

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 2**

Introduced by Executive Board: Wightman, O, Chairperson.

Read first time January 06, 2011

Committee: General File

A BILL

1 FOR AN ACT relating to irrigation; to amend sections 2-1579,  
2 46-2,141, 46-753, 46-1117, 46-1125, and 66-1519, Reissue  
3 Revised Statutes of Nebraska; to eliminate obsolete  
4 statutes, the Water Policy Task Force, and the Water  
5 Policy Task Force Cash Fund; to harmonize provisions; to  
6 repeal the original sections; and to outright repeal  
7 sections 46-2,131, 46-2,132, 46-2,133, 46-2,134,  
8 46-2,135, 46-2,136, 46-2,137, 46-2,138, 46-633,  
9 46-634.01, and 46-1118, Reissue Revised Statutes of  
10 Nebraska.

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

1           Section 1. Section 2-1579, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           2-1579 (1) Except as provided in subsection (2) of this  
4 section, expenditures may be made from the Nebraska Soil and Water  
5 Conservation Fund as grants to individual landowners of not to exceed  
6 seventy-five percent of the actual cost of eligible projects and  
7 practices for soil and water conservation or water quality  
8 protection, with priority given to those projects and practices  
9 providing the greatest number of public benefits.

10           (2) The department shall reserve at least two percent of  
11 the funds credited to the fund for grants to landowners ordered by a  
12 natural resources district pursuant to the Erosion and Sediment  
13 Control Act to install permanent soil and water conservation  
14 practices. Such funds shall be made available for ninety percent of  
15 the actual cost of the required practices and shall be granted on a  
16 first-come, first-served basis until exhausted. Applications not  
17 served shall receive priority in ensuing fiscal years.

18           (3) The commission shall determine which specific  
19 projects and practices are eligible for the funding assistance  
20 authorized by this section and shall adopt, by reference or  
21 otherwise, appropriate standards and specifications for carrying out  
22 such projects and practices. A natural resources district assisting  
23 the department in the administration of the program may, with  
24 commission approval, further limit the types of projects and  
25 practices eligible for funding assistance in that district.

1           (4) As a condition for receiving any cost-share funds  
2 pursuant to this section, the landowner shall be required to enter  
3 into an agreement that if a conservation practice is terminated or a  
4 project is removed, altered, or modified so as to lessen its  
5 effectiveness, without prior approval of the department or its  
6 delegated agent, for a period of ten years after the date of  
7 receiving payment, the landowner shall refund to the fund any public  
8 funds used for the practice or project. When deemed necessary by the  
9 department or its delegated agent, the landowner may as a further  
10 condition for receiving such funds be required to grant a right of  
11 access for the operation and maintenance of any eligible project  
12 constructed with such assistance. Acceptance of money from the fund  
13 shall not in any other manner be construed as affecting land  
14 ownership rights unless the landowner voluntarily surrenders such  
15 rights.

16           (5) To the extent feasible, the department and the  
17 commission shall administer the fund so that federal funds available  
18 within the state for the same general purposes are supplemented and  
19 not replaced with state funds.

20           ~~(6) Within five days after July 20, 2002, the State~~  
21 ~~Treasurer shall transfer two hundred fifty thousand dollars from the~~  
22 ~~General Fund to the Water Policy Task Force Cash Fund. It is the~~  
23 ~~intent of the Legislature that the General Fund appropriation to the~~  
24 ~~Department of Natural Resources, Program 304, for fiscal year 2002-03~~  
25 ~~be reduced by two hundred fifty thousand dollars.~~

1                   Sec. 2. Section 46-2,141, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   46-2,141 The Republican River Basin Water Sustainability  
4 Task Force Cash Fund is created. The fund shall be administered by  
5 the Department of Natural Resources and expended at the direction of  
6 the Republican River Basin Water Sustainability Task Force. The fund  
7 shall consist of funds appropriated by the Legislature, money  
8 received as gifts, grants, and donations, and transfers authorized  
9 ~~under section 46-2,137. by the Legislature.~~ Any money in the fund  
10 available for investment shall be invested by the state investment  
11 officer pursuant to the Nebraska Capital Expansion Act and the  
12 Nebraska State Funds Investment Act.

13                   Sec. 3. Section 46-753, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15                   46-753 (1) The Water Resources Trust Fund is created. The  
16 State Treasurer shall credit to the fund such money as is  
17 specifically appropriated thereto by the Legislature, transfers  
18 authorized ~~under section 46-2,137, by the Legislature,~~ and such  
19 funds, fees, donations, gifts, or bequests received by the Department  
20 of Natural Resources from any federal, state, public, or private  
21 source for expenditure for the purposes described in the Nebraska  
22 Ground Water Management and Protection Act. Money in the fund shall  
23 not be subject to any fiscal-year limitation or lapse provision of  
24 unexpended balance at the end of any fiscal year or biennium. Any  
25 money in the fund available for investment shall be invested by the

1 state investment officer pursuant to the Nebraska Capital Expansion  
2 Act and the Nebraska State Funds Investment Act.

3 (2) The fund shall be administered by the department. The  
4 department shall adopt and promulgate rules and regulations regarding  
5 the allocation and expenditure of money from the fund.

6 (3) Money in the fund may be expended by the department  
7 for costs incurred by the department, by natural resources districts,  
8 or by other political subdivisions in (a) determining whether river  
9 basins, subbasins, or reaches are fully appropriated in accordance  
10 with section 46-713, (b) developing or implementing integrated  
11 management plans for such fully appropriated river basins, subbasins,  
12 or reaches or for river basins, subbasins, or reaches designated as  
13 overappropriated in accordance with section 46-713, (c) developing or  
14 implementing integrated management plans in river basins, subbasins,  
15 or reaches which have not yet become either fully appropriated or  
16 overappropriated, or (d) attaining state compliance with an  
17 interstate water compact or decree or other formal state contract or  
18 agreement.

19 (4) Except for funds paid to a political subdivision for  
20 forgoing or reducing its own water use or for implementing projects  
21 or programs intended to aid the state in complying with an interstate  
22 water compact or decree or other formal state contract or agreement,  
23 a political subdivision that receives funds from the fund shall  
24 provide, or cause to be provided, matching funds in an amount at  
25 least equal to twenty percent of the amount received from the fund by

1 that natural resources district or political subdivision. The  
2 department shall monitor programs and activities funded by the fund  
3 to ensure that the required match is being provided.

4 Sec. 4. Section 46-1117, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 46-1117 After January 1, 1987, no person shall apply or  
7 authorize the application of chemicals to land or crops through the  
8 use of chemigation unless such person obtains a permit from the  
9 district in which the well or diversion is located, except that  
10 nothing in this section shall require a person to obtain a  
11 chemigation permit to pump or divert water to or through an open  
12 discharge system. After such date any person who intends to engage in  
13 chemigation shall, before commencing, file with the district an  
14 application for a chemigation permit for each injection location on  
15 forms provided by the department. Forms shall be made available by  
16 the department to each district office and at such other places as  
17 may be deemed appropriate. Except as provided in ~~sections 46-1118 and~~  
18 section 46-1119, the district shall review each application, conduct  
19 an inspection, and approve or deny the application within forty-five  
20 days after the application is filed. An application shall be approved  
21 and a permit issued by the district if the irrigation distribution  
22 system complies with the equipment requirements of section 46-1127  
23 and the applicator has been certified as a chemigation applicator  
24 under sections 46-1128 and 46-1129. A copy of each approved  
25 application shall immediately be forwarded by the district to the

1 department. This section shall not be construed to prevent the use of  
2 portable chemigation equipment if such equipment meets the  
3 requirements of section 46-1127.

4 Sec. 5. Section 46-1125, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 46-1125 The district shall deny, refuse renewal of,  
7 suspend, or revoke a permit applied for or issued pursuant to section  
8 46-1117 ~~or 46-1118~~ on any of the following grounds:

- 9 (1) Practice of fraud or deceit in obtaining a permit; or  
10 (2) Violation of any of the provisions of the Nebraska  
11 Chemigation Act or any standards or rules and regulations adopted and  
12 promulgated pursuant to such act.

13 Sec. 6. Section 66-1519, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 66-1519 (1) There is hereby created the Petroleum Release  
16 Remedial Action Cash Fund to be administered by the department.  
17 Revenue from the following sources shall be remitted to the State  
18 Treasurer for credit to the fund:

- 19 (a) The fees imposed by sections 66-1520 and 66-1521;  
20 (b) Money paid under an agreement, stipulation, cost-  
21 recovery award under section 66-1529.02, or settlement; and  
22 (c) Money received by the department in the form of  
23 gifts, grants, reimbursements, property liquidations, or  
24 appropriations from any source intended to be used for the purposes  
25 of the fund.

1                   (2) Money in the fund may be spent for: (a) Reimbursement  
2 for the costs of remedial action by a responsible person or his or  
3 her designated representative and costs of remedial action undertaken  
4 by the department in response to a release first reported after July  
5 17, 1983, and on or before June 30, 2012, including reimbursement for  
6 damages caused by the department or a person acting at the  
7 department's direction while investigating or inspecting or during  
8 remedial action on property other than property on which a release or  
9 suspected release has occurred; (b) payment of any amount due from a  
10 third-party claim; (c) fee collection expenses incurred by the State  
11 Fire Marshal; (d) direct expenses incurred by the department in  
12 carrying out the Petroleum Release Remedial Action Act; (e) other  
13 costs related to fixtures and tangible personal property as provided  
14 in section 66-1529.01; (f) interest payments as allowed by section  
15 66-1524; (g) claims approved by the State Claims Board authorized  
16 under section 66-1531; (h) a grant to a city of the metropolitan  
17 class in the amount of three hundred thousand dollars, provided no  
18 later than September 15, 2005, to carry out the federal Residential  
19 Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et  
20 seq., as such act existed on October 1, 2003; and (i) methyl tertiary  
21 butyl ether testing, to be conducted randomly at terminals within the  
22 state for up to two years ending June 30, 2003. The amount expended  
23 on the testing shall not exceed forty thousand dollars. The testing  
24 shall be conducted by the Department of Agriculture. The department  
25 may enter into contractual arrangements for such purpose. The results

1 of the tests shall be made available to the Department of  
2 Environmental Quality.

3 (3) Transfers may be made from the Petroleum Release  
4 Remedial Action Cash Fund to the General Fund at the direction of the  
5 Legislature. ~~Transfers may be made from the Petroleum Release~~  
6 ~~Remedial Action Cash Fund to the Water Policy Task Force Cash Fund at~~  
7 ~~the direction of the Legislature.~~ The State Treasurer shall transfer  
8 one million five hundred thousand dollars from the Petroleum Release  
9 Remedial Action Cash Fund to the Ethanol Production Incentive Cash  
10 Fund on July 1 of each of the following years: 2004 through 2011.

11 (4) Any money in the Petroleum Release Remedial Action  
12 Cash Fund available for investment shall be invested by the state  
13 investment officer pursuant to the Nebraska Capital Expansion Act and  
14 the Nebraska State Funds Investment Act.

15 Sec. 7. Original sections 2-1579, 46-2,141, 46-753,  
16 46-1117, 46-1125, and 66-1519, Reissue Revised Statutes of Nebraska,  
17 are repealed.

18 Sec. 8. The following sections are outright repealed:  
19 Sections 46-2,131, 46-2,132, 46-2,133, 46-2,134, 46-2,135, 46-2,136,  
20 46-2,137, 46-2,138, 46-633, 46-634.01, and 46-1118, Reissue Revised  
21 Statutes of Nebraska.