 57-910.11,
6 57-910.12, 57-911, 57-912, 57-913, 57-914, 57-915,
7 57-916, 57-916.01, 57-917, 57-918, 57-920, 57-921,
8 57-922, 57-923, 58-221, 66-1004, 66-1009, 70-1003,
9 72-804, 72-805, 81-1011, 81-1108.55, 81-1201.04, 81-1316,
10 81-1531.01, 81-1606, 81-1607, 81-1608, 81-1609, 81-1611,
11 81-1613, 81-1614, 81-1615, 81-1616, 81-1617, 81-1618,
12 81-1620, 81-1622, 81-1625, 81-1626, 81-1635, 81-1636,
13 81-1637, 81-1638, 81-1639, 81-1640, 81-1641, 81-3453,
14 81-3541, 84-166, and 84-1005, Reissue Revised Statutes of

1 Nebraska, section 46-601.01, Revised Statutes Cumulative
2 Supplement, 2008, sections 57-919, 81-1607.01, and
3 81-1634, Reissue Revised Statutes of Nebraska, as
4 amended by sections 33, 81, and 82, respectively,
5 Legislative Bill 3, One Hundred First Legislature,
6 First Special Session, 2009, and section 57-705, Revised
7 Statutes Supplement, 2009, as amended by section 32,
8 Legislative Bill 3, One Hundred First Legislature,
9 First Special Session, 2009; to transfer powers, duties,
10 positions of employment, funds, violations, penalties,
11 and other provisions relating to the Nebraska Oil
12 and Gas Conservation Commission and the State Energy
13 Office to the newly created Nebraska Energy Commission
14 as prescribed; to harmonize provisions; to provide an
15 operative date; to repeal the original sections; and
16 to outright repeal sections 57-901, 81-1601, 81-1602,
17 81-1603, 81-1605, and 81-1612, Reissue Revised Statutes
18 of Nebraska.

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

1 Section 1. Section 11-201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 11-201 It shall be the duty of the Risk Manager:

4 (1) To prescribe the amount, terms, and conditions of
5 any bond or equivalent commercial insurance when the amount or
6 terms are not fixed by any specific statute. The Risk Manager, in
7 prescribing the amount, deductibles, conditions, and terms, shall
8 consider the type of risks, the relationship of the premium to
9 risks involved, the past and projected trends for premiums, the
10 ability of the Tort Claims Fund, the State Self-Insured Property
11 Fund, and state agencies to pay the deductibles, and any other
12 factors the manager may, in his or her discretion, deem necessary
13 in order to accomplish the provisions of sections 2-1201, 3-103,
14 8-104, 8-105, 9-807, 11-119, 11-121, 11-201, 11-202, 37-110,
15 48-158, 48-609, 48-618, 48-721, 48-804.03, 53-109, 54-191, 55-123,
16 55-126, 55-127, 55-150, ~~57-917~~, 60-1303, 60-1502, 71-222.01,
17 72-1241, 77-366, 80-401.02, 81-111, 81-151, 81-8,128, 81-8,141,
18 81-1108.14, 81-2002, 83-128, 84-106, 84-206, and 84-801 and section
19 20 of this act;

20 (2) To pass upon the sufficiency of and approve the
21 surety on the bonds or equivalent commercial insurance of all
22 officers and employees of the state, when approval is not otherwise
23 prescribed by any specific statute;

24 (3) To arrange for the writing of corporate surety
25 bonds or equivalent commercial insurance for all the officers and

1 employees of the state who are required by statute to furnish
2 bonds;

3 (4) To arrange for the writing of the blanket corporate
4 surety bond or equivalent commercial insurance required by this
5 section; and

6 (5) To order the payment of corporate surety bond or
7 equivalent commercial insurance premiums out of the State Insurance
8 Fund created by section 81-8,239.02.

9 All state employees not specifically required to give
10 bond by section 11-119 shall be bonded under a blanket corporate
11 surety bond or insured under equivalent commercial insurance for
12 faithful performance and honesty in an amount not to exceed one
13 million dollars.

14 The Risk Manager may separately bond any officer,
15 employee, or group thereof under a separate corporate surety bond
16 or equivalent commercial insurance policy for performance and
17 honesty pursuant to the standards set forth in subdivision (1) of
18 this section if the corporate surety or commercial insurer will not
19 bond or insure or excludes from coverage any officer, employee,
20 or group thereof under the blanket bond or commercial insurance
21 required by this section, or if the Risk Manager finds that the
22 reasonable availability or cost of the blanket bond or commercial
23 insurance required under this section is adversely affected by any
24 of the following factors: The loss experience, types of risks to be
25 bonded or insured, relationship of premium to risks involved, past

1 and projected trends for premiums, or any other factors.

2 Surety bonds of collection agencies, as required by
3 section 45-608, and detective agencies, as required by section
4 71-3207, shall be approved by the Secretary of State. The Attorney
5 General shall approve all bond forms distributed by the Secretary
6 of State.

7 Sec. 2. Section 13-1205, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 13-1205 The department shall have the following powers,
10 duties, and responsibilities:

11 (1) To collect and maintain data on the level of
12 public transportation services and needs in the state and identify
13 areas not being adequately served by existing public or private
14 transportation services;

15 (2) To assess the regional and statewide effect of
16 changes, improvement, and route abandonments in the state's public
17 transportation system;

18 (3) To develop a six-year statewide transit plan and
19 programs for public transportation in coordination with local plans
20 and programs developed by municipalities, counties, and transit
21 authorities;

22 (4) To provide planning and technical assistance to
23 agencies of the state, political subdivisions, or groups seeking to
24 improve public transportation;

25 (5) To advise, consult, and cooperate with agencies of

1 the state, the federal government, and other states, interstate
2 agencies, political subdivisions, and groups concerned with public
3 transportation;

4 (6) To cooperate with the Public Service Commission
5 by providing periodic assessments to the commission when
6 determining the effect of proposed regulatory decisions on public
7 transportation;

8 (7) To administer federal and state programs providing
9 financial assistance to public transportation, except those
10 federal and state programs in which a municipality, county,
11 transit authority, or other state agency is designated as the
12 administrator;

13 (8) To prepare and submit a biennial report to the
14 Governor, the State Energy Office, Nebraska Energy Commission,
15 and the Clerk of the Legislature detailing its activities
16 under the Nebraska Public Transportation Act. The report shall
17 make recommendations to strengthen, expand, and improve public
18 transportation in the state; and

19 (9) To exercise all other powers necessary and proper
20 for the discharge of its duties, including the adoption and
21 promulgation of reasonable rules and regulations to carry out the
22 act.

23 Each member of the Legislature shall receive a copy of
24 the report required by subdivision (8) of this section by making a
25 request for such report to the director.

1 Sec. 3. Section 13-2043, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2043 Nothing in the Integrated Solid Waste Management
4 Act shall be construed to apply to any operations or activities
5 regulated by the Nebraska Oil and Gas Conservation Energy
6 Commission or to operations or activities regulated under
7 subsection (10) of section 81-1505.

8 Sec. 4. Section 33-151, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 33-151 All money now in the state treasury to the
11 credit of the Board of Barber Examiners, the State Real Estate
12 Commission, the Board of Engineers and Architects, the State
13 Athletic Commissioner, the Nebraska Oil and Gas Conservation Energy
14 Commission pursuant to sections ~~57-906 and 57-911~~, 17 and 23 of
15 this act, and any other state board, bureau, division, fund, or
16 commission not mentioned in this section, and all money collected
17 by each of such boards, bureaus, divisions, or commissions
18 during any biennium, if and when specifically appropriated by
19 the Legislature for that purpose, are made immediately available
20 for the use and benefit of such board, bureau, division, or
21 commission. This section shall not be construed to apply to the
22 fees inuring to the Nebraska Brand Inspection and Theft Prevention
23 Fund.

24 Sec. 5. Section 46-601.01, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 46-601.01 For purposes of Chapter 46, article 6:

2 (1) (a) Water well means any excavation that is drilled,
3 cored, bored, washed, driven, dug, jetted, or otherwise constructed
4 for the purpose of exploring for ground water, monitoring ground
5 water, utilizing the geothermal properties of the ground, obtaining
6 hydrogeologic information, or extracting water from or injecting
7 fluid as defined in section 81-1502 into the underground water
8 reservoir.

9 (b) Water well includes any excavation made for any
10 purpose if ground water flows into the excavation under natural
11 pressure and a pump or other device is placed in the excavation
12 for the purpose of withdrawing water from the excavation for
13 irrigation. For such excavations, construction means placing a pump
14 or other device into the excavation for the purpose of withdrawing
15 water for irrigation.

16 (c) Water well does not include (i) any excavation
17 made for obtaining or prospecting for oil or natural gas or
18 for inserting media to repressure oil or natural gas bearing
19 formations regulated by the Nebraska Oil and Gas Conservation
20 Energy Commission or (ii) any structure requiring a permit by the
21 Department of Natural Resources used to exercise surface water
22 appropriation; and

23 (2) Common carrier means any carrier of water including a
24 pipe, canal, ditch, or other means of piping or adjoining water for
25 irrigation purposes.

1 Sec. 6. Section 57-605, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 57-605 Any condemner desiring to exercise the right
4 of eminent domain as to any property for use for underground
5 storage of natural gas or liquefied petroleum gas or both shall,
6 as a condition precedent to the filing of its petition, obtain
7 from the Nebraska ~~Oil and Gas Conservation~~ Energy Commission a
8 certificate setting out findings of the commission (1) that the
9 underground stratum or formation sought to be acquired is not
10 capable of producing oil in paying quantities by any generally
11 accepted method, (2) that the field, if then capable of producing
12 commercially recoverable native gas, must have been producing
13 natural gas for at least ten years, (3) that the condemner has
14 acquired by purchase or other voluntary means at least sixty
15 percent of the ownership which has the right to grant the use
16 of the underground stratum or formation sought to be acquired,
17 computed in relation to the surface area overlying that part of
18 the stratum or formation expected to be penetrated by displaced
19 or injected gas, and that the volume of native gas originally in
20 place in the underground stratum or formation sought to be acquired
21 is forty percent depleted, (4) that the underground stratum or
22 formation sought to be acquired is suitable for the underground
23 storage of natural gas or liquefied petroleum gas or both, (5) the
24 amount of commercially recoverable native gas, if any, remaining
25 therein, and (6) in the event any recoverable native gas is found

1 to remain therein, that its use for such purposes is in the public
2 interest because the stratum or formation has a greater value or
3 utility as an underground reservoir for the storage of natural
4 gas or liquefied petroleum gas or both than for the production
5 of the remaining volumes of native gas. Such finding shall not of
6 itself be a basis for compensation to be paid to the condemnee.
7 If at the time of the condemner's filing with the commission
8 native gas from the underground reservoir is being used for the
9 secondary recovery of oil, then gas in necessary and required
10 amounts shall be furnished to the operator or operators of the
11 secondary recovery operations at equivalent costs, for so long as
12 oil is produced in paying quantities in the secondary recovery
13 operations, but the amount of gas to be furnished hereunder shall
14 not exceed the quantity of recoverable native gas found to exist
15 in the reservoir at the time of its acquisition hereunder if
16 such operator was or operators were at such time entitled to the
17 whole thereof, but if it was or they were at such time entitled
18 to less than the whole thereof, then not to exceed the quantity
19 thereof to which such operator was or operators were then entitled.
20 The commission shall issue no such certificate until after public
21 hearing is had on application and upon reasonable notice to
22 interested parties. The applicant shall be assessed and pay all the
23 costs of the proceedings incurred with the commission. Any person
24 having an interest in the property affected by a finding of the
25 commission or the condemner may appeal the issuance or denial of

1 certificate or from any finding as to the amount of commercially
2 recoverable native gas, and the appeal shall be in accordance with
3 the Administrative Procedure Act.

4 Sec. 7. Section 57-607, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 57-607 Except as otherwise provided in sections 57-603
7 to 57-606, all proceedings in connection with the condemnation and
8 acquisition of such underground storage and such other rights or
9 interests as may be necessary and proper to the full enjoyment
10 of such right shall be in accordance and compliance with sections
11 76-704 to 76-724, including full rights of appeal as to the amount
12 of damages. The condemner shall pay the severance tax due on all
13 commercially recoverable native gas being acquired for underground
14 storage purposes whether such acquisition is made voluntarily or
15 under the provisions of sections 57-601 to 57-609. The tax shall
16 be based on the current value of the gas and shall be paid to the
17 State Treasurer on the volume of commercially recoverable native
18 gas remaining in place at the time of acquisition as found by the
19 ~~Nebraska Oil and Gas Conservation~~ Energy Commission pursuant to
20 section 57-605. The State Treasurer shall place the tax received in
21 the Severance Tax Fund.

22 Sec. 8. Section 57-701, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 57-701 As used in Chapter 57, article 7, unless the
25 context otherwise requires:

1 (1) Base production level shall mean a property's
2 production for the preceding twelve months divided by the number of
3 producing well production days. Enhanced recovery injection wells
4 may be counted as producing wells to determine the base production
5 level for a property;

6 (2) Oil shall mean any petroleum product or other oil
7 taken from the earth;

8 (3) Severed shall mean the taking from the land by any
9 means whatsoever of the natural resources enumerated in Chapter 57,
10 article 7;

11 (4) Person shall mean any person, firm, concern,
12 receiver, trustee, executor, administrator, agent, institution,
13 association, partnership, limited liability company, company,
14 corporation, or person acting under a declaration of trust or as an
15 operator under a lease agreement or unitization agreement;

16 (5) Property shall mean the right to produce crude oil or
17 natural gas which arises from a lease, fee, or mineral interest.
18 A property owner may treat as a separate property each separate
19 and distinct producing reservoir subject to the same right to
20 produce crude oil or natural gas if such reservoir is recognized
21 by the Nebraska Oil and Gas ~~Conservation~~ Energy Commission as a
22 producing formation that is separate and distinct from and not in
23 communication with any other producing formation;

24 (6) Producer shall mean the owner of a well or wells
25 capable of producing oil or gas or both or any person who owns

1 and operates a lease or a unit of producing leases in which other
2 persons own interests, with respect to such well or wells;

3 (7) Stripper oil shall mean oil produced from a property
4 where the base production level is ten or fewer barrels per day;
5 and

6 (8) Nonstripper oil shall mean oil produced from a
7 property where the base production level is more than ten barrels
8 per day.

9 Sec. 9. Section 57-705, Revised Statutes Supplement,
10 2009, as amended by section 32, Legislative Bill 3, One Hundred
11 First Legislature, First Special Session, 2009, is amended to read:

12 57-705 (1) All severance taxes levied by Chapter 57,
13 article 7, shall be paid to the Tax Commissioner. He or she shall
14 remit all such money received to the State Treasurer. All such
15 money received by the State Treasurer shall be credited to a
16 fund to be known as the Severance Tax Fund. An amount equal to
17 one percent of the gross severance tax receipts, excluding those
18 receipts from tax derived from oil and natural gas severed from
19 school lands, credited to the fund shall be credited by the State
20 Treasurer, upon the first day of each month, and shall inure to
21 the Severance Tax Administration Fund to be used for the expenses
22 of administering Chapter 57, article 7. Transfers may be made from
23 the Severance Tax Administration Fund to the General Fund at the
24 direction of the Legislature. The balance of the Severance Tax
25 Fund received from school lands shall be credited by the State

1 Treasurer, upon the first day of each month, and shall inure to the
2 permanent school fund.

3 (2) Of the balance of the Severance Tax Fund received
4 from other than school lands (a) the Legislature may transfer
5 an amount to be determined by the Legislature through the
6 appropriations process up to three hundred thousand dollars for
7 each year to the ~~State Energy Office~~ Nebraska Energy Commission
8 Cash Fund, (b) the Legislature may transfer an amount to be
9 determined by the Legislature through the appropriations process
10 up to thirty thousand dollars for each year to the Public Service
11 Commission for administration of the Municipal Rate Negotiations
12 Revolving Loan Fund, and (c) the remainder shall be credited and
13 inure to the permanent school fund.

14 (3) The State Treasurer shall transfer two hundred fifty
15 thousand dollars from the Severance Tax Administration Fund to the
16 Department of Revenue Enforcement Fund on July 1, 2009, or as soon
17 thereafter as administratively possible. The State Treasurer shall
18 transfer two hundred fifty thousand dollars from the Severance
19 Tax Administration Fund to the Department of Revenue Enforcement
20 Fund on July 1, 2010, or as soon thereafter as administratively
21 possible.

22 Sec. 10. Section 58-221, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 58-221 Residential energy conservation device shall mean
25 any prudent means of reducing the demands for conventional fuels or

1 increasing the supply or efficiency of these fuels in residential
2 housing and shall include, but not be limited to:

- 3 (1) Caulking and weather stripping of doors and windows;
- 4 (2) Furnace efficiency modifications, including:
- 5 (a) Replacement burners, furnaces, heat pumps, or boilers
6 or any combination thereof which, as determined by the Director of
7 the ~~State Energy Office~~, Nebraska Energy Commission, substantially
8 increases the energy efficiency of the heating system;
- 9 (b) Any device for modifying flue openings which will
10 increase the energy efficiency of the heating system; and
- 11 (c) Any electrical or mechanical furnace ignition system
12 which replaces a standing gas pilot light;
- 13 (3) A clock thermostat;
- 14 (4) Ceiling, attic, wall, and floor insulation;
- 15 (5) Water heater insulation;
- 16 (6) Storm windows and doors, multiglazed windows and
17 doors, and heat-absorbed or heat-reflective glazed window and door
18 materials;
- 19 (7) Any device which controls demand of appliances and
20 aids load management;
- 21 (8) Any device to utilize solar energy, biomass, or wind
22 power for any residential energy conservation purpose including
23 heating of water and space heating or cooling; and
- 24 (9) Any other conservation device, renewable energy
25 technology, and specific home improvement necessary to insure the

1 effectiveness of the energy conservation measures as the Director
2 of the ~~State Energy Office~~ Nebraska Energy Commission by rule or
3 regulation identifies.

4 Sec. 11. Section 66-1004, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 66-1004 Energy conservation measure shall mean installing
7 or using any:

8 (1) Caulking or weatherstripping of doors or windows;

9 (2) Furnace efficiency modifications involving electric
10 service;

11 (3) Clock thermostats;

12 (4) Water heater insulation or modification;

13 (5) Ceiling, attic, wall, or floor insulation;

14 (6) Storm windows or doors, multiglazed windows or doors,
15 or heat absorbing or reflective glazed window and door material;

16 (7) Devices which control demand of appliances and aid
17 load management;

18 (8) Devices to utilize solar energy, biomass, or wind
19 power for any energy conservation purpose, including heating of
20 water and space heating or cooling, which have been identified by
21 the ~~State Energy Office~~ Nebraska Energy Commission as an energy
22 conservation measure for the purposes of sections 66-1001 to
23 66-1011;

24 (9) High-efficiency lighting and motors;

25 (10) Devices which are designed to increase energy

1 efficiency, the utilization of renewable resources, or both; and

2 (11) Such other conservation measures as the ~~State Energy~~
3 ~~Office~~ Nebraska Energy Commission shall identify.

4 Sec. 12. Section 66-1009, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 66-1009 (1) A customer borrowing from a utility under
7 a plan adopted pursuant to sections 66-1001 to 66-1011 shall be
8 allowed to contract with the utility for a repayment plan and shall
9 be offered a repayment period of not less than three years and not
10 more than twenty years.

11 (2) Upon default on a loan by a customer, after expending
12 reasonable efforts to collect, a utility may treat the entire
13 unpaid contract amount as due, but services to a residential,
14 agricultural, or commercial customer may not be terminated as
15 a result of such default. Default occurs when any amount due
16 a utility under a plan adopted pursuant to sections 66-1001 to
17 66-1011, 70-625, 70-704, 81-161, ~~81-1602, 81-1606 to 81-1626,~~ and
18 84-162 to 84-167 and sections 14, 21, 22, and 49 to 62 of this act
19 is not paid within sixty days of the due date.

20 (3) Any customer obtaining a loan pursuant to section
21 66-1007 shall only use the funds to accomplish the purposes agreed
22 upon at the time of the loan. If the borrower of any funds obtained
23 pursuant to sections 66-1001 to 66-1011 uses such funds in a manner
24 or for a purpose not authorized by this section, the total amount
25 of the loan shall immediately become due and payable.

1 (4) Any amount due a utility on a loan pursuant to
2 sections 66-1001 to 66-1011 which is not paid in full within
3 sixty days of the due date shall become a lien as provided in
4 this section on the real property concerned as to the full unpaid
5 balance. No lien under this section shall be valid unless (a) the
6 loan was signed by the party or parties shown on the indexes of
7 the register of deeds to be the owners of record of such real
8 property on the date of the loan and (b) the lien is filed not
9 more than four months after the date of default, in the same
10 office and in the same manner as mortgages in the county in which
11 the real property is located. Such lien shall take effect and
12 be in force from and after the time of delivering the same to
13 the register of deeds for recording, and not before, as to all
14 creditors and subsequent purchasers in good faith without notice,
15 and such lien shall be adjudged void as to all such creditors
16 and subsequent purchasers without notice whose deeds, mortgages,
17 or other instruments shall be first recorded, except that such
18 lien shall be valid between the parties. A publicly owned utility
19 shall not maintain possession of any property which it may acquire
20 pursuant to a lien authorized by this section for a period of time
21 longer than is reasonably necessary to dispose of such property.

22 (5) Any loan made under a plan adopted pursuant to
23 sections 66-1001 to 66-1011 shall not exceed fifteen thousand
24 dollars, subject to any existing limitations under federal law. Any
25 loan to be made by a utility which exceeds ten thousand dollars

1 shall only be made in participation with a bank pursuant to a
2 contract. The utility and the participating bank shall determine
3 the terms and conditions of the contract.

4 (6) ~~The State Energy Office~~ Nebraska Energy Commission
5 may adopt and promulgate rules and regulations to carry out
6 sections 66-1001 to 66-1011.

7 Sec. 13. Section 57-904, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 57-904 There is hereby established an independent
10 commission to be known as the Nebraska Oil and Gas Conservation
11 Energy Commission. The Prior to the operative date of this act,
12 the commission shall consist of three members to be appointed by
13 the Governor. On and after the operative date of this act, the
14 Governor shall appoint two additional members to form a five-member
15 commission. The director of the state geological survey shall serve
16 the commission in the capacity as its technical advisor, but with
17 no power to vote. Any Prior to the operative date of this act,
18 any two commissioners shall constitute a quorum for all purposes.
19 On and after the operative date of this act, three commissioners
20 shall constitute a quorum. At least one member of the commission
21 shall have had experience in the production of oil or gas and shall
22 have resided in the State of Nebraska for at least one year. Each
23 of the other members of the commission shall have resided in the
24 State of Nebraska for at least three years. ~~Initially, two of said~~
25 ~~members shall be appointed for a term of two years each, and one~~

1 shall be appointed for a term of four years. At the expiration of
2 the initial terms all At least one member shall have had experience
3 in renewable energy production. At least one member shall have had
4 experience in energy conservation. All members thereafter appointed
5 shall serve for a term of four years. The Governor may at any time
6 remove any appointed member of the commission for cause, and by
7 appointment, with the approval of the Legislature, shall fill any
8 vacancy on the commission. The members of the commission shall
9 receive as compensation for their services the sum of fifty dollars
10 per day for each day actually devoted to the business of the
11 commission. The members of the commission ~~+ Provided,~~ that they
12 shall not receive a sum in any one year in excess of two thousand
13 dollars each. In addition, each member of the commission shall be
14 reimbursed for his or her actual and necessary traveling and other
15 expenses incurred in connection with the carrying out of his or
16 her duties as provided in sections 81-1174 to 81-1177 for state
17 employees.

18 Sec. 14. Section 57-905, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~57-905~~ (1) The commission shall have jurisdiction and
21 authority over all persons and property, public and private,
22 necessary to enforce effectively ~~the provisions of sections 57-901~~
23 ~~to 57-921.~~ 13 to 70 of this act.

24 (2) The commission shall have authority, and it is its
25 duty, to make such investigations as it deems proper to determine

1 whether waste exists or is imminent or whether other facts exist
2 which justify action by the commission.

3 (3) The commission shall have authority to require: (a)
4 Identification of ownership of oil or gas wells, producing leases,
5 tanks, plants, structures, and facilities for the production of
6 oil and gas; (b) the making and filing of directional surveys,
7 and reports on well location, drilling, and production within
8 six months after the completion or abandonment of the well; (c)
9 the drilling, casing, operating, and plugging of wells in such
10 manner as to prevent the escape of oil or gas out of one stratum
11 into another, the intrusion of water into oil or gas strata, the
12 pollution of fresh water supplies by oil, gas, or salt water,
13 and to prevent blowouts, cave-ins, seepages, and fires; (d) the
14 furnishing of a reasonable bond with good and sufficient surety,
15 conditioned for the performance of the duty to comply with all the
16 provisions of the laws of the State of Nebraska and the rules,
17 regulations, and orders of the commission; (e) that the production
18 from wells be separated into gaseous and liquid hydrocarbons,
19 and that each be accurately measured; (f) the operation of wells
20 with efficient gas-oil and water-oil ratios, and to fix these
21 ratios; (g) metering or other measuring of oil, gas, or product in
22 pipelines or gathering systems; (h) that every person who produces
23 or purchases oil or gas in this state shall keep and maintain or
24 cause to be kept and maintained for a five-year period complete
25 and accurate records of the quantities thereof, which records shall

1 be available for examination by the commission or its agents at
2 all reasonable times, and that every such person file with the
3 commission such reports as it may reasonably prescribe with respect
4 to such oil or gas or the products thereof; and (i) that upon
5 written request of any person, geologic information, well logs,
6 drilling samples, and other proprietary information filed with the
7 commission in compliance with sections ~~57-901 to 57-921~~, 13 to 70
8 of this act, or any rule, regulation, or order of the commission,
9 may be held confidential for a period of not more than twelve
10 months.

11 (4) The commission shall have authority in order to
12 prevent waste, to regulate: (a) The drilling, producing and
13 plugging of wells, or test holes, and all other operations for
14 the production of oil or gas; (b) the shooting and chemical
15 treatment of wells; (c) the spacing of wells; (d) operations to
16 increase ultimate recovery such as, but without limitation, the
17 cycling of gas, the maintenance of pressure, and the introduction
18 of gas, water, or other substances into producing formations; and
19 (e) disposal of oilfield wastes, including salt water.

20 (5) The commission shall not have authority to limit the
21 production of oil or gas, or both, from any pool or field except to
22 prevent waste therein.

23 (6) The commission shall have authority to classify wells
24 as oil or gas wells for purposes material to the interpretation or
25 enforcement of the provisions of sections ~~57-901 to 57-921~~, 13 to

1 70 of this act.

2 (7) The commission shall have authority to promulgate
3 and to enforce rules, regulations, and orders to effectuate the
4 purposes and the intent of sections ~~57-901 to 57-921~~, 13 to 70 of
5 this act.

6 (8) The commission, with the approval of the Governor,
7 shall have authority to establish and maintain its principal office
8 and its books, papers, and records at such place in the state
9 as it shall determine. The commission shall not have authority to
10 purchase its principal office quarters.

11 (9) The commission shall have authority to require that
12 all wells drilled for oil and gas shall be adequately logged with
13 mechanical-electrical logging devices, and to require the filing of
14 logs.

15 (10) The commission shall have the authority to regulate
16 the drilling and plugging of seismic and stratigraphic tests in oil
17 and gas exploration holes.

18 (11) The commission shall have the authority to act as
19 the state jurisdictional agency pursuant to the federal Natural Gas
20 Policy Act of 1978, Public Law 95-621, 92 Stat. 3350, 15 U.S.C.
21 3301 et. seq., as such act existed on January 1, 2010.

22 (12) The commission shall have the authority to have one
23 or more examiners, who are employees of the commission, conduct
24 any of its hearings, investigations, and examinations authorized by
25 sections ~~57-901 to 57-921~~. 13 to 70 of this act. Such examiner may

1 exercise the commission's powers including, but not limited to, the
2 taking of evidence and testimony under oath, resolving questions of
3 fact and questions of law, and the entering of an order. Such order
4 shall be entered in the commission's order journal. Any person
5 having an interest in property affected by an order issued by an
6 examiner and who is dissatisfied with such order may appeal to the
7 commission by filing a petition on appeal to the commission within
8 fifteen days of the entering of the examiner's order. Such person
9 shall provide notice to all interested persons by personal service
10 or registered or certified United States mail with return receipt,
11 requiring such parties to answer within fifteen days from the date
12 of service. Upon appeal, the commission shall hear the case de
13 novo on the record and shall not be bound by any conclusions of
14 the examiner. The commission shall hold a hearing on the appeal
15 within forty-five days of the filing of an appeal to the commission
16 and issue its order within fifteen days after the hearing. The
17 commission shall review all orders issued by an examiner that are
18 not appealed and issue an order concerning the examiner's order
19 within sixty days after the examiner's order. The commission shall
20 adopt, amend, or reject the examiner's order. Any order of an
21 examiner which is not appealed to the commission and which the
22 commission adopts shall not be appealable to the district court
23 unless the commission adopts an order before the end of the time
24 for appeal to the commission.

25 (13) The commission shall have the following duties in

1 carrying out sections 21, 22, and 49 to 70 of this act:

2 (a) To serve as or assist in developing and coordinating
3 a central repository within state government for the collection of
4 data on energy;

5 (b) To undertake a continuing assessment of the trends
6 in the availability, consumption, and development of all forms of
7 energy;

8 (c) To collect and analyze data relating to present and
9 future demands and resources for all sources of energy and to
10 specify energy needs for the state;

11 (d) To recommend to the Governor and the Legislature
12 energy policies and conservation measures for the state and to
13 carry out such measures as are adopted;

14 (e) To provide for public dissemination of appropriate
15 information on energy, energy sources, and energy conservation;

16 (f) To accept, expend, or disburse funds, public or
17 private, made available to it for research studies, demonstration
18 projects, or other activities which are related either to energy
19 conservation or development;

20 (g) To study the impact and relationship of state energy
21 policies to national and regional energy policies and engage
22 in such activities as will reasonably insure that the State of
23 Nebraska and its citizens receive an equitable share of energy
24 supplies, including the administration of any federally mandated or
25 state-mandated energy allocation programs;

1 (h) To actively seek the advice of the citizens of
2 Nebraska regarding energy policies and programs;

3 (i) To prepare emergency allocation plans suggesting to
4 the Governor actions to be taken in the event of serious shortages
5 of energy;

6 (j) To design a state program for conservation of energy;

7 (k) To provide technical assistance to local subdivisions
8 of government; and

9 (l) To provide technical assistance to private persons
10 desiring information on energy conservation techniques and the use
11 of renewable energy technologies.

12 (14) The commission shall have the power to do such
13 things as are necessary to carry out sections 21, 22, and 49 to 70
14 of this act, including, but not limited to, the following:

15 (a) To adopt rules and regulations pursuant to the
16 Administrative Procedure Act;

17 (b) To make all contracts pursuant to sections 21, 22,
18 and 49 to 70 of this act and do all things to cooperate with
19 the federal government, and to qualify for, accept, expend, and
20 dispense public or private funds intended for the implementation of
21 such sections;

22 (c) To contract for services, if such work or services
23 cannot be satisfactorily performed by employees of the agency or by
24 any other part of state government;

25 (d) To enter into such agreements as are necessary to

1 carry out energy research and development with other states;

2 (e) To carry out the duties and responsibilities relating
3 to energy as may be requested or required of the state by the
4 federal government;

5 (f) To cooperate and participate in the activities of
6 organizations of states relating to the availability, conservation,
7 development, and distribution of energy;

8 (g) To engage in such activities as will seek to insure
9 that the State of Nebraska and its citizens receive an equitable
10 share of energy supplies at a fair price; and

11 (h) To form advisory committees of citizens of Nebraska
12 to advise the director of the commission on programs and policies
13 relating to energy and to assist in implementing such programs.
14 Such committees shall be of a temporary nature and no member
15 shall receive any compensation for serving on any such committee
16 but members shall receive reimbursement for actual and necessary
17 expenses as provided in sections 81-1174 to 81-1177 for state
18 employees. The minutes of meetings of and actions taken by each
19 committee shall be kept and a record shall be maintained of the
20 name, address, and occupation or vocation of every individual
21 serving on any committee. Such minutes and records shall be
22 maintained in the offices of the commission and shall be available
23 for public inspection during regular office hours.

24 (15) Notwithstanding any provisions of sections 21, 22,
25 and 49 to 70 of this act, the commission shall not perform any

1 duties or exercise any powers which are delegated to other agencies
2 or subdivisions of state government.

3 Sec. 15. Section 57-902, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~57-902~~ Waste of oil and gas, or either of them, as
6 ~~defined in section 57-903,~~ is prohibited in the State of Nebraska.

7 Sec. 16. Section 57-903, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~57-903~~ As used in sections ~~57-901 to 57-921,~~ 13 to 70 of
10 this act, unless the context otherwise requires:

11 (1)(a) Waste, as applied to oil, ~~shall include~~ includes
12 underground waste, inefficient, excessive, or improper use, or
13 dissipation of reservoir energy, including gas energy and water
14 drive, surface waste, open pit storage, and waste incident to the
15 production of oil in excess of the producer's aboveground storage
16 facilities and lease and contractual requirements, but excluding
17 storage, other than open pit storage, reasonably necessary for
18 building up or maintaining crude stocks and products thereof
19 for consumption, use, and sale; (b) waste, as applied to gas
20 shall include (i) the escape, blowing, or releasing, directly or
21 indirectly, into the open air of gas from wells productive of gas
22 only, or gas from wells producing oil or both oil and gas and
23 (ii) the production of gas in quantities or in such manner as will
24 unreasonably reduce reservoir pressure or unreasonably diminish
25 the quantity of oil or gas that might ultimately be produced,

1 but excluding gas that is reasonably necessary in the drilling,
2 completing, testing, and producing of wells and gas unavoidably
3 produced with oil if it is not economically feasible for the
4 producer to save or use such gas; and (c) waste shall also mean
5 the abuse of the correlative rights of any owner in a pool due to
6 nonuniform, disproportionate, unratable, or excessive withdrawals
7 of oil or gas therefrom causing reasonably avoidable drainage
8 between tracts of land or resulting in one or more owners in such
9 pool producing more than his or her just and equitable share of the
10 oil or gas from such pool;

11 (2) Commission ~~shall mean~~ means the Nebraska Oil and Gas
12 ~~Conservation~~ Energy Commission;

13 (3) Director means the Director of the Nebraska Energy
14 Commission;

15 ~~(3)~~ (4) Person shall mean means any natural person,
16 corporation, association, partnership, limited liability company,
17 receiver, trustee, executor, administrator, guardian, fiduciary, or
18 other representative of any kind and any department, agency, or
19 instrumentality of the state or of any governmental subdivision
20 thereof;

21 ~~(4)~~ (5) Oil shall mean means crude petroleum oil and
22 other hydrocarbons regardless of gravity which are produced at
23 the wellhead in liquid form and the liquid hydrocarbons known as
24 distillate or condensate recovered or extracted from gas other
25 than gas produced in association with oil and commonly known as

1 casing-head gas;

2 ~~(5)~~ (6) Gas shall mean means all natural gas and all
3 other fluid hydrocarbons not defined as oil;

4 ~~(6)~~ (7) Pool shall mean means an underground reservoir
5 containing a common accumulation of oil or gas or both, each zone
6 of the structure which is completely separated from any other zone
7 in the same structure is a pool as that term is used in sections
8 ~~57-901 to 57-921,~~ 13 to 70 of this act;

9 ~~(7)~~ (8) Field shall mean means the general area underlaid
10 by one or more pools;

11 ~~(8)~~ (9) Owner shall mean means the person who has the
12 right to drill into and produce from a pool and to appropriate
13 the oil or gas he or she produces therefrom either for himself or
14 herself or for himself or herself and others;

15 ~~(9)~~ (10) Producer shall mean means the owner of a well
16 or wells capable of producing oil or gas or both or any person who
17 owns and operates a lease, or a unit of producing leases in which
18 other persons own interests, with respect to such well or wells;
19 and

20 ~~(10)~~ (11) Correlative rights shall mean means the
21 opportunity afforded to the owner of each property in a pool to
22 produce, so far as it is reasonably practicable to do so without
23 waste, his or her just and equitable share of the oil or gas, or
24 both, in the pool, ~~and~~

25 ~~(11)~~ The word and shall include the word or, and the word

1 ~~or shall include the word and.~~

2 Sec. 17. Section 57-911, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~57-911~~ (1) The commission shall ~~prescribe~~ adopt and
5 promulgate rules and regulations governing the practice and
6 procedure before the commission.

7 (2) No rule, regulation, or order, or amendment thereof,
8 except in an emergency, shall be made by the commission without
9 a public hearing upon at least fifteen days' notice. The public
10 hearing shall be held at such time and place as may be prescribed
11 by the commission, and any interested person shall be entitled to
12 be heard.

13 (3) When an emergency requiring immediate action is found
14 to exist, the commission is authorized to issue an emergency
15 order without notice or hearing which shall be effective upon
16 promulgation. No emergency order shall remain effective for more
17 than twenty days.

18 (4) Any notice required by the provisions of sections
19 ~~57-901 to 57-921~~, 13 to 70 of this act, except in proceedings
20 involving a direct complaint by the commission, shall be given
21 at the election of the commission either by personal service,
22 registered or certified mail, or one publication in a newspaper
23 of general circulation in the county where the land affected, or
24 some part thereof, is situated. The notice shall be issued in the
25 name of the state, shall be signed by a member of the commission

1 or its secretary, and shall specify the style and number of the
2 proceedings, the time and place of the hearing, and the purpose
3 of the proceeding. Should the commission notice be by personal
4 service, such service may be made by any officer authorized to
5 serve summons, or by any agent of the commission, in the same
6 manner and extent as is provided by law for the service of summons
7 in civil actions in the district courts of this state. Proof of
8 the service by such agent shall be by his or her affidavit and
9 proof of service by an officer shall be in the form required by
10 law with respect to service of process in civil actions. In all
11 cases where a complaint is made by the commission or the ~~Director~~
12 ~~of the Nebraska Oil and Gas Conservation Commission~~ director that
13 any part of ~~any provision of sections 57-901 to 57-921,~~ 13 to 70 of
14 this act, or any rule, regulation, or order of the commission is
15 being violated, notice of the hearing to be held on such complaint
16 shall be served on the interested parties in the same manner as is
17 provided in the code of civil procedure for the service of process
18 in civil actions in the district courts of this state. In addition
19 to notices required by this section, the commission may provide
20 for further notice of hearing in such proceedings as it may deem
21 necessary in order to notify all interested persons of the pendency
22 of such proceedings and the time and place of hearing and to afford
23 such persons an opportunity to appear and be heard.

24 (5) All rules, regulations, and orders issued by the
25 commission shall be in writing, shall be entered in full and

1 indexed in books to be kept by the commission for that purpose,
2 shall be public records open for inspection at all times during
3 reasonable office hours, and shall be filed as provided by the
4 Administrative Procedure Act. A copy of any rule, regulation, or
5 order certified by any member of the commission, or its secretary,
6 under its seal, shall be received in evidence in all courts of this
7 state with the same effect as the original.

8 (6) The commission may act upon its own motion or upon
9 the petition of any interested person. On the filing of a petition
10 concerning any matter within the jurisdiction of the commission,
11 the commission shall promptly fix a date for a hearing thereon,
12 and shall cause notice of the hearing to be given. The hearing
13 shall be held without undue delay after the filing of the petition.
14 The commission shall enter its order within thirty days after the
15 hearing.

16 (7) A petition filed with the commission for a public
17 hearing shall be accompanied by a filing fee of two hundred fifty
18 dollars.

19 Sec. 18. Section 57-912, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~57-912~~ (1) The commission shall have the power to summon
22 witnesses, to administer oaths, and to require the production of
23 records, books, and documents for examination at any hearing or
24 investigation conducted by it. Any oral or documentary evidence may
25 be received, but the commission shall as a matter of policy provide

1 for the exclusion of irrelevant, immaterial, or unduly repetitious
2 evidence, and no decision shall be rendered, sanction imposed, or
3 rule or order issued except on consideration of the whole record or
4 such portions thereof as may be cited by any party and as supported
5 by and in accordance with a preponderance of the reliable probative
6 and substantial evidence. Every party shall have the right to
7 present his or her case or defense by oral or documentary evidence,
8 to submit rebuttal evidence, and to conduct such cross-examination
9 as may be required for a full and true disclosure of facts. No
10 person shall be excused from attending and testifying, or from
11 producing books, papers, and records before the commission or a
12 court, or from obedience to the subpoena of the commission or
13 a court, on the ground or for the reason that the testimony or
14 evidence, documentary or otherwise, required of him or her may tend
15 to incriminate him or her or subject him or her to a penalty or
16 forfeiture. Nothing ~~Provided~~, that nothing in this subsection
17 shall be construed as requiring any person to produce any books,
18 papers, or records or to testify in response to any inquiry not
19 pertinent to some question lawfully before such commission or court
20 for determination. No natural person shall be subjected to criminal
21 prosecution or to any penalty or forfeiture for or on account of
22 any transaction, matter, or thing concerning which, in spite of his
23 or her objection, he or she may be required to testify or produce
24 evidence, documentary or otherwise, before the commission or court,
25 or in obedience to its subpoena. No ~~Provided~~, that no person

1 testifying shall be exempted from prosecution and punishment for
2 perjury committed in so testifying.

3 (2) In case of failure or refusal on the part of any
4 person to comply with the subpoena issued by the commission, or
5 in case of the refusal of any witness to testify as to any
6 matter regarding which he or she may be lawfully interrogated,
7 any district court in the state, upon the application of the
8 commission, may in term time or vacation issue an attachment for
9 such person and compel him or her to comply with such subpoena, and
10 to attend before the commission and produce such records, books,
11 and documents for examination, and to give his or her testimony.
12 Such court shall have the power to punish for contempt as in the
13 case of disobedience to a like subpoena issued by the court, or for
14 refusal to testify therein.

15 Sec. 19. Section 57-913, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~57-913~~ Any person having an interest in property affected
18 by and who is dissatisfied with any rule, regulation, or order made
19 or issued under sections ~~57-901 to 57-921~~ 13 to 70 of this act may
20 appeal the rule, regulation, or order, and the appeal shall be in
21 accordance with the Administrative Procedure Act.

22 Sec. 20. Section 57-917, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~57-917~~ To enable the commission to carry out its
25 duties and powers under the laws of this state ~~with respect~~

1 ~~to conservation of oil and gas and to enforce sections 57-901 to~~
2 ~~57-921~~ and the rules and regulations so prescribed, the commission
3 shall employ one chief administrator who shall not be a member
4 of the commission and who shall be known as the Director of the
5 Nebraska Oil and Gas Conservation Energy Commission, and as such
6 he or she shall be charged with the duty of administering and
7 enforcing ~~the provisions of sections 57-901 to 57-921~~ 13 to 70
8 of this act and all rules, regulations, and orders adopted and
9 promulgated by the commission, subject to the direction of the
10 commission. ~~The director shall be a qualified petroleum engineer~~
11 ~~with not less than three years' actual field experience in the~~
12 ~~drilling and operation of oil and gas wells.~~ Such The director
13 shall hold office at the pleasure of the commission and receive
14 a salary to be fixed by the commission. The director, with the
15 concurrence of the commission, shall have the authority, and it
16 shall be his or her duty, to employ assistants, professional staff,
17 and other employees necessary to carry out the provisions of
18 sections ~~57-901 to 57-921.~~ 13 to 70 of this act. The director shall
19 be ex officio secretary of the Nebraska Oil and Gas Conservation
20 Energy Commission and shall keep all minutes and records of
21 the commission. The director shall, as secretary, be bonded or
22 insured as required by section 11-201. The premium shall be paid
23 by the State of Nebraska. The director and other employees of
24 the commission performing duties authorized by sections ~~57-901 to~~
25 ~~57-921~~ 13 to 70 of this act shall be paid their necessary traveling

1 and living expenses when traveling on official business at such
2 rates and within such limits as may be fixed by the commission,
3 subject to existing laws.

4 Sec. 21. Section 81-1606, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~81-1606~~ The ~~Director of the State Energy Office~~ director
7 shall develop and maintain a program of collection, compilation,
8 and analysis of energy statistics and information. Existing
9 information reporting requests, maintained at the state and federal
10 levels, shall be utilized whenever possible in any data collection
11 required under ~~the provisions of sections 81-1601 to 81-1607.~~
12 13 to 70 of this act. A central state repository of energy
13 data shall be developed and coordinated with other governmental
14 data-collection and record-keeping programs. The director shall,
15 on at least an annual basis, with monthly compilations, submit
16 to the Governor and the Clerk of the Legislature a report
17 identifying state energy consumption by fuel type and by use
18 to the extent that such information is available. Nothing in
19 this section shall be construed as permitting or authorizing
20 the revealing of confidential information. For purposes of this
21 section, confidential information shall mean means any process,
22 formula, pattern, decision, or compilation of information which is
23 used, directly or indirectly, in the business of the producer,
24 refiner, distributor, transporter, or vendor, and which gives such
25 producer, refiner, distributor, transporter, or vendor an advantage

1 or an opportunity to obtain an advantage over competitors who do
2 not know or use it.

3 Sec. 22. Section 81-1607, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~81-1607~~ (1) On or before February 15 of each year, the
6 ~~Director of the State Energy Office~~ director shall transmit to the
7 Governor and the Clerk of the Legislature a comprehensive report
8 designed to identify emerging trends related to energy supply,
9 demand, and conservation and to specify the level of statewide
10 energy need within the following sectors: Agricultural, commercial,
11 residential, industrial, transportation, utilities, government, and
12 any other sector that the director determines to be useful.

13 (2) The report shall include, but not be limited to:

14 (a) An assessment of the state's energy resources,
15 including examination of the current energy supplies and any
16 feasible alternative sources;

17 (b) The estimated reduction in annual energy consumption
18 resulting from various energy conservation measures;

19 (c) The status of the office's ongoing studies;

20 (d) Recommendations to the Governor and the Legislature
21 for administrative and legislative actions to accomplish the
22 purposes of sections 70-625, 70-704, and 81-161, 81-1602, 81-1606,
23 and 81-1607, and sections 21 and 22 of this act; and

24 (e) The use of funds disbursed during the previous year
25 under sections ~~81-1635 to 81-1641.~~ 64 to 70 of this act. The use

1 of such funds shall be reported each year until the funds are
2 completely disbursed and all contractual obligations have expired
3 or otherwise terminated.

4 Sec. 23. Section 57-906, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~57-906~~ (1) It shall be unlawful to commence operations
7 for the drilling of a well for oil or gas without first giving
8 to the commission notice of intention to drill, and without first
9 obtaining a permit from the commission, under such rules and
10 regulations as may be reasonably prescribed by the commission, and
11 by paying to the commission a fee of two hundred dollars for each
12 such permit.

13 (2) It shall be unlawful to commence operations for the
14 abandonment of a well with production casing in the hole without
15 first giving to the commission notice of intention to abandon and
16 without first obtaining the approval of the commission for such
17 abandonment and paying to the commission a fee of one hundred
18 dollars.

19 Sec. 24. Section 57-907, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~57-907~~ (1) The commission shall limit the production of
22 oil and gas from each pool to that amount which can be produced
23 without waste in such pool.

24 (2) Whenever the commission limits the total amount of
25 oil and gas which may be produced in any pool in this state

1 to an amount less than that amount which the pool could produce
2 if no restriction was imposed, the commission shall allocate or
3 distribute the allowable production among the several wells or
4 producing properties in the pool on a reasonable basis, preventing
5 or minimizing reasonably avoidable drainage from each developed
6 area not equalized by counterdrainage, so that each property
7 will have the opportunity to produce or to receive its just and
8 equitable share, subject to the reasonable necessities for the
9 prevention of waste.

10 (3) The commission shall give due regard to the fact that
11 gas produced from oil pools is to be regulated in a manner as will
12 protect the reasonable use of its energy for oil production.

13 (4) Each person now or hereafter purchasing or taking for
14 transportation oil or gas from any owner or producer shall purchase
15 or take ratably without discrimination in favor of any owner or
16 producer in the same common source of supply offering to sell his
17 or her oil or gas produced therefrom to such person or offering it
18 to him or her for transportation.

19 Sec. 25. Section 57-908, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~57-908~~ (1) When required to prevent waste, to avoid the
22 drilling of unnecessary wells, or to protect correlative rights,
23 the commission shall establish spacing units for a pool, except in
24 those pools which, prior to September 28, 1959, have been developed
25 to such an extent that it would be impracticable or unreasonable

1 to establish spacing units at the existing state of development.
2 Spacing units when established shall be of substantially uniform
3 size and shape for the entire pool, except that when found to be
4 necessary for any of the purposes above mentioned, the commission
5 is authorized to divide any pool into zones and establish spacing
6 units for each zone, which units may differ in size and shape from
7 those established in any other zone.

8 (2) The size and the shape of spacing units are to be
9 such as will result in the efficient and economical development of
10 the pool as a whole, and that size shall be the area that can be
11 efficiently and economically drained by one well.

12 (3) An order establishing spacing units for a pool shall
13 specify the size and shape of each unit and the location of the
14 permitted well thereon in accordance with a reasonably uniform
15 spacing plan. Upon application of the person entitled to drill
16 and after hearing, if the commission finds that a well drilled
17 at the prescribed location would not produce in paying quantities,
18 or that surface conditions would substantially add to the burden
19 or hazard of drilling such well, the commission is authorized to
20 enter an order permitting the well to be drilled at a location
21 other than that prescribed by such spacing order. ~~The + Provided,~~
22 ~~the~~ commission shall include in the order suitable provisions to
23 prevent the production from the spacing unit of more than its just
24 and equitable share of the oil and gas in the pool.

25 (4) An order establishing units for a pool shall cover

1 all lands determined or believed to be underlaid by such pool~~7~~ and
2 may be changed or modified by the commission from time to time~~7~~
3 when found necessary for the prevention of waste, ~~ex~~ to avoid the
4 drilling of unnecessary wells, or to protect correlative rights.

5 Sec. 26. Section 57-909, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~57-909~~ (1) When two or more separately owned tracts are
8 embraced within a spacing unit, or when there are separately owned
9 interests in all or part of the spacing unit, then the owners and
10 royalty owners thereof may pool their interests for the development
11 and operation of the spacing unit. In the absence of voluntary
12 pooling, the commission, upon the application of any interested
13 person, or upon its own motion, shall be empowered to enter an
14 order pooling all interests in the spacing unit for the development
15 and operation thereof. Each such pooling order shall be made only
16 after notice and hearing, and shall be upon terms and conditions
17 that are just and reasonable, and that afford to the owner of each
18 tract or interest in the spacing unit the opportunity to recover or
19 receive, without unnecessary expense, his or her just and equitable
20 share. Operations incident to the drilling of a well upon any
21 portion of a spacing unit covered by a pooling order shall be
22 deemed, for all purposes, the conduct of such operations upon each
23 separately owned tract in the drilling unit by the several owners
24 thereof. That portion of the production allocated to each tract
25 included in a spacing unit covered by a pooling order shall, when

1 produced, be deemed for all purposes to have been produced from
2 such tract by a well drilled thereon.

3 (2) Each such pooling order shall make provision for
4 the drilling and operation of the authorized well on the spacing
5 unit, and for the payment of the reasonable actual cost thereof,
6 including a reasonable charge for supervision. As to each owner
7 who refuses to agree upon the terms for drilling and operating
8 the well, the order shall provide for reimbursement for his or
9 her share of the costs out of, and only out of, production from
10 the unit representing his or her interest, excluding royalty or
11 other interest not obligated to pay any part of the cost thereof.
12 In the event of any dispute as to such cost, the commission
13 shall determine the proper cost. The order shall determine the
14 interest of each owner in the unit, and may provide in substance
15 that, as to each owner who agrees with the person or persons
16 drilling and operating the well for the payment by the owner of
17 his or her share of the costs, such owner, unless he or she has
18 agreed otherwise, shall be entitled to receive, subject to royalty
19 or similar obligations, the share of the production of the well
20 applicable to the tract of the consenting owner. For ~~and~~ as
21 ~~to~~ each owner who does not agree, he or she shall be entitled
22 to receive from the person or persons drilling and operating
23 ~~said~~ such well on the unit his or her share of the production
24 applicable to his or her interest, after the person or persons
25 drilling and operating ~~said~~ the well have recovered two hundred

1 percent of that portion of the costs and expenses of staking, well
2 site preparation, drilling, reworking, deepening or plugging back,
3 testing, completing, and other intangible expenses approved by the
4 commission chargeable to each owner who does not agree, and one
5 hundred percent of all equipment including wellhead connections,
6 casing, tubing, packers, and other downhole equipment and surface
7 equipment, including but not limited to stock tanks, separators,
8 treaters, pumping equipment, and piping, plus one hundred percent
9 of the nonconsenting owner's share of the cost of operation and a
10 reasonable rate of interest on the unpaid balance. For ~~the purpose~~
11 purposes of this section, the owner or owners of oil and gas rights
12 in and under an unleased tract of land shall be regarded as a
13 lessee or lessees to the extent of a seven-eighths interest in
14 and to such rights and a lessor or lessors to the extent of the
15 remaining one-eighth interest therein.

16 (3) A certified copy of the order may be filed for record
17 with the county clerk or register of deeds of the county, as
18 the case may be, where the property involved is located, which
19 recording shall constitute constructive notice thereof. The county
20 clerk, ~~or~~ register of deeds, as the case may be, shall record the
21 ~~same~~ order in the real property records of the county and shall
22 index the ~~same~~ order against the property affected.

23 Sec. 27. Section 57-910, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~57-910~~ Plans and agreements for the unit or cooperative

1 development and operation of a field or pool, or a part of either,
2 including those in connection with the conduct of repressuring or
3 pressure maintenance operations, cycling or recycling operations,
4 including the extraction and separation of liquid hydrocarbons from
5 natural gas in connection therewith, water floods, or any other
6 method of operation, are authorized and may be performed, and shall
7 not be held or construed to violate any of the statutes of this
8 state relating to trusts, monopolies, or contracts and combinations
9 in restraint of trade, if the plans and agreements are in the
10 public interest, protective of correlative rights, and reasonably
11 necessary to increase ultimate recovery or to prevent waste of
12 oil or gas. If any such plan or agreement has been approved
13 by the commission and an order authorizing unit operations has
14 been entered by it pursuant to notice and hearing as provided in
15 sections ~~57-910 to 57-910.12~~, 27 to 38 of this act, it shall bind
16 not only the persons who have executed such plan or agreement, but
17 also all persons owning interests in oil and gas within the unit
18 area.

19 Sec. 28. Section 57-910.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~57-910.01~~ Any owner may file an application with the
22 commission requesting an order for the unit operation of a pool,
23 pools, or parts thereof and for the pooling of the interests in the
24 oil and gas in the proposed unit area for the purpose of conducting
25 such unit operation. The application shall contain:

1 (1) A description of the land and pool, pools, or parts
2 thereof to be so operated, termed the unit area;

3 (2) The names of all persons owning or having an interest
4 in the oil and gas in the proposed unit area or the production
5 therefrom, including mortgagees and the owners of other liens or
6 encumbrances, as disclosed by the public records in the county in
7 which the unit area is situated and their addresses, if known. If
8 the name or address of any person is unknown, the application shall
9 so indicate;

10 (3) A statement of the type of ~~the~~ operations
11 contemplated in order to effectuate the purposes of sections 57-910
12 ~~to 57-910.12,~~ 27 to 38 of this act;

13 (4) A proposed plan of unitization applicable to the
14 proposed unit area which the petitioner considers fair, reasonable,
15 and equitable; and

16 (5) A proposed operating plan covering the manner
17 in which the unit will be supervised and managed and costs
18 allocated and paid, unless all owners within the unit area have
19 already executed an operating agreement covering such supervision,
20 management, and allocation and payment of costs.

21 Sec. 29. Section 57-910.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~57-910.02~~ Upon filing of an application for an order
24 providing for the unit operation of a pool, pools, or part thereof,
25 and for the pooling of the interests in the oil and gas in the

1 proposed unit area, the commission shall promptly set the matter
2 for hearing and in addition to the notice otherwise required by
3 section ~~57-911~~ 17 of this act or the commission rules shall cause
4 notice of the hearing to be given by certified mail at least
5 fifteen days prior to the date of hearing to all persons whose
6 names are required to be set forth in such application.

7 Sec. 30. Section 57-910.03, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~57-910.03~~ (1) The commission shall enter an order
10 approving a proposed plan of unitization and operation if, ~~If~~ after
11 considering the application and hearing the evidence offered in
12 connection therewith, the commission finds that:

13 ~~(1)~~ (a) The material averments of the application are
14 true;

15 ~~(2)~~ (b) Such unit operation is feasible, will prevent
16 waste, and can reasonably be expected to increase substantially the
17 ultimate recovery of oil or gas, or both;

18 ~~(3)~~ (c) The value of the estimated additional recovery of
19 oil or gas will exceed the estimated additional costs incident to
20 conducting unit operations;

21 ~~(4)~~ (d) The oil and gas allocated to each separately
22 owned tract within the unit area under the proposed plan of
23 unitization represents, so far as can be practicably determined,
24 each such tract's just and equitable share of the oil and gas, or
25 both, in the unit area; and

1 ~~(5)~~ (e) In case there are owners who have not executed an
2 operating agreement or agreed to the proposed operating plan, that
3 such proposed operating plan:

4 ~~(a)~~ (i) Makes a fair and equitable adjustment among the
5 owners within the unit area for their respective investments in
6 wells, tanks, pumps, machinery, materials, and equipment which are
7 contributed to the unit operation;

8 ~~(b)~~ (ii) Provides for a fair and equitable determination
9 of the cost of unit operations, including capital investment, and
10 establishes a fair and equitable method for allocating such costs
11 to the separately owned tracts and for payment of such costs by
12 the owners of such tracts, either directly or out of such owner's
13 respective shares of unit production;

14 ~~(c)~~ (iii) Establishes, if necessary, a fair and equitable
15 method for carrying or otherwise financing any owner who elects to
16 be carried, or otherwise financed, allowing a reasonable interest
17 charge for such service payable out of such owner's share of the
18 unit production; and

19 ~~(d)~~ (iv) Provides that each owner shall have a vote in
20 the supervision and conduct of unit operations corresponding to
21 the percentage of the costs of unit operations chargeable against
22 the interest of such owner. ~~÷ then the commission shall enter an~~
23 ~~order setting forth such findings and approving the proposed plan~~
24 ~~of unitization and proposed operating plan, if any.~~

25 The order shall set forth such findings.

1 (2) No order shall be entered by the commission
2 authorizing the commencement of unit operations unless and until
3 there has been written consent to the proposed plan of unitization
4 by those persons who own at least seventy-five percent of the
5 unit production or proceeds thereof and to the proposed operating
6 plan, if any, by those persons who will be required to pay at
7 least sixty-five percent of the costs of the unit operation. If
8 such consent has not been obtained at the time the order of
9 approval is made, the commission shall, upon application, hold such
10 supplemental hearings and make such findings as may be required to
11 determine if there has been such consent so that a supplemental
12 order authorizing the commencement of unit operations can be
13 entered.

14 (3) Notice of any such supplemental hearing shall be
15 given₇ by mail to each person who has previously entered his or her
16 appearance₇ at least ten days prior to such supplemental hearing.

17 (4) If the required percentages of consent have not been
18 obtained within a period of six months from the date on which the
19 order of approval is made, such order shall be ineffective and
20 shall be revoked by the commission unless, for good cause shown,
21 the commission extends that time.

22 Sec. 31. Section 57-910.05, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~57-910.05~~ Upon application by an owner the commission, by
25 order, may, in the same manner and subject to the same conditions

1 as in an original order, provide for the unit operation of a pool
2 or pools, or parts thereof, that embrace a unit area established
3 by a previous order of the commission. Such order, in providing
4 for the allocation of unit production, shall first treat the unit
5 area previously established as a single tract, and the portion of
6 the unit production so allocated thereto shall then be allocated
7 among the separately owned tracts included in such previously
8 established unit area in the same proportions as those specified in
9 the previous order.

10 Sec. 32. Section 57-910.06, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~57-910.06~~ All operations, including, but not limited to,
13 the commencement, drilling, or operation of a well upon any portion
14 of the unit area shall be deemed for all purposes the conduct of
15 such operations upon each separately owned tract in the unit area
16 by the several owners thereof. The portion of the unit production
17 allocated to a separately owned tract in a unit area shall, when
18 produced, be deemed, for all purposes, to have been actually
19 produced from such tract by a well drilled thereon. Operations
20 conducted pursuant to an order of the commission providing for unit
21 operations shall constitute a fulfillment of all the express or
22 implied obligations of each lease or contract covering lands in
23 the unit area to the extent that compliance with such obligations
24 cannot be had because of the orders of the commission.

25 Sec. 33. Section 57-910.07, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~57-910.07~~ The portion of the unit production allocated to
3 any tract, and the proceeds from the sale thereof, shall be the
4 property and income of the several persons to whom, or to whose
5 credit, the ~~same~~ proceeds are allocated or payable under the order
6 providing for unit operations.

7 Sec. 34. Section 57-910.08, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~57-910.08~~ No division order or other contract relating
10 to the sale or purchase of production from a separately owned
11 tract shall be terminated by any commission order, but shall remain
12 in force and apply to oil and gas allocated to such tract until
13 terminated in accordance with the provisions ~~thereof.~~ of such
14 division order or other contract.

15 Sec. 35. Section 57-910.09, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~57-910.09~~ Except to the extent that the parties affected
18 so agree, no commission order shall be construed to result in a
19 transfer of all or any part of the title of any person to the oil
20 and gas rights in any tract in the unit area.

21 Sec. 36. Section 57-910.10, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 ~~57-910.10~~ Subject to the limitations set forth in
24 sections ~~57-910 to 57-910.12,~~ 27 to 38 of this act, and to such
25 further limitations as may be set forth in the plan of unitization

1 and operating plan, the operator of the unit shall have a first and
2 prior lien for costs incurred pursuant to the plan of unitization
3 and operating plan upon each owner's oil and gas rights and his
4 or her share of unitized production to secure the payment of such
5 owner's proportionate part of the cost of developing and operating
6 the unit area. The lien may be established and enforced in the
7 same manner as ~~is provided by sections 57-801 to 57-820~~ in the
8 Oil and Gas Lien Act. For such purposes any nonconsenting owner
9 shall be deemed to have contracted with the unit operator for his
10 or her proportionate part of the cost of developing and operating
11 the unit area.

12 Sec. 37. Section 57-910.11, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 ~~57-910.11~~ Notwithstanding ~~any provisions in sections~~
15 ~~57-910 to 57-910.12~~ 27 to 38 of this act to the contrary, any
16 person who owns an oil or gas interest within the unit area
17 in a tract which is not subject to an oil and gas lease or
18 similar contract shall be deemed, for purposes of this section, an
19 owner obligated to pay costs of unit operations to the extent of
20 seven-eighths of such interest and shall be deemed a royalty owner
21 to the extent of one-eighth of such interest free from such costs.

22 Sec. 38. Section 57-910.12, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~57-910.12~~ A certified copy of any order of the commission
25 entered under any provisions of sections ~~57-910 to 57-910.12~~ 27 to

1 38 of this act shall be entitled to be recorded in the office of
2 the register of deeds for the counties where all or any portion
3 of the unit area is located, and such recordation shall constitute
4 notice thereof to all persons.

5 Sec. 39. Section 57-914, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 ~~57-914~~ (1) No temporary restraining order or injunction
8 of any kind against the commission or its agents, employees or
9 representatives, or the Attorney General, shall become operative
10 unless and until the plaintiff party shall execute and file with
11 the clerk of the district court a bond in such amount and upon
12 such conditions as the court issuing such order or injunction may
13 direct, with surety approved by the clerk of the district court
14 thereof. The bond shall be made payable to the State of Nebraska,
15 and shall be for the use and benefit of all persons who may be and
16 to the extent that they shall suffer injury or damage by any acts
17 done under the protection of the restraining order or injunction,
18 if the ~~same~~ restraining order or injunction should not have issued.
19 No suit on the bond may be brought after six months from the date
20 of the final determination of the suit in which the restraining
21 order or injunction was issued.

22 (2) Any suit, action, or other proceedings based upon a
23 violation of any of the provisions of sections ~~57-901 to 57-921~~ 13
24 to 20 and 23 to 48 of this act shall be commenced within one year
25 ~~from~~ after the date of the violation complained of.

1 Sec. 40. Section 57-915, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~57-915~~ (1) Any person who violates any provision of
4 sections ~~57-901 to 57-921~~, 13 to 20 and 23 to 48 of this act or any
5 rule, regulation, or order of the commission shall be guilty of a
6 Class II misdemeanor. Each day that such violation continues shall
7 constitute a separate offense.

8 (2) If any person, for the purpose of evading the
9 provisions of sections ~~57-901 to 57-921~~, 13 to 20 and 23 to 48 of
10 this act or any rule, regulation, or order of the commission, shall
11 make or cause to be made any false entry or statement in a report
12 required by the provisions of such sections ~~57-901 to 57-921~~, or by
13 any such rule, regulation, or order, or shall make or cause to be
14 made any false entry in any record, account, or memorandum required
15 by the provisions of such sections ~~57-901 to 57-921~~, or by any
16 such rule, regulation, or order, or shall remove from this state or
17 destroy, mutilate, alter, or falsify any such record, account, or
18 memorandum, such person shall be guilty of a Class II misdemeanor.

19 (3) Any person knowingly aiding or abetting any other
20 person in the violation of any provision of sections ~~57-901 to~~
21 ~~57-921~~, 13 to 20 and 23 to 48 of this act or any rule, regulation,
22 or order of the commission shall be subject to the same penalty
23 as that prescribed by the provisions of sections ~~57-901 to 57-921~~
24 13 to 20 and 23 to 48 of this act for the violation by such other
25 person.

1 (4) The penalties provided in this section shall be
2 recoverable by suit filed by the Attorney General in the name and
3 on behalf of the commission, in the district court of the county
4 in which the defendant resides, or in which any defendant resides,
5 if there be more than one defendant, or in the district court of
6 any county in which the violation occurred. The payment of any such
7 penalty shall not operate to relieve a person on whom the penalty
8 is imposed from liability to any other person for damages arising
9 out of such violation.

10 Sec. 41. Section 57-916, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~57-916~~ (1) Whenever it appears that any person is
13 violating or threatening to violate any provision of sections
14 ~~57-901 to 57-921~~, 13 to 20 and 23 to 48 of this act or any rule,
15 regulation, or order of the commission, the commission shall bring
16 suit against such person in the district court of any county where
17 the violation occurs or is threatened, to restrain such person
18 from continuing such violation or from carrying out the threat of
19 violation. Upon the filing of any such suit, summons issued to such
20 person may be directed to the sheriff of any county in this state
21 for service by such sheriff or his or her deputies. In any such
22 suit, the court shall have jurisdiction and authority to issue,
23 without bond or other undertaking, such prohibitory and mandatory
24 injunctions as the facts may warrant.

25 (2) If the commission shall fail to bring suit to enjoin

1 a violation or threatened violation of any provision of sections
2 ~~57-901 to 57-921,~~ 13 to 20 and 23 to 48 of this act or any
3 rule, regulation, or order of the commission, within ten days
4 after receipt of written request to do so by any person who is
5 or will be adversely affected by such violation, the person making
6 such request may bring suit in his or her own behalf to restrain
7 such violation or threatened violation in any court in which the
8 commission might have brought suit. The commission shall be made a
9 party defendant in such suit in addition to the person violating or
10 threatening to violate a provision of sections ~~57-901 to 57-921,~~ 13
11 to 20 and 23 to 48 of this act or a rule, regulation, or order of
12 the commission, and the action shall proceed and injunctive relief
13 may be granted in the same manner as if suit had been brought
14 by the commission. The ~~÷ Provided,~~ ~~that in such event~~ the person
15 bringing suit shall be required to give bond in accordance with the
16 rules of civil procedure in the district courts.

17 Sec. 42. Section 57-916.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~57-916.01~~ (1) In addition to the penalties prescribed
20 in section ~~57-915,~~ 40 of this act, any person who violates any
21 provision of sections ~~57-901 to 57-921,~~ 13 to 20 and 23 to 48 of
22 this act, any rule, regulation, or order of the commission, or any
23 term, condition, or limitation of any permit issued pursuant to
24 such sections, or such rule, regulation, or order may be subject
25 to a civil penalty imposed by the commission of not to exceed one

1 thousand dollars. No civil penalty shall be imposed until written
2 notice is sent pursuant to subsection (2) of this section and a
3 period of ten days has elapsed in which the person may come into
4 compliance, if possible. If any violation is a continuing one,
5 each day a violation continues after such ten-day period shall
6 constitute a separate violation for the purpose of computing the
7 applicable civil penalty. The commission may compromise, mitigate,
8 or remit such penalties.

9 (2) Whenever the commission intends to impose a civil
10 penalty under this section, the commission shall notify the person
11 in writing (a) setting forth the date, facts, and nature of
12 each violation with which the person is charged, (b) specifically
13 identifying the particular provision or provisions of the section,
14 rule, regulation, order, or permit involved in the violation, and
15 (c) specifying the amount of each penalty which the commission
16 intends to impose. Such written notice shall be sent by registered
17 or certified mail to the last-known address of such person. The
18 notice shall also advise such person of his or her right to a
19 hearing and that failure to pay any civil penalty subsequently
20 imposed by the commission will result in a civil action by the
21 commission to collect such penalty. The person so notified may,
22 within thirty days ~~of~~ after receipt of such notice, submit a
23 written request for a hearing to review any penalty to be imposed
24 by the commission. A hearing shall be held in accordance with the
25 Administrative Procedure Act, and any person upon whom a civil

1 penalty is subsequently imposed may appeal such penalty pursuant
 2 to ~~such~~ the act. On the request of the commission, the Attorney
 3 General or a county attorney may institute a civil action to
 4 collect a penalty imposed pursuant to this section.

5 Sec. 43. Section 57-918, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 ~~57-918~~ The Attorney General shall be the attorney for the
 8 Nebraska Oil and Gas Conservation Energy Commission. In ~~Provided,~~
 9 ~~that in~~ cases of emergency or in other special cases the commission
 10 may, with the consent of the Attorney General, retain additional
 11 legal counsel, and for such purpose may use any funds available
 12 under ~~the provisions of sections 57-901 to 57-921.~~ 13 to 70 of this
 13 act. Any member of the commission, or the secretary thereof, shall
 14 have the power to administer oaths to any witness in any hearing,
 15 investigation, or proceeding contemplated by sections ~~57-901 to~~
 16 ~~57-921~~ 13 to 20 and 23 to 48 of this act or by any other law of
 17 this state relating to the conservation of oil and gas.

18 Sec. 44. Section 57-919, Reissue Revised Statutes of
 19 Nebraska, as amended by section 33, Legislative Bill 3, One Hundred
 20 First Legislature, First Special Session, 2009, is amended to read:

21 ~~57-919~~ (1) All money collected by the Tax Commissioner
 22 or the commission or as civil penalties under sections ~~57-901 to~~
 23 ~~57-921~~ 13 to 20 and 23 to 48 of this act shall be remitted to the
 24 State Treasurer for credit to a special fund to be known as the Oil
 25 and Gas Conservation Fund. Expenses incident to the administration

1 of such sections shall be paid out of the fund. Transfers may
2 be made from the fund to the General Fund at the direction of
3 the Legislature. Any money in the Oil and Gas Conservation Fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the
6 Nebraska State Funds Investment Act.

7 (2) There is hereby levied and assessed on the value
8 at the well of all oil and gas produced, saved, and sold or
9 transported from the premises in Nebraska where produced a charge
10 not to exceed fifteen mills on the dollar. The commission shall
11 by order fix the amount of such charge in the first instance and
12 may, from time to time, reduce or increase the amount thereof
13 as in its judgment the expenses chargeable against the Oil and
14 Gas Conservation Fund may require, except that the amounts fixed
15 by the commission shall not exceed the limit prescribed in this
16 section. It shall be the duty of the Tax Commissioner to make
17 collection of such assessments. The persons owning an interest, a
18 working interest, a royalty interest, payments out of production,
19 or any other interest in the oil and gas, or in the proceeds
20 thereof, subject to the charge provided for in this section shall
21 be liable to the producer for such charge in proportion to their
22 ownership at the time of production. The producer shall, on or
23 before the last day of the month next succeeding the month in
24 which the charge was assessed, file a report or return in such
25 form as prescribed by the commission and Tax Commissioner together

1 with all charges due. In the event of a sale of oil or gas
2 within this state, the first purchaser shall file this report or
3 return together with any charges then due. If the final filing date
4 falls on a Saturday, Sunday, or legal holiday, the next secular
5 or business day shall be the final filing date. Such reports or
6 returns shall be considered filed on time if postmarked before
7 midnight of the final filing date. Any such charge not paid within
8 the time ~~herein~~ specified in this subsection shall bear interest at
9 the rate specified in section 45-104.02, as such rate may from time
10 to time be adjusted, from the date of delinquency until paid, and
11 such charge together with the interest shall be a lien as provided
12 in section 57-702. The Tax Commissioner shall charge and collect
13 a penalty for the delinquency in the amount of one percent of the
14 charge for each month or part of the month that the charge has
15 remained delinquent, but in no event shall the penalty be more than
16 twenty-five percent of the charge. The Tax Commissioner may waive
17 all or part of the penalty provided in this section but shall not
18 waive the interest. The person remitting the charge as provided
19 in this section is hereby authorized, empowered, and required to
20 deduct from any amounts due the persons owning an interest in the
21 oil and gas or in the proceeds thereof at the time of production
22 the proportionate amount of such charge before making payment to
23 such persons. This subsection shall apply to all lands in the State
24 of Nebraska, anything in section ~~57-920~~ 45 of this act to the
25 contrary notwithstanding, except that there shall be exempted from

1 the charge levied and assessed in this section the following: (a)
2 The interest of the United States of America and the interest of
3 the State of Nebraska and the political subdivisions thereof in
4 any oil or gas or in the proceeds thereof; (b) the interest of
5 any Indian or Indian tribe in any oil or gas or in the proceeds
6 thereof produced from land subject to the supervision of the United
7 States; and (c) oil and gas used in producing operations or for
8 repressuring or recycling purposes. All money so collected shall
9 be remitted to the State Treasurer for credit to the Oil and Gas
10 Conservation Fund and shall be used exclusively to pay the costs
11 and expenses incurred in connection with the administration and
12 enforcement of sections ~~57-901 to 57-921~~ 13 to 20 and 23 to 48 of
13 this act.

14 Sec. 45. Section 57-920, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~57-920~~ The State of Nebraska being a sovereign state
17 and not disposed to jeopardize or surrender any of its sovereign
18 rights, sections ~~57-901 to 57-921~~ 13 to 20 and 23 to 48 of this
19 act shall apply to all lands in the State of Nebraska lawfully
20 subject to its police powers. Such sections ~~Provided, it~~ shall
21 also apply to lands of the United States or to lands subject to
22 the jurisdiction of the United States only to the extent that
23 control and supervision of conservation of oil and gas by the
24 United States on its lands shall fail to effect the intent and
25 purposes of sections ~~57-901 to 57-921~~ 13 to 20 and 23 to 48 of

1 this act and otherwise shall apply to such lands to such extent as
 2 an officer of the United States having jurisdiction, or his or her
 3 duly authorized representative, shall approve ~~any of the provisions~~
 4 ~~of sections 57-901 to 57-921~~ 13 to 20 and 23 to 48 of this act
 5 or the order or orders of the commission which affects such lands.
 6 Such sections ~~and provided further,~~ the same shall apply to any
 7 lands committed to a unit agreement approved by the Secretary of
 8 the Interior of the United States, or his or her duly authorized
 9 representative, except that the commission may, under such unit
 10 agreements, suspend the application of ~~the provisions of sections~~
 11 ~~57-901 to 57-921~~ 13 to 20 and 23 to 48 of this act or any part of
 12 such sections 57-901 to 57-921 so long as the conservation of oil
 13 and gas and the prevention of waste, ~~as provided in sections 57-901~~
 14 ~~to 57-921,~~ is accomplished thereby. Such ~~but such~~ suspension shall
 15 not relieve any operator from making such reports as are necessary
 16 or advised to be fully informed as to operations under such
 17 agreement and as the commission may require under ~~the provisions of~~
 18 ~~sections 57-901 to 57-921.~~ 13 to 20 and 23 to 48 of this act.

19 Sec. 46. Section 57-921, Reissue Revised Statutes of
 20 Nebraska, is amended to read:

21 ~~57-921~~ Notwithstanding anything heretofore contained
 22 provided in sections 57-901 to 57-921, 13 to 20 and 23 to 48 of
 23 this act, the Nebraska Oil and Gas Conservation Energy Commission
 24 shall have no authority to establish, fix, or in any way control
 25 the price or value of oil, gas, other hydrocarbon substances, or

1 any of the products or component parts thereof.

2 Sec. 47. Section 57-922, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 ~~57-922~~ There is hereby created in the state treasury a
5 special fund to be known as the Oil and Gas Conservation Trust
6 Fund. All sums of money received by the Nebraska Oil and Gas
7 ~~Conservation~~ Energy Commission, in a manner other than as provided
8 in sections ~~57-901 to 57-921~~, 13 to 20 and 23 to 48 of this act,
9 shall be paid into the state treasury and the State Treasurer
10 shall deposit the money in the Oil and Gas Conservation Trust Fund.
11 The State Treasurer shall disburse the money in the trust fund as
12 directed by resolution of the Nebraska Oil and Gas ~~Conservation~~
13 Energy Commission. All disbursements for the fund shall be made
14 upon warrants drawn by the Director of Administrative Services.

15 Sec. 48. Section 57-923, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~57-923~~ The Well Plugging and Abandonment Trust Fund is
18 created. The Nebraska Oil and Gas ~~Conservation~~ Energy Commission
19 shall adopt and promulgate rules and regulations that provide
20 for the collection of a fee for each inactive oil or gas well
21 administered by the commission. The fee shall not exceed two
22 hundred dollars per well per year and shall not be imposed unless
23 an oil or gas well has been inactive for two years or longer. The
24 commission shall remit such fees to the State Treasurer for credit
25 to the fund. The fund shall be used by the commission for the

1 purpose of plugging and abandoning oil or gas wells and completing
2 the required surface restoration if the bonded operator is unable
3 to fulfill such operator's financial obligation. Any money in
4 the fund available for investment shall be invested by the state
5 investment officer pursuant to the Nebraska Capital Expansion Act
6 and the Nebraska State Funds Investment Act.

7 Sec. 49. Section 81-1607.01, Reissue Revised Statutes of
8 Nebraska, as amended by section 81, Legislative Bill 3, One Hundred
9 First Legislature, First Special Session, 2009, is amended to read:

10 ~~81-1607.01~~ The State Nebraska Energy Office Commission
11 Cash Fund is hereby created. The fund shall consist of funds
12 received pursuant to section 57-705. The fund shall be used
13 for the administration of sections ~~81-1601 to 81-1607~~, 13 to
14 70 of this act, for energy conservation activities, and for
15 providing technical assistance to communities in the area of
16 natural gas other than assistance regarding ownership of regulated
17 utilities, except that transfers may be made from the fund to the
18 General Fund at the direction of the Legislature. Any money in
19 the State Nebraska Energy Office Commission Cash Fund available
20 for investment shall be invested by the state investment officer
21 pursuant to the Nebraska Capital Expansion Act and the Nebraska
22 State Funds Investment Act.

23 Any money in the State Energy Office Cash Fund on the
24 operative date of this act shall be expediently transferred by the
25 State Treasurer to the Nebraska Energy Commission Cash Fund.

1 Sec. 50. Section 81-1608, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~81-1608~~ The Legislature finds that consumers have an
4 expectation that newly built houses or buildings they buy meet
5 uniform energy efficiency standards. Therefor, the Legislature
6 finds that there is a need to adopt the 2003 International Energy
7 Conservation Code in order (1) to ensure that a minimum energy
8 efficiency standard is maintained throughout the state, (2) to
9 harmonize and clarify energy building code statutory references,
10 (3) to ensure compliance with the ~~National~~ Energy Policy Act of
11 1992, 42 U.S.C. 13201, as such act existed on January 1, 2010, (4)
12 to increase energy savings for all Nebraska consumers, especially
13 low-income Nebraskans, (5) to reduce the cost of state programs
14 that provide assistance to low-income Nebraskans, (6) to reduce
15 the amount of money expended to import energy, (7) to reduce
16 the growth of energy consumption, (8) to lessen the need for new
17 power plants, and (9) to provide training for local code officials
18 and residential and commercial builders who implement the 2003
19 International Energy Conservation Code.

20 Sec. 51. Section 81-1609, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~81-1609~~ As used in sections ~~81-1608 to 81-1626,~~ 50 to 62
23 of this act, unless the context otherwise requires:

24 ~~(1) Office means the State Energy Office;~~

25 ~~(2)~~ (1) Contractor means the person or entity responsible

1 for the overall construction of any building or the installation of
2 any component which affects the energy efficiency of the building;

3 ~~(3)~~ (2) Architect or engineer means any person licensed
4 as an architect or professional engineer under the Engineers and
5 Architects Regulation Act;

6 ~~(4)~~ (3) Building means any new structure, renovated
7 building, or addition which provides facilities or shelter for
8 public assembly, educational, business, mercantile, institutional,
9 warehouse, or residential occupancies, as well as those portions
10 of factory and industrial facilities which are used primarily
11 for human occupancy, such as office space, but not including any
12 structure which has a consumption of traditional energy sources for
13 all purposes not exceeding the energy equivalent of one watt per
14 square foot;

15 ~~(5)~~ (4) Residential building means a building three
16 stories or less that is used primarily as one or more dwelling
17 units;

18 ~~(6)~~ (5) Renovation means alterations on an existing
19 building which will cost more than fifty percent of the replacement
20 cost of such building at the time work is commenced or which was
21 not previously heated or cooled, for which a heating or cooling
22 system is now proposed, except that the restoration of historical
23 buildings shall not be included;

24 ~~(7)~~ (6) Addition means an extension or increase in the
25 height, conditioned floor area, or conditioned volume of a building

1 or structure;

2 ~~(8)~~ (7) Floor area means the total area of the floor or
3 floors of a building, expressed in square feet, which is within the
4 exterior faces of the shell of the structure which is heated or
5 cooled;

6 ~~(9)~~ (8) Nebraska Energy Code means the 2003 International
7 Energy Conservation Code;

8 ~~(10)~~ (9) Traditional energy sources means electricity,
9 petroleum-based fuels, uranium, coal, and all nonrenewable forms of
10 energy; and

11 ~~(11)~~ (10) Equivalent or equivalent code means standards
12 that meet or exceed the requirements of the Nebraska Energy Code.

13 Sec. 52. Section 81-1611, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~81-1611~~ The Legislature hereby adopts the 2003
16 International Energy Conservation Code as the Nebraska Energy Code.
17 The ~~State Energy Office~~ commission may adopt regulations specifying
18 alternative standards for building systems, techniques, equipment
19 designs, or building materials that shall be deemed equivalent
20 to the Nebraska Energy Code. Regulations specifying alternative
21 standards may be deemed equivalent to the Nebraska Energy Code
22 and may be approved for general or limited use if the use of
23 such alternative standards would not result in energy consumption
24 greater than would result from the strict application of the
25 Nebraska Energy Code.

1 Sec. 53. Section 81-1613, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~81-1613~~ The State Energy Office commission shall produce
4 manuals for use by architects, engineers, prime contractors, and
5 owners. Such manuals shall be furnished upon request at a price
6 sufficient to cover the costs of production. Such manuals shall
7 contain, but not be limited to:

8 (1) The Nebraska Energy Code;

9 (2) Forms, charts, tables, and other data to assist
10 architects, engineers, and prime contractors in meeting the
11 Nebraska Energy Code; and

12 (3) Any other information which the ~~office~~ commission
13 determines will assist local code officials in enforcing the code.

14 Sec. 54. Section 81-1614, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~81-1614~~ The Nebraska Energy Code shall apply to all
17 new buildings, or renovations of or additions to any existing
18 buildings, on which construction is initiated on or after July 1,
19 2005.

20 Sec. 55. Section 81-1615, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~81-1615~~ The following shall be exempt from sections
23 ~~81-1608 to 81-1626~~ 50 to 62 of this act:

24 (1) Any building which has a peak design rate of energy
25 usage for all purposes of less than one watt, or three and

1 four-tenths British Thermal Units per hour, per square foot of
2 floor area;

3 (2) Any building which is neither heated nor cooled;

4 (3) Any building or portion thereof which is owned by the
5 United States of America;

6 (4) Any manufactured home as defined by section 71-4603;

7 (5) Any modular housing unit as defined by subdivision
8 (1) of section 71-1557; and

9 (6) Any building (a) listed on the National Register of
10 Historic Places, (b) determined to be eligible for the National
11 Register of Historic Places by the State Historic Preservation
12 Officer, or (c) designated as an individual landmark or heritage
13 preservation site by a municipality or located within a designated
14 landmark or heritage preservation district.

15 Sec. 56. Section 81-1616, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~81-1616~~ For purposes of insuring compliance with section
18 ~~81-1614~~ 54 of this act:

19 (1) The ~~office~~, commission, or its authorized agent, may
20 conduct such inspections and investigations as are necessary to
21 make a determination pursuant to section ~~81-1625~~ 61 of this act and
22 may issue an order containing and resulting from the findings of
23 such inspections and investigations; and

24 (2) A building owner may submit a written request
25 that the ~~office~~ commission undertake a determination pursuant to

1 subdivision (1) of this section. Such request shall include a list
2 of reasons why the building owner believes such a determination is
3 necessary.

4 A building owner aggrieved by the ~~office's~~ commission's
5 determination, or refusal to make such determination, may appeal
6 such determination or refusal as provided in the Administrative
7 Procedure Act.

8 The ~~office~~ commission may charge an amount sufficient to
9 recover the costs of providing such determinations.

10 Buildings located in a county, city, or village which has
11 adopted the Nebraska Energy Code or equivalent code pursuant to
12 section ~~81-1618,~~ 58 of this act, and constructed after the adoption
13 of such code, shall be exempt from ~~the provisions of~~ this section.

14 Sec. 57. Section 81-1617, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~81-1617~~ The State Energy Office commission and any local
17 code authority may conduct inspections and investigations necessary
18 to enforce the Nebraska Energy Code or equivalent code and may,
19 at reasonable hours, enter into any building and upon any premises
20 within its jurisdiction for the purpose of examination to determine
21 compliance with sections ~~81-1608 to 81-1626.~~ 50 to 62 of this
22 act. Inspections shall be conducted only after permission has been
23 granted by the owner or occupant or after a warrant has been issued
24 pursuant to sections 29-830 to 29-835.

25 Sec. 58. Section 81-1618, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~81-1618~~ Any county, city, or village may adopt and
3 enforce a lighting and thermal efficiency ordinance, resolution,
4 code, or standard. Such ordinance, resolution, code, or standard
5 shall be deemed equivalent to the Nebraska Energy Code if it does
6 not result in energy consumption greater than would result from the
7 strict application of the Nebraska Energy Code and is reasonably
8 consistent with the intent of sections ~~81-1608 to 81-1626~~. 50 to
9 62 of this act. Any building or portion thereof subject to the
10 jurisdiction of and inspected by such county, city, or village
11 shall be deemed to comply with sections ~~81-1608 to 81-1626~~ 50
12 to 62 of this act if it meets the standards of such ordinance,
13 resolution, code, or standards. Such county, city, or village may
14 by ordinance or resolution prescribe a schedule of fees sufficient
15 to pay the costs incurred pursuant to sections ~~81-1608 to 81-1626~~.
16 50 to 62 of this act.

17 Any county, city, or village which adopts and enforces
18 a lighting and thermal efficiency ordinance, resolution, code, or
19 standard may waive a specific requirement of the Nebraska Energy
20 Code when meeting such requirement is not economically justified.
21 The local code authority shall submit to the ~~State Energy Office~~
22 commission its analysis for determining that a specific requirement
23 is not justified. The ~~State Energy Office~~ commission shall review
24 such analysis and transmit its findings and conclusions to the
25 local code authority within a reasonable time. The local code

1 authority shall submit to the ~~State Energy Office~~ commission its
2 explanation as to how the original code or any revised code
3 addresses the issues raised by the ~~State Energy Office~~ commission.
4 After a local code authority has submitted such explanation, the
5 authority may proceed to enforce its ordinance, resolution, code,
6 or standard.

7 Sec. 59. Section 81-1620, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~81-1620~~ The ~~State Energy Office~~ commission shall
10 establish a continuing program to provide technical assistance
11 to local code officials and residential and commercial builders.
12 The program shall include the training of local code officials
13 in building technology and local enforcement procedure related to
14 implementation of the Nebraska Energy Code and the development of
15 training programs suitable for presentation by local governments,
16 educational institutions, and other public or private entities.

17 Sec. 60. Section 81-1622, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~81-1622~~ Prior to the construction, renovation, or
20 addition to any existing building after the dates specified in
21 section ~~81-1614~~ 54 of this act the following requirements shall be
22 met where a county, city, or village has not adopted an ordinance,
23 resolution, code, or standard pursuant to section ~~81-1618~~ 58 of
24 this act:

25 (1) When no architect or engineer is retained, the prime

1 contractor shall build or cause to be built, to the best of his or
2 her knowledge, according to the Nebraska Energy Code; and

3 (2) When an architect or engineer is retained: (a) The
4 architect or engineer shall place his or her state registration
5 seal on all construction drawings which shall indicate that the
6 design meets the Nebraska Energy Code and (b) the prime contractor
7 responsible for the actual construction shall build or cause to be
8 built in accordance with the construction documents prepared by the
9 architect or engineer.

10 Sec. 61. Section 81-1625, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~81-1625~~ If the Director of the State Energy Office
13 director or the local code authority finds, within two years ~~from~~
14 after the date a building is first occupied, that the building, at
15 the time of construction, did not comply with the Nebraska Energy
16 Code or equivalent code adopted by a county, city, or village
17 in effect at such time, the director or code authority may order
18 the owner or prime contractor to take those actions necessary to
19 bring the building into compliance. This section does not limit the
20 right of the owner to bring civil action against the contractor,
21 architect, or engineer for the cost of bringing the building into
22 compliance.

23 Sec. 62. Section 81-1626, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~81-1626~~ Failure to comply with sections ~~81-1608~~ ~~to~~

1 ~~81-1626~~ 50 to 62 of this act or ordering, instructing, or directing
 2 another not to comply with sections ~~81-1608 to 81-1626~~ 50 to 62 of
 3 this act shall be a Class IV misdemeanor.

4 Sec. 63. Section 81-1634, Reissue Revised Statutes of
 5 Nebraska, as amended by section 82, Legislative Bill 3, One Hundred
 6 First Legislature, First Special Session, 2009, is amended to read:

7 ~~81-1634~~ Funds received in repayment for energy efficiency
 8 loans from the School Weatherization Fund shall be credited to
 9 the General Fund. For each fiscal year in which there are any
 10 outstanding loans, the Legislature shall designate a portion of
 11 the funds received in repayment for energy efficiency loans for
 12 use by the State Energy Office commission to cover the actual cost
 13 of administering outstanding loans. Transfers may be made from the
 14 School Weatherization Fund to the General Fund at the direction of
 15 the Legislature.

16 Sec. 64. Section 81-1635, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 ~~81-1635~~ There is hereby established in the state treasury
 19 a fund, to be known as the Nebraska Energy Settlement Fund, ~~and~~
 20 ~~referred to in sections 81-1635 to 81-1641 as the fund,~~ to be
 21 administered by the State Energy Office as the representative of
 22 ~~the Governor.~~ commission. The fund shall consist of (1) money
 23 received by the State of Nebraska after February 15, 1986, from
 24 awards or allocations to the State of Nebraska on behalf of
 25 consumers of petroleum products as a result of judgments or

1 settlements for overcharges to consumers of petroleum products
2 sold during the period of time in which federal price controls
3 on such products were in effect and (2) any investment interest
4 earned on the fund. The Department of Administrative Services may
5 for accounting purposes create subfunds of the fund to segregate
6 awards or allocations received pursuant to different orders or
7 settlements. Any money in the fund available for investment
8 shall be invested by the state investment officer pursuant to
9 the Nebraska Capital Expansion Act and the Nebraska State Funds
10 Investment Act. No money shall be transferred or disbursed from the
11 fund except pursuant to sections ~~81-1635 to 81-1641~~, 64 to 70 of
12 this act.

13 Sec. 65. Section 81-1636, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 ~~81-1636~~ The Governor or the State Energy Office as
16 ~~representative of the Governor~~ commission shall develop a plan for
17 the disbursement of the money credited to the ~~fund~~ Nebraska Energy
18 Settlement Fund for submission to the United States Department of
19 Energy. The plan shall be in accordance with the specifications and
20 guidelines of the applicable federal court order and any applicable
21 federal law or regulations.

22 Sec. 66. Section 81-1637, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~81-1637~~ (1) The Governor commission shall submit a
25 pre-disbursement plan to the Legislature if in session or the

1 Executive Board of the Legislative Council if the Legislature is
2 not in session.

3 (2) The predisbursement plan shall generally outline the
4 uses and beneficiaries of proposed disbursements from the fund, as
5 well as the expected benefits to the state as a whole.

6 (3) The predisbursement plan shall also include a policy
7 statement which shall indicate (a) a perception of the current and
8 anticipated trends regarding energy availability, costs, and needs
9 in the state, (b) assumptions regarding the impacts on energy needs
10 of the state of current and anticipated state and federal policies
11 and market forces affecting energy use, and (c) generally, how the
12 types of projects to be selected will address those trends and
13 assumptions.

14 (4) The Legislature may hold a public hearing within
15 thirty days of receipt of the predisbursement plan to solicit
16 testimony on such plan. The Legislature may, no later than fifteen
17 days following such hearing, make recommendations to the ~~State~~
18 ~~Energy Office~~ commission concerning the plan. No disbursement of
19 or obligation to disburse any money in the fund shall be made
20 ~~after July 9, 1988,~~ until forty-five days after the predisbursement
21 plan referring to such disbursement has been submitted to the
22 Legislature or the Executive Board of the Legislative Council, as
23 the case may be.

24 Sec. 67. Section 81-1638, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~81-1638~~ (1) The State Energy Office commission shall, as
2 the representative of and under the direction of the Governor, be
3 the administrative agency for the selection of projects pursuant
4 to section ~~81-1636~~, 65 of this act, allocation of funds to the
5 projects, and monitoring of the uses of the funds so allocated.

6 (2) The State Energy Office commission shall contract
7 with any and all grantees of funds in and recipients of loans
8 from the ~~fund~~, Nebraska Energy Settlement Fund. The contracts shall
9 include provisions for reporting on and accounting for the use of
10 the funds by the grantee or loan recipient to the State Energy
11 Office, commission, and any contracts or agreements entered into
12 before appropriations are made by the Legislature shall recite that
13 they are subject to appropriations of the fund by the Legislature.

14 (3) Any political subdivision of this state may apply
15 for, and shall be eligible to receive, a disbursement for a
16 project pursuant to section ~~81-1636~~, 65 of this act, including a
17 disbursement of loan proceeds.

18 Sec. 68. Section 81-1639, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~81-1639~~ No money shall be disbursed or expended from the
21 ~~fund~~ Nebraska Energy Settlement Fund unless:

22 (1) The disbursement is pursuant to an appropriation by
23 the Legislature;

24 (2) ~~The provisions of section 81-1636 have~~ Section 65 of
25 this act has been complied with in regard to the project for which

1 funds are being disbursed; and

2 (3) The use for which funds are being disbursed meets
3 any applicable federal law, regulation, or court order and has
4 been approved by any and all state and federal authorities as may
5 be required to meet the applicable court order and any applicable
6 federal law or regulations.

7 Sec. 69. Section 81-1640, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~81-1640~~ The State Energy Office commission shall conduct
10 a public hearing on the proposed uses of the ~~fund~~ Nebraska Energy
11 Settlement Fund in the manner and to the extent required by
12 specifications and guidelines of the applicable federal court order
13 and any applicable federal law or regulations.

14 Sec. 70. Section 81-1641, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~81-1641~~ Sections ~~81-1635 to 81-1641~~ 64 to 70 of this act
17 shall apply to the disbursement of all funds which are subject to
18 such sections ~~81-1635 to 81-1641~~ except for funds appropriated by
19 Legislative Bill 432, Ninetieth Legislature, First Session, 1987.

20 Sections ~~81-1636 and 81-1637~~ 65 and 66 of this act shall
21 not apply to any funds which are the subject of any written
22 agreement or contract entered into by the State Energy Office or
23 the Governor prior to April 9, 1987, for the awarding of any funds
24 received by the state from United States v. Exxon Corporation.

25 Sec. 71. On and after the operative date of this act,

1 whenever the Nebraska Oil and Gas Conservation Commission or the
2 State Energy Office is referred to or designated by any contract
3 or other document in connection with the duties and functions
4 transferred to the Nebraska Energy Commission, such reference or
5 designation shall apply to such commission. All contracts entered
6 into prior to the operative date of this act, in connection
7 with the duties and functions transferred to the commission are
8 hereby recognized, with the commission succeeding to all rights and
9 obligations under such contracts. Any cash funds, custodial funds,
10 gifts, trusts, grants, and any appropriations of funds from prior
11 fiscal years available to satisfy obligations incurred under such
12 contracts shall be transferred and appropriated to the commission
13 for the payments of such obligations. All licenses, certificates,
14 registrations, permits, seals, or other forms of approval issued
15 by the Nebraska Oil and Gas Conservation Commission or the State
16 Energy Office in accordance with functions or duties transferred to
17 the commission shall remain valid as issued under the names of the
18 original commission or office unless revoked or their effectiveness
19 is otherwise terminated as provided by law. All documents and
20 records transferred, or copies of the same, may be authenticated or
21 certified by the commission for all legal purposes.

22 Sec. 72. All rules, regulations, and orders of the
23 Nebraska Oil and Gas Conservation Commission and the State Energy
24 Office adopted prior to the operative date of this act, in
25 connection with the powers, duties, and functions transferred to

1 the Nebraska Energy Commission, shall continue to be effective
2 until revised, amended, repealed, or nullified pursuant to law.

3 No suit, action, or other proceeding, judicial or
4 administrative, lawfully commenced prior to the operative date of
5 this act, or which could have been commenced prior to that date, by
6 or against any of such commission or office, or any director or
7 employee thereof in such director's or employee's official capacity
8 or in relation to the discharge of his or her official duties,
9 shall abate by reason of the transfer of duties and functions to
10 the commission.

11 On and after the operative date of this act, unless
12 otherwise specified, whenever any provision of law refers to the
13 Nebraska Oil and Gas Conservation Commission or the State Energy
14 Office in connection with duties and functions transferred to
15 the commission, such law shall be construed as referring to such
16 commission.

17 Sec. 73. On and after the operative date of this act,
18 positions of employment in the Nebraska Oil and Gas Conservation
19 Commission and the State Energy Office are transferred to the
20 Nebraska Energy Commission. For purposes of the transition,
21 employees of the former commission and office shall be considered
22 employees of the Nebraska Energy Commission and shall retain their
23 rights under the state personnel system or pertinent bargaining
24 agreement, and their service shall be deemed continuous. This
25 section does not grant employees any new rights or benefits not

1 otherwise provided by law or bargaining agreement or preclude the
2 director or the commission from exercising any of the prerogatives
3 of management set as provided by law. This section is not an
4 amendment to or substitute for the provisions of any existing
5 bargaining agreements.

6 Sec. 74. On the operative date of this act, all items
7 of property, real and personal, including office furniture and
8 fixtures, books, documents, and records of the Nebraska Oil and
9 Gas Conservation Commission or the State Energy Office pertaining
10 to the duties and functions transferred to the Nebraska Energy
11 Commission shall become the property of the Nebraska Energy
12 Commission.

13 Sec. 75. Section 70-1003, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 70-1003 (1) There is hereby established an independent
16 board to be known as the Nebraska Power Review Board to consist of
17 five members, one of whom shall be an engineer, one an attorney,
18 one an accountant, and two laypersons. No person who is or who
19 has within four years preceding his or her appointment been either
20 a director, officer, or employee of any electric utility or an
21 elective state officer shall be eligible for membership on the
22 board. Members of the board shall be appointed by the Governor
23 subject to the approval of the Legislature. ~~Members of the board~~
24 ~~first appointed shall be appointed within thirty days of May 16,~~
25 ~~1963. Of the members initially appointed, two shall serve until~~

1 ~~January 1, 1965, two until January 1, 1966, and one until January~~
2 ~~1, 1967.~~ Upon expiration of ~~such~~ the initial members' terms, the
3 successors shall be appointed for terms of four years. No member of
4 the board shall serve more than two consecutive terms. Any vacancy
5 on the board arising other than from the expiration of a term shall
6 be filled by appointment for the unexpired portion of the term,
7 and any person appointed to fill a vacancy on the board shall be
8 eligible for reappointment for two more consecutive terms. No more
9 than three members of the board shall be registered members of that
10 political party represented by the Governor. Each member of the
11 board shall receive sixty dollars per day for each day actually and
12 necessarily engaged in the performance of his or her duties, but
13 not to exceed six thousand dollars in any one year, and shall be
14 reimbursed for his or her actual and necessary expenses while so
15 engaged as provided in sections 81-1174 to 81-1177. The board shall
16 have jurisdiction as provided in Chapter 70, article 10.

17 (2) The board shall meet promptly after its members have
18 been appointed. They shall elect from their members a chairperson
19 and a vice-chairperson. Decisions of the board shall require the
20 approval of a majority of the members of the board.

21 (3) The board shall employ an executive director and
22 may employ such other staff necessary to carry out the duties
23 pursuant to Chapter 70, article 10. The executive director shall
24 serve at the pleasure of the board and shall be solely responsible
25 to the board. The executive director shall be responsible for

1 the administrative operations of the board and shall perform such
2 other duties as may be delegated or assigned to him or her by the
3 board. The board may obtain the services of experts and consultants
4 necessary to carry out the board's duties pursuant to Chapter 70,
5 article 10.

6 (4) The board shall publish and submit a biennial report
7 with annual data to the Governor, with copies to be filed with
8 the Clerk of the Legislature and with the ~~State Energy Office.~~
9 Nebraska Energy Commission. ~~The State Energy Office~~ Nebraska Energy
10 Commission shall consider the information in the Nebraska Power
11 Review Board's report when the ~~State Energy Office~~ commission
12 prepares its own reports pursuant to sections ~~81-1606 and 81-1607.~~
13 21 and 22 of this act. The report of the board shall include:

14 (a) The assessments for the fiscal year imposed pursuant
15 to section 70-1020;

16 (b) The gross income totals for each category of the
17 industry and the industry total;

18 (c) The number of suppliers against whom the assessment
19 is levied, by category and in total;

20 (d) The projected dollar costs of generation,
21 transmission, and microwave applications, approved and denied;

22 (e) The actual dollar costs of approved applications upon
23 completion, and a summary of an informational hearing concerning
24 any significant divergence between the projected and actual costs;

25 (f) A description of Nebraska's current electric system

1 and information on additions to and retirements from the system
2 during the fiscal year, including microwave facilities;

3 (g) A statistical summary of board activities and an
4 expenditure summary;

5 (h) A roster of power suppliers in Nebraska and the
6 assessment each paid; and

7 (i) Appropriately detailed historical and projected
8 electric supply and demand statistics, including information on the
9 total generating capacity owned by Nebraska suppliers and the total
10 peak load demand of the previous year, along with an indication of
11 how the industry will respond to the projected situation.

12 (5) The board shall annually hold one or more public
13 hearings concerning the conditions that may indicate that retail
14 competition in the electric industry would benefit Nebraska's
15 citizens and what steps, if any, should be taken to prepare for
16 retail competition in Nebraska's electricity market.

17 (6) The board shall submit an annual report to the
18 Governor with copies to be filed with the Clerk of the Legislature
19 and the Natural Resources Committee of the Legislature. The report
20 shall include:

21 (a) Whether or not a viable regional transmission
22 organization and adequate transmission exist in Nebraska or in a
23 region which includes Nebraska;

24 (b) Whether or not a viable wholesale electricity market
25 exists in a region which includes Nebraska;

1 (c) To what extent retail rates have been unbundled in
2 Nebraska;

3 (d) A comparison of Nebraska's wholesale electricity
4 prices to the prices in the region; and

5 (e) Any other information the board believes to be
6 beneficial to the Governor, the Legislature, and Nebraska's
7 citizens when considering whether retail electric competition
8 would be beneficial, such as, but not limited to, an update on
9 deregulation activities in other states and an update on federal
10 deregulation legislation.

11 (7) The board may submit periodic reports on the
12 information set out in subsection (6) of this section if the
13 board determines that significant changes to those conditions have
14 occurred of which the Governor and the Legislature should be
15 apprised prior to the submission of the next annual report.

16 (8) The board is authorized to establish working groups
17 of interested parties to assist the board in carrying out the
18 duties set forth in subsections (5) and (6) of this section.

19 Sec. 76. Section 72-804, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 72-804 (1) Any new state building shall meet or exceed
22 the requirements of the 2003 International Energy Conservation
23 Code.

24 (2) Any new lighting, heating, cooling, ventilating, or
25 water heating equipment or controls in a state-owned building and

1 any new building envelope components installed in a state-owned
2 building shall meet or exceed the requirements of the 2003
3 International Energy Conservation Code.

4 (3) The State Building Administrator of the Department
5 of Administrative Services, in consultation with the ~~State Energy~~
6 ~~Office,~~ Nebraska Energy Commission, may specify:

7 (a) A more recent edition of the International Energy
8 Conservation Code;

9 (b) Additional energy efficiency or renewable energy
10 requirements for buildings; and

11 (c) Waivers of specific requirements which are
12 demonstrated through life-cycle cost analysis to not be in the
13 state's best interest. The agency receiving the funding shall
14 be required to provide a life-cycle cost analysis to the State
15 Building Administrator.

16 Sec. 77. Section 72-805, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 72-805 The 2003 International Energy Conservation Code
19 applies to all new buildings constructed in whole or in part with
20 state funds after July 1, 2005. The ~~State Energy Office~~ Nebraska
21 Energy Commission shall review building plans and specifications
22 necessary to determine whether a building will meet the
23 requirements of this section. The ~~State Energy Office~~ commission
24 shall provide a copy of its review to the agency receiving funding.
25 The agency receiving the funding shall verify that the building as

1 constructed meets or exceeds the code. The verification shall be
2 provided to the State Energy Office- commission. The State Energy
3 Office commission shall, in consultation with the State Building
4 Administrator of the Department of Administrative Services, adopt
5 and promulgate rules and regulations to carry out this section.

6 Sec. 78. Section 81-1011, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-1011 State-owned vehicles are defined for the purpose
9 of sections 81-1008 to 81-1017 as all vehicles acquired primarily
10 for the purpose of transporting state employees in their official
11 duties from one job location to another, but shall not include
12 special-use vehicles, such as buses, laundry trucks, mail trucks,
13 airport security vehicles, military trucks, and cars; vehicles
14 which are considered a duty station, such as vehicles used by
15 the Nebraska State Patrol, the Nebraska Oil and Gas Conservation
16 Energy Commission, or ~~game wardens~~, conservation officers; or those
17 vehicles which, by nature of their usage, require the installation
18 or carrying of special equipment which precludes the use of such
19 vehicles for multiple agency transportation usage.

20 Sec. 79. Section 81-1108.55, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-1108.55 All purchases, leases, or contracts which by
23 law are required to be based on competitive bids pursuant to
24 section 81-1108.16 shall be made to the lowest responsible bidder,
25 taking into consideration the best interests of the state, the

1 quality or performance of the property proposed to be supplied, its
2 conformity with specifications, the purposes for which required,
3 and the times of delivery. In determining the lowest responsible
4 bidder, in addition to price, the following elements shall be given
5 consideration:

6 (1) The ability, capacity, and skill of the bidder to
7 perform the contract required;

8 (2) The character, integrity, reputation, judgment,
9 experience, and efficiency of the bidder;

10 (3) Whether the bidder can perform the contract within
11 the time specified;

12 (4) The quality of performance of previous contracts;

13 (5) The previous and existing compliance by the bidder
14 with laws relating to the contract;

15 (6) The life-cost of the property in relation to the
16 purchase price and specific use of the item;

17 (7) The performance of the property, taking into
18 consideration any commonly accepted tests and standards of product
19 usability and user requirements;

20 (8) Energy efficiency ratio as stated by the bidder for
21 alternative choices of appliances or equipment;

22 (9) The information furnished by each bidder, when
23 deemed applicable by the State Building Administrator, concerning
24 life-cycle costs between alternatives for all classes of equipment,
25 evidence of expected life, repair and maintenance costs, and energy

1 consumption on a per-year basis; and

2 (10) Such other information as may be secured having a
3 bearing on the decision to award the contract.

4 Reports regarding procurements made pursuant to this
5 section shall be provided to the ~~State Energy Office~~, Nebraska
6 Energy Commission. Such reports shall be in the form and contain
7 such information as the ~~State Energy Office~~ commission may require.

8 All political subdivisions may follow the procurement
9 principles set forth in this section if they are deemed applicable
10 by the official authorized to make purchases for such political
11 subdivision.

12 Sec. 80. Section 81-1201.04, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1201.04 The commission shall consist of nine voting
15 members appointed by the Governor. The chairperson of the
16 commission shall be one of the appointed members and shall be
17 chosen by the commission. Each congressional district in Nebraska
18 shall be represented by three members, and the Governor shall
19 solicit nominations for appointments to the commission from
20 recognized economic development groups in Nebraska. The members of
21 the commission shall be representative, to the extent possible, of
22 the various geographic areas of the state and of both the urban and
23 rural population. The director shall serve as an ad hoc nonvoting
24 member of the commission. In appointing the members, the Governor
25 shall seek to create a broad-based commission representative of

1 the Nebraska economy. To achieve this objective the Governor shall
2 appoint individuals from the following private industry sectors:

3 (1) Production agriculture;

4 (2) At least two individuals from manufacturing, one such
5 individual shall represent a company with no more than seventy-five
6 employees;

7 (3) Transportation and logistics;

8 (4) Travel and tourism;

9 (5) Financial services and insurance;

10 (6) Information technology and communications; and

11 (7) Biotechnology.

12 The commission and department are encouraged to involve
13 other essential groups in the work of the commission, including,
14 but not limited to, the (a) University of Nebraska, (b)
15 Department of Agriculture, (c) ~~State Energy Office,~~ Nebraska Energy
16 Commission, (d) educational institutions, (e) Department of Labor,
17 and (f) Nebraska Investment Finance Authority. No more than five
18 voting members of the ~~commission~~ Economic Development Commission
19 shall belong to the same political party.

20 The ~~commission~~ Economic Development Commission shall
21 provide programmatic policy guidance and oversight to the Nebraska
22 Manufacturing Extension Partnership.

23 Sec. 81. Section 81-1316, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-1316 (1) All agencies and personnel of state

1 government shall be covered by sections 81-1301 to 81-1319 and
2 shall be considered subject to the State Personnel System, except
3 the following:

4 (a) All personnel of the office of the Governor;

5 (b) All personnel of the office of the Lieutenant
6 Governor;

7 (c) All personnel of the office of the Secretary of
8 State;

9 (d) All personnel of the office of the State Treasurer;

10 (e) All personnel of the office of the Attorney General;

11 (f) All personnel of the office of the Auditor of Public
12 Accounts;

13 (g) All personnel of the Legislature;

14 (h) All personnel of the court systems;

15 (i) All personnel of the Board of Educational Lands and
16 Funds;

17 (j) All personnel of the Public Service Commission;

18 (k) All personnel of the Nebraska Brand Committee;

19 (l) All personnel of the Commission of Industrial
20 Relations;

21 (m) All personnel of the State Department of Education;

22 (n) All personnel of the Nebraska state colleges and the
23 Board of Trustees of the Nebraska State Colleges;

24 (o) All personnel of the University of Nebraska;

25 (p) All personnel of the Coordinating Commission for

1 Postsecondary Education;

2 (q) All personnel of the Governor's Policy Research
3 Office; ~~but not to include personnel within the State Energy~~
4 ~~Office;~~

5 (r) All personnel of the Commission on Public Advocacy;

6 (s) All agency heads;

7 (t) All personnel of the Nebraska Energy Commission;

8 ~~(t)(i)~~ (u)(i) The Director of Behavioral Health of the
9 Division of Behavioral Health; (ii) the Director of Children and
10 Family Services of the Division of Children and Family Services;
11 (iii) the Director of Developmental Disabilities of the Division
12 of Developmental Disabilities; (iv) the Director of Medicaid and
13 Long-Term Care of the Division of Medicaid and Long-Term Care; (v)
14 the Director of Public Health of the Division of Public Health; and
15 (vi) the Director of Veterans' Homes of the Division of Veterans'
16 Homes;

17 ~~(u)~~ (v) The chief medical officer established under
18 section 81-3115, the Administrator of the Office of Juvenile
19 Services, and the chief executive officers of the Beatrice
20 State Developmental Center, Lincoln Regional Center, Norfolk
21 Regional Center, Hastings Regional Center, Grand Island Veterans'
22 Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home,
23 Western Nebraska Veterans' Home, Youth Rehabilitation and
24 Treatment Center-Kearney, and Youth Rehabilitation and Treatment
25 Center-Geneva;

1 ~~(v)~~ (w) The chief executive officers of all facilities
2 operated by the Department of Correctional Services and the medical
3 director for the department appointed pursuant to section 83-4,156;

4 ~~(w)~~ (x) All personnel employed as pharmacists,
5 physicians, psychiatrists, or psychologists by the Department of
6 Correctional Services;

7 ~~(x)~~ (y) All personnel employed as pharmacists,
8 physicians, psychiatrists, psychologists, service area
9 administrators, or facility operating officers of the Department of
10 Health and Human Services;

11 ~~(y)~~ (z) Deputies and examiners of the Department of
12 Banking and Finance and the Department of Insurance as set forth in
13 sections 8-105 and 44-119, except for those deputies and examiners
14 who remain in the State Personnel System; and

15 ~~(z)~~ (aa) All personnel of the Tax Equalization and Review
16 Commission.

17 (2) At each agency head's discretion, up to the following
18 number of additional positions may be exempted from the State
19 Personnel System, based on the following agency size categories:

20	Number of Agency	Number of Noncovered
21	Employees	Positions
22	less than 25	0
23	25 to 100	1
24	101 to 250	2
1	251 to 500	3

2	501 to 1000	4
3	1001 to 2000	5
4	2001 to 3000	8
5	3001 to 4000	11
6	4001 to 5000	14
7	over 5000	25

8 The purpose of having such noncovered positions shall
9 be to allow agency heads the opportunity to recruit, hire,
10 and supervise critical, confidential, or policymaking personnel
11 without restrictions from selection procedures, compensation rules,
12 career protections, and grievance privileges. Persons holding the
13 noncovered positions shall serve at the pleasure of the agency head
14 and shall be paid salaries set by the agency head.

15 (3) No changes to this section or to the number of
16 noncovered positions within an agency shall affect the status
17 of personnel employed on the date the changes become operative
18 without their prior written agreement. A state employee's career
19 protections or coverage by personnel rules and regulations shall
20 not be revoked by redesignation of the employee's position as a
21 noncovered position without the prior written agreement of such
22 employee.

23 Sec. 82. Section 81-1531.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

1 81-1531.01 Nothing in the Environmental Protection Act

2 shall be construed to apply to any wells or holes covered by
3 sections ~~57-901 to 57-922~~, 13 to 20 and 23 to 48 of this act.

4 Sec. 83. Section 81-3453, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-3453 The provisions of the Engineers and Architects
7 Regulation Act regulating the practice of engineering do not apply
8 to the following activities:

9 (1) The construction, remodeling, alteration, or
10 renovation of a detached single-family through four-family dwelling
11 of less than five thousand square feet above grade finished
12 space. Any detached or attached sheds, storage buildings, and
13 garages incidental to the dwelling are not included in the
14 tabulation of finished space. Such exemption may be increased
15 by rule and regulation of the board adopted pursuant to the
16 Negotiated Rulemaking Act but shall not exceed the Type V, column
17 B, limitations set forth by the allowable height and building areas
18 table in the state building code adopted in section 71-6403;

19 (2) The construction, remodeling, alteration, or
20 renovation of a one-story commercial or industrial building or
21 structure of less than five thousand square feet above grade
22 finished space which does not exceed thirty feet in height unless
23 such building or structure, or the remodeling or repairing thereof,
24 provides for the employment, housing, or assembly of twenty or more
25 persons. Any detached or attached sheds, storage buildings, and
1 garages incidental to the building or structure are not included

2 in the tabulation of finished space. Such ~~exemptions~~ exemption may
3 be increased by rule and regulation of the board adopted pursuant
4 to the Negotiated Rulemaking Act but shall not exceed the Type
5 V, column B, limitations set forth by the allowable height and
6 building areas table in the state building code adopted in section
7 71-6403;

8 (3) The construction, remodeling, alteration, or
9 renovation of farm buildings, including barns, silos, sheds, or
10 housing for farm equipment and machinery, livestock, poultry, or
11 storage and if the structures are designed to be occupied by
12 no more than twenty persons. Such exemption may be increased
13 by rule and regulation of the board adopted pursuant to the
14 Negotiated Rulemaking Act but shall not exceed the Type V, column
15 B, limitations set forth by the allowable height and building areas
16 table in the state building code adopted in section 71-6403;

17 (4) Any public works project with contemplated
18 expenditures for the completed project that do not exceed
19 eighty-six thousand dollars. The board shall adjust the dollar
20 amount in this subdivision every fifth year commencing July 1,
21 2009. The adjusted amount shall be equal to the then current
22 amount adjusted by the cumulative percentage change in the Consumer
23 Price Index for All Urban Consumers published by the Federal
24 Bureau of Labor Statistics for the five-year period preceding the
25 adjustment date. The amount shall be rounded to the next highest
1 one-thousand-dollar amount;

2 (5) Any alteration, renovation, or remodeling of a
3 building if the alteration, renovation, or remodeling does
4 not affect architectural or engineering safety features of the
5 building;

6 (6) The teaching, including research and service,
7 of engineering subjects in a college or university offering
8 an Accrediting Board for Engineering and Technology accredited
9 engineering curriculum of four years or more;

10 ~~(7) The Engineers and Architects Regulation Act does not~~
11 ~~prevent a public service provider or an organization who employs~~
12 ~~a design professional from performing professional services for~~
13 ~~itself;~~

14 ~~(8)~~ (7) The practice of any other certified trade or
15 legally recognized profession;

16 ~~(9)~~ (8) The offer to practice engineering by a person not
17 a resident of and having no established place of business in this
18 state if the person is legally qualified by licensure to practice
19 engineering in his or her own state or country. The person shall
20 make application to the board in writing and after payment of a
21 fee established by the board may be granted a temporary permit for
22 a definite period of time not to exceed one year to do a specific
23 job. No right to practice engineering accrues to such applicant
24 with respect to any other work not set forth in the permit;

25 ~~(10)~~ (9) The work of an employee or a subordinate of
1 a person holding a certificate of licensure under the act or an

2 employee of a person practicing lawfully under subdivision ~~(9)~~ (8)
3 of this section if the work is done under the direct supervision of
4 a person holding a certificate of licensure or a person practicing
5 lawfully under such subdivision;

6 ~~(11)~~ (10) Those services ordinarily performed by
7 subordinates under direct supervision of a professional engineer
8 or those commonly designated as locomotive, stationary, marine
9 operating engineers, power plant operating engineers, or
10 manufacturers who supervise the operation of or operate machinery
11 or equipment or who supervise construction within their own plant;

12 ~~(12)~~ (11) Financial institutions making disbursements of
13 funds in connection with construction projects;

14 ~~(13)~~ (12) Earthmoving and related work associated with
15 soil and water conservation practices performed on farmland or any
16 land owned by a political subdivision that is not subject to a
17 permit from the Department of Natural Resources or for work related
18 to livestock waste facilities that are not subject to a permit by
19 the Department of Environmental Quality;

20 ~~(14)~~ (13) The work of employees and agents of a
21 political subdivision or a nonprofit entity organized for the
22 purpose of furnishing electrical service performing, in accordance
23 with other requirements of law, their customary duties in the
24 administration and enforcement of codes, permit programs, and
25 land-use regulations and their customary duties in utility and
1 public works construction, operation, and maintenance;

2 ~~(15)~~ (14) Work performed exclusively in the exploration
3 for and development of energy resources and base, precious, and
4 nonprecious minerals, including sand, gravel, and aggregate, which
5 does not have a substantial impact upon public health, safety, and
6 welfare, as determined by the board, or require the submission of
7 reports or documents to public agencies;

8 ~~(16)~~ (15) The construction of water wells as defined in
9 section 46-1212, the installation of pumps and pumping equipment
10 into water wells, and the decommissioning of water wells, unless
11 such construction, installation, or decommissioning is required by
12 the owner thereof to be designed or supervised by an engineer or
13 unless legal requirements are imposed upon the owner of a water
14 well as a part of a public water supply;

15 ~~(17)~~ (16) Work performed in the exploration, development,
16 and production of oil and gas or before the Nebraska Oil and Gas
17 ~~Conservation~~ Energy Commission; and

18 ~~(18)~~ (17) Siting, layout, construction, and
19 reconstruction of a private onsite wastewater treatment system
20 with a maximum flow from the facility of one thousand gallons
21 of domestic wastewater per day if such system meets all of the
22 conditions required pursuant to the Private Onsite Wastewater
23 Treatment System Contractors Certification and System Registration
24 Act unless the siting, layout, construction, or reconstruction by
25 an engineer is required by the Department of Environmental Quality,
1 mandated by law or rules and regulations imposed upon the owner of

2 the system, or required by the owner.

3 The act does not prevent a public service provider or
4 an organization who employs a design professional from performing
5 professional services for itself.

6 Sec. 84. Section 81-3541, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-3541 (1) The following activities do not require
9 licensure as a geologist under the Geologists Regulation Act:

10 (a) Geological work performed by an employee or a
11 subordinate of a professional geologist if the work does not
12 include responsible charge of geological work and is performed
13 under the direct supervision of a professional geologist who is and
14 remains responsible for such work;

15 (b) Geological work performed exclusively in the
16 exploration for and development of energy resources and base,
17 precious, and nonprecious minerals, including sand, gravel, and
18 aggregate, and not having a substantial impact upon the public
19 health, safety, and welfare, as determined by the board;

20 (c) Geologic research conducted through academic
21 institutions, agencies of the federal or state governments, or
22 nonprofit research institutions;

23 (d) Teaching in geology or related physical or natural
24 sciences;

25 (e) Work performed by a professional engineer
1 appropriately licensed in this state that is within the generally

2 accepted scope of engineering practice;

3 (f) The practice of any other legally recognized
4 profession;

5 (g) The practice of or offer to practice geology by
6 a person not a resident of and having no established place of
7 business in this state who desires to practice geology for a
8 specific project. The person shall make application to the board
9 in writing, and after payment of a fee established by the board by
10 rule and regulation, such person may be issued a temporary permit
11 for a definite period of time not to exceed one year if the person
12 is legally qualified by licensure to practice geology in his or her
13 own state or country. No right to practice geology shall accrue to
14 such applicant with respect to any other work not set forth in the
15 permit;

16 (h) Work, which includes subsurface excavation, soil
17 and water analysis, and routine environmental monitoring, such
18 as sample collection and water level gauging, performed by an
19 organization for itself and in accordance with other requirements
20 of law;

21 (i) The work of employees of a political subdivision
22 or state agency charged with natural resources conservation
23 performing, in accordance with other requirements of law, their
24 customary duties in operations, maintenance, and environmental
25 monitoring;

1 (j) The work of employees and agents of a political

2 subdivision or rural electric cooperative performing, in accordance
3 with other requirements of law, their customary duties in routine
4 utility line construction, operations, and maintenance;

5 (k) Work customarily performed by chemists, hydrologists,
6 archeologists, geographers, pedologists, agronomists, and soil
7 scientists; and

8 (l) Work performed in the construction of water wells as
9 defined in section 46-1212, the installation of pumps and pumping
10 equipment into water wells, and the decommissioning of water wells.

11 (2) If the board determines with respect to a particular
12 function that the public is adequately protected without the
13 necessity of a professional geologist performing certain services,
14 the board may waive the requirements of the act with respect to the
15 function.

16 (3) This section shall not be construed so as to prohibit
17 the testimony of any individual before the Nebraska Oil and Gas
18 ~~Conservation~~ Energy Commission.

19 Sec. 85. Section 84-166, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 84-166 Pursuant to the proclamation of a vital resource
22 emergency issued as provided in section 84-164, the Governor by
23 executive order may:

24 (1) Regulate the operating hours of vital resource
25 consuming instrumentalities including state government, political
1 subdivisions, private institutions, and business facilities to the

2 extent that the regulation is not hazardous or detrimental to the
3 health, safety, or welfare of the people of this state;

4 (2) Establish a system for the distribution of the supply
5 of energy or vital resource;

6 (3) Curtail, regulate, or direct the public and private
7 transportation and use of the vital resource which is in short
8 supply, to the extent necessary, so long as such regulation is not
9 hazardous or detrimental to the health, safety, or welfare of the
10 people of this state;

11 (4) Delegate any administrative authority vested in him
12 or her to ~~the State Energy Office or any other~~ state agency or its
13 respective director; and

14 (5) Provide for the temporary transfer of directors,
15 personnel, or functions of state departments and agencies for the
16 purpose of carrying out any emergency measures taken pursuant to
17 sections 84-162 to 84-167.

18 Sec. 86. Section 84-1005, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 84-1005 Subsection (2) of section 84-1001 shall not
21 apply to (1) employees of the University of Nebraska, the state
22 colleges, the Nebraska Brand Committee, or the Nebraska Oil and
23 ~~Gas Conservation~~ Energy Commission, (2) the Superintendent of Law
24 Enforcement and Public Safety, his or her deputies and assistants,
25 members of the Nebraska State Patrol, or carrier enforcement
1 officers designated under section 60-1303, or (3) the employees of

2 the Division of Motor Fuels of the office of the Tax Commissioner
3 who render service on such days and maintain such hours as the
4 Governor may designate, except that when employees are required to
5 work on any day designated as a paid holiday, subsections (4) and
6 (5) of section 84-1001 shall apply.

7 Sec. 87. This act becomes operative on January 1, 2011.

8 Sec. 88. Original sections 11-201, 13-1205, 13-2043,
9 33-151, 57-605, 57-607, 57-701, 57-902, 57-903, 57-904, 57-905,
10 57-906, 57-907, 57-908, 57-909, 57-910, 57-910.01, 57-910.02,
11 57-910.03, 57-910.05, 57-910.06, 57-910.07, 57-910.08, 57-910.09,
12 57-910.10, 57-910.11, 57-910.12, 57-911, 57-912, 57-913, 57-914,
13 57-915, 57-916, 57-916.01, 57-917, 57-918, 57-920, 57-921, 57-922,
14 57-923, 58-221, 66-1004, 66-1009, 70-1003, 72-804, 72-805, 81-1011,
15 81-1108.55, 81-1201.04, 81-1316, 81-1531.01, 81-1606, 81-1607,
16 81-1608, 81-1609, 81-1611, 81-1613, 81-1614, 81-1615, 81-1616,
17 81-1617, 81-1618, 81-1620, 81-1622, 81-1625, 81-1626, 81-1635,
18 81-1636, 81-1637, 81-1638, 81-1639, 81-1640, 81-1641, 81-3453,
19 81-3541, 84-166, and 84-1005, Reissue Revised Statutes of Nebraska,
20 section 46-601.01, Revised Statutes Cumulative Supplement, 2008,
21 sections 57-919, 81-1607.01, and 81-1634, Reissue Revised Statutes
22 of Nebraska, as amended by sections 33, 81, and 82, respectively,
23 Legislative Bill 3, One Hundred First Legislature, First Special
24 Session, 2009, and section 57-705, Revised Statutes Supplement,
25 2009, as amended by section 32, Legislative Bill 3, One Hundred
1 First Legislature, First Special Session, 2009, are repealed.

LB 885

LB 885

2 Sec. 89. The following sections are outright repealed:
3 Sections 57-901, 81-1601, 81-1602, 81-1603, 81-1605, and 81-1612,
4 Reissue Revised Statutes of Nebraska.