

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 302

Introduced by Hughes, 44; at the request of the Governor.

Read first time January 15, 2019

Committee: Natural Resources

1 A BILL FOR AN ACT relating to state government; to amend sections
2 2-15,100, 2-3241, 2-4215, 13-1701, 13-2008, 13-2009, 13-2042.01,
3 37-806, 46-2,109, 46-602, 46-606, 46-704, 46-705, 46-706, 46-711,
4 46-721, 46-722, 46-723, 46-724, 46-725, 46-726, 46-728, 46-729,
5 46-730, 46-731, 46-732, 46-733, 46-743, 46-749, 46-750, 46-1102,
6 46-1108, 46-1109, 46-1217, 46-1301, 46-1502, 46-1642, 54-744.01,
7 54-2417, 54-2421, 54-2429, 57-705, 58-221, 60-6,363, 60-6,364,
8 60-6,367, 60-6,368, 66-203, 66-204, 66-301, 66-302, 66-303, 66-304,
9 66-489.02, 66-1004, 66-1009, 66-1105, 66-1344, 66-1504, 66-1518,
10 66-1529.02, 66-2001, 69-2011, 69-2502, 70-1003, 70-1032, 71-2433,
11 71-3503, 71-5302, 71-5316, 72-804, 72-805, 76-2602, 76-2608,
12 77-27,150, 77-27,151, 77-27,152, 77-27,153, 77-27,154, 77-27,187.01,
13 77-27,236, 81-1108.55, 81-1502, 81-1503, 81-1504.01, 81-1505.01,
14 81-1506, 81-1537, 81-1540, 81-1561, 81-15,118, 81-15,120, 81-15,123,
15 81-15,124, 81-15,124.01, 81-15,124.02, 81-15,124.04, 81-15,124.05,
16 81-15,125, 81-15,126, 81-15,127, 81-15,129, 81-15,159, 81-15,159.02,
17 81-15,166, 81-15,170, 81-15,177, 81-15,178, 81-15,179, 81-15,180,
18 81-15,183, 81-15,184, 81-15,185, 81-15,185.01, 81-15,185.02,
19 81-15,185.03, 81-15,186, 81-15,196, 81-15,210, 81-15,213, 81-15,229,
20 81-15,235, 81-15,242, 81-15,243, 81-15,245, 81-1607, 81-1609,
21 81-1611, 81-1612, 81-1613, 81-1616, 81-1617, 81-1618, 81-1620,
22 81-1625, 81-1635, 81-1636, 81-1637, 81-1638, 81-1640, 81-1641,
23 84-166, 86-570, and 88-550, Reissue Revised Statutes of Nebraska,

1 and sections 2-969, 2-1501, 2-1507, 2-2626, 2-4604, 46-2,139,
2 46-683.01, 46-707, 46-1224, 46-1304, 49-506, 54-703, 57-1407,
3 57-1502, 57-1503, 81-2,294, 81-1316, 81-1504, 81-1505, 81-15,149,
4 81-15,159.01, 81-15,160, 81-1604, 81-1606, 81-1607.01, 81-3449,
5 81-3453, and 84-602.04, Revised Statutes Cumulative Supplement,
6 2018; to merge the State Energy Office with the Department of
7 Environmental Quality; to rename the department, the director, and
8 certain funds; to provide, change, transfer, and eliminate powers
9 and duties; to provide for a permit for discharge of certain
10 materials; to harmonize provisions; to provide an operative date; to
11 repeal the original sections; to outright repeal section 69-2505,
12 Reissue Revised Statutes of Nebraska, and sections 81-1601, 81-1602,
13 81-1603, and 81-1605, Revised Statutes Cumulative Supplement, 2018;
14 and to declare an emergency.

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

1 Section 1. (1) On and after July 1, 2019, the State Energy Office
2 shall be merged into the Department of Environmental Quality which shall
3 be renamed as the Department of Environment and Energy and the Director
4 of Environmental Quality shall be renamed as the Director of Environment
5 and Energy.

6 (2) On and after July 1, 2019, positions of employment in the State
7 Energy Office related to the powers, duties, and functions transferred to
8 the Department of Environment and Energy pursuant to this legislative
9 bill are transferred to the Department of Environment and Energy. For
10 purposes of the transition, employees of the State Energy Office shall be
11 considered employees of the Department of Environment and Energy and
12 shall retain their rights under the state personnel system or pertinent
13 bargaining agreement, and their service shall be deemed continuous. This
14 section does not grant employees any new rights or benefits not otherwise
15 provided by law or bargaining agreement or preclude the department or the
16 director from exercising any of the prerogatives of management set forth
17 in section 81-1311 or as otherwise provided by law. This section is not
18 an amendment to or substitute for the provisions of any existing
19 bargaining agreements.

20 Sec. 2. Any appropriation and salary limit provided in any
21 legislative bill enacted by the One Hundred Sixth Legislature, First
22 Session, to Agency No. 71, State Energy Office, in the following program
23 classification, shall be null and void, and any such amounts are hereby
24 appropriated to Agency No. 84, Department of Environment and Energy:
25 Program No. 106, Energy Office Administration. Any financial obligations
26 of the State Energy Office that remain unpaid as of June 30, 2019, and
27 that are subsequently certified as valid encumbrances to the accounting
28 division of the Department of Administrative Services pursuant to
29 sections 81-138.01 to 81-138.04, shall be paid by the Department of
30 Environment and Energy from the unexpended balance of appropriations
31 existing in such program classifications on June 30, 2019.

1 Sec. 3. On and after July 1, 2019, whenever the State Energy Office
2 or the Department of Environmental Quality is referred to or designated
3 by any contract or other document in connection with the duties and
4 functions of the Department of Environment and Energy, such reference or
5 designation shall apply to the Department of Environment and Energy. All
6 contracts entered into by the State Energy Office or the Department of
7 Environmental Quality prior to July 1, 2019, in connection with the
8 duties and functions of the Department of Environment and Energy are
9 hereby recognized, with the Department of Environment and Energy
10 succeeding to all rights and obligations under such contracts. Any cash
11 funds, custodial funds, gifts, trusts, grants, and any appropriations of
12 funds from prior fiscal years available to satisfy obligations incurred
13 under such contracts shall be transferred and appropriated to such
14 department for the payments of such obligations. All documents and
15 records transferred, or copies of the same, may be authenticated or
16 certified by such department for all legal purposes.

17 Sec. 4. No suit, action, or other proceeding, judicial or
18 administrative, lawfully commenced prior to July 1, 2019, or which could
19 have been commenced prior to that date, by or against the State Energy
20 Office or the Department of Environmental Quality, or the director or any
21 employee thereof in such director's or employee's official capacity or in
22 relation to the discharge of his or her official duties, shall abate by
23 reason of the transfer of duties and functions from the State Energy
24 Office to the Department of Environment and Energy or the renaming of the
25 Department of Environmental Quality as the Department of Environment and
26 Energy.

27 Sec. 5. On and after July 1, 2019, unless otherwise specified,
28 whenever any provision of law refers to the State Energy Office or the
29 Department of Environmental Quality in connection with duties and
30 functions of the Department of Environment and Energy, such law shall be
31 construed as referring to the Department of Environment and Energy.

1 Sec. 6. On July 1, 2019, all items of property, real and personal,
2 including office furniture and fixtures, books, documents, and records of
3 the State Energy Office pertaining to the duties and functions
4 transferred to the Department of Environment and Energy pursuant to this
5 legislative bill shall become the property of such department.

6 Sec. 7. Section 2-969, Revised Statutes Cumulative Supplement, 2018,
7 is amended to read:

8 2-969 The Riparian Vegetation Management Task Force is created. The
9 Governor shall appoint the members of the task force. The members shall
10 include one surface water project representative from each river basin
11 that has ever been determined to be fully appropriated pursuant to
12 section 46-714 or 46-720 or is designated as overappropriated pursuant to
13 section 46-713 by the Department of Natural Resources; one surface water
14 project representative from a river basin that has not been determined to
15 be fully appropriated pursuant to section 46-714 or 46-720 or is not
16 designated as overappropriated pursuant to section 46-713 by the
17 Department of Natural Resources; one representative from the Department
18 of Agriculture, the Department of Environment and Energy Environmental
19 Quality, the Department of Natural Resources, the office of the State
20 Forester, the Game and Parks Commission, and the University of Nebraska;
21 three representatives selected from a list of at least ten individuals
22 nominated by the Nebraska Association of Resources Districts; two
23 representatives selected from a list of at least five individuals
24 nominated by the Nebraska Weed Control Association; one riparian
25 landowner from each of the state's congressional districts; and one
26 representative from the Nebraska Environmental Trust. In addition to such
27 members, any member of the Legislature may serve as a nonvoting, ex
28 officio member of the task force at his or her option. For administrative
29 and budgetary purposes only, the task force shall be housed within the
30 Department of Agriculture.

31 Sec. 8. Section 2-1501, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 2-1501 As used in sections 2-1501 to 2-15,123, unless the context
3 otherwise requires:

4 (1) Commission means the Nebraska Natural Resources Commission;

5 (2) State means the State of Nebraska;

6 (3) Agency of this state means the government of this state and any
7 subdivision, agency, or instrumentality, corporate or otherwise, of the
8 government of this state;

9 (4) United States or agencies of the United States means the United
10 States of America, the Natural Resources Conservation Service of the
11 United States Department of Agriculture, and any other agency or
12 instrumentality, corporate or otherwise, of the United States of America;

13 (5) Government or governmental means the government of this state,
14 the government of the United States, and any subdivision, agency, or
15 instrumentality, corporate or otherwise, of either of them;

16 (6) Lands, easements, and rights-of-way means lands and rights or
17 interests in lands whereon channel improvements, channel rectifications,
18 or water-retarding or gully-stabilization structures are located,
19 including those areas for flooding and flowage purposes, spoil areas,
20 borrow pits, access roads, and similar purposes;

21 (7) Local organization means any natural resources district,
22 drainage district, irrigation district, or other public district, county,
23 city, or state agency;

24 (8) Subwatershed means a portion of a watershed project as divided
25 by the department on a complete hydrologic unit;

26 (9) Rechanneling means the channeling of water from one watercourse
27 to another watercourse by means of open ditches;

28 (10) Watercourse means any depression two feet or more below the
29 surrounding land serving to give direction to a current of water at least
30 nine months of the year, having a bed and well-defined banks and, upon
31 order of the commission, also includes any particular depression which

1 would not otherwise be within the definition of watercourse;

2 (11) Director means the Director of Natural Resources;

3 (12) Department means the Department of Natural Resources; and

4 (13) Combined sewer overflow project means a municipal project to
5 reduce overflows from a combined sewer system pursuant to a long-term
6 control plan approved by the Department of Environment and Energy
7 Environmental Quality.

8 Sec. 9. Section 2-1507, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 2-1507 (1) It is the intent of the Legislature that the Water
11 Sustainability Fund be equitably distributed statewide to the greatest
12 extent possible for the long term and give priority funding status to
13 projects which are the result of federal mandates.

14 (2) Distributions to assist municipalities with the cost of
15 constructing, upgrading, developing, and replacing sewer infrastructure
16 facilities as part of a combined sewer overflow project shall be based on
17 a demonstration of need and shall equal ten percent of the total annual
18 appropriation to the Water Sustainability Fund if (a) applicants have
19 applied for such funding as required under section 2-1509 and (b) any
20 such application has been recommended for further consideration by the
21 director and is subsequently approved for allocation by the commission
22 pursuant to subsection (1) of section 2-1511. If more than one
23 municipality demonstrates a need for funds pursuant to this subsection,
24 funds shall be distributed proportionally based on population.

25 (3) Any money in the Water Sustainability Fund may be allocated by
26 the commission to applicants in accordance with sections 2-1506 to
27 2-1513. Such money may be allocated in the form of grants or loans for
28 water sustainability programs, projects, or activities undertaken within
29 the state. The allocation of funds to a program, project, or activity in
30 one form shall not of itself preclude additional allocations in the same
31 or any other form to the same program, project, or activity.

1 (4) When the commission has approved an allocation of funds to a
2 program, project, or activity, the Department of Natural Resources shall
3 establish a subaccount in the Water Sustainability Fund and credit the
4 entire amount of the allocation to the subaccount. Individual subaccounts
5 shall be established for each program, project, or activity approved by
6 the commission. The commission may approve a partial allocation to a
7 program, project, or activity based upon available unallocated funds in
8 the Water Sustainability Fund, but the amount of unfunded allocations
9 shall not exceed eleven million dollars. Additional allocations to a
10 program, project, or activity shall be credited to the same subaccount as
11 the original allocation. Subaccounts shall not be subject to transfer out
12 of the Water Sustainability Fund, except that the commission may
13 authorize the transfer of excess or unused funds from a subaccount and
14 into the unreserved balance of the fund.

15 (5) A natural resources district is eligible for funding from the
16 Water Sustainability Fund only if the district has adopted or is
17 currently participating in the development of an integrated management
18 plan pursuant to subdivision (1)(a) or (b) of section 46-715.

19 (6) The commission shall utilize the resources and expertise of and
20 collaborate with the Department of Natural Resources, the University of
21 Nebraska, the Department of Environment and Energy ~~Environmental Quality~~,
22 the Nebraska Environmental Trust Board, and the Game and Parks Commission
23 on funding and planning for water programs, projects, or activities.

24 (7) A biennial report shall be made to the Clerk of the Legislature
25 describing the work accomplished by the use of funds towards the goals of
26 the Water Sustainability Fund beginning on December 31, 2015. The report
27 submitted to the Clerk of the Legislature shall be submitted
28 electronically.

29 Sec. 10. Section 2-15,100, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 2-15,100 The state water planning and review process shall be

1 conducted under the guidance and general supervision of the director. The
2 director shall be assisted in the state water planning and review process
3 by the Game and Parks Commission, the Department of Agriculture, the
4 Governor's Policy Research Office, the Department of Health and Human
5 Services, the Department of Environment and Energy ~~Environmental Quality~~,
6 the Water Center of the University of Nebraska, and the Conservation and
7 Survey Division of the University of Nebraska. In addition, the director
8 may obtain assistance from any private individual, organization,
9 political subdivision, or agency of the state or federal government.

10 Sec. 11. Section 2-2626, Revised Statutes Cumulative Supplement,
11 2018, is amended to read:

12 2-2626 The department shall have the following powers, functions,
13 and duties:

14 (1) To administer, implement, and enforce the Pesticide Act and
15 serve as the lead state agency for the regulation of pesticides. The
16 department shall involve the natural resources districts and other state
17 agencies, including the Department of Environment and Energy
18 ~~Environmental Quality~~, the Department of Natural Resources, or the
19 Department of Health and Human Services, in matters relating to water
20 quality. Nothing in the act shall be interpreted in any way to affect the
21 powers of any other state agency or of any natural resources district to
22 regulate for ground water quality or surface water quality as otherwise
23 provided by law;

24 (2) To be responsible for the development and implementation of a
25 state management plan and pesticide management plans. The Department of
26 Environment and Energy ~~Environmental Quality~~ shall be responsible for the
27 adoption of standards for pesticides in surface water and ground water,
28 and the Department of Health and Human Services shall be responsible for
29 the adoption of standards for pesticides in drinking water. These
30 standards shall be established as action levels in the state management
31 plan and pesticide management plans at which prevention and mitigation

1 measures are implemented. Such action levels may be set at or below the
2 maximum contaminant level set for any product as set by the federal
3 agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq.,
4 as the act existed on January 1, 2013. The Department of Agriculture
5 shall cooperate with and use existing expertise in other state agencies
6 when developing the state management plan and pesticide management plans
7 and shall not hire a hydrologist within the department for such purpose;

8 (3) After notice and public hearing, to adopt and promulgate rules
9 and regulations providing lists of state-limited-use pesticides for the
10 entire state or for a designated area within the state, subject to the
11 following:

12 (a) A pesticide shall be included on a list of state-limited-use
13 pesticides if:

14 (i) The Department of Agriculture determines that the pesticide,
15 when used in accordance with its directions for use, warnings, and
16 cautions and for uses for which it is registered, may without additional
17 regulatory restrictions cause unreasonable adverse effects on humans or
18 the environment, including injury to the applicator or other persons
19 because of acute dermal or inhalation toxicity of the pesticides;

20 (ii) The water quality standards set by the Department of
21 Environment and Energy ~~Environmental Quality~~ or the Department of Health
22 and Human Services pursuant to this section are exceeded; or

23 (iii) The Department of Agriculture determines that the pesticide
24 requires additional restrictions to meet the requirements of the
25 Pesticide Act, the federal act, or any plan adopted under the Pesticide
26 Act or the federal act;

27 (b) The Department of Agriculture may regulate the time and
28 conditions of use of a state-limited-use pesticide and may require that
29 it be purchased or possessed only:

30 (i) With permission of the department;

31 (ii) Under direct supervision of the department or its designee in

1 certain areas and under certain conditions;

2 (iii) In specified quantities and concentrations or at specified
3 times; or

4 (iv) According to such other restrictions as the department may set
5 by regulation;

6 (c) The Department of Agriculture may require a person authorized to
7 distribute or use a state-limited-use pesticide to maintain records of
8 the person's distribution or use and may require that the records be kept
9 separate from other business records;

10 (d) The state management plan and pesticide management plans shall
11 be coordinated with the Department of Agriculture and other state agency
12 plans and with other state agencies and with natural resources districts;

13 (e) The state management plan and pesticide management plans may
14 impose progressively more rigorous pesticide management practices as
15 pesticides are detected in ground water or surface water at increasing
16 fractions of the standards adopted by the Department of Environment and
17 Energy Environmental Quality or the Department of Health and Human
18 Services; and

19 (f) A pesticide management plan may impose progressively more
20 rigorous pesticide management practices to address any unreasonable
21 adverse effect of pesticides on humans or the environment. When
22 appropriate, a pesticide management plan may establish action levels for
23 imposition of such progressively more rigorous management practices based
24 upon measurable indicators of the adverse effect on humans or the
25 environment;

26 (4) To adopt and promulgate such rules and regulations as are
27 necessary for the enforcement and administration of the Pesticide Act.
28 The regulations shall include, but not be limited to, regulations
29 providing for:

30 (a) The collection of samples, examination of records, and reporting
31 of information by persons subject to the act;

1 (b) The safe handling, transportation, storage, display,
2 distribution, use, and disposal of pesticides and their containers;

3 (c) Labeling requirements of all pesticides required to be
4 registered under provisions of the act, except that such regulations
5 shall not impose any requirements for federally registered labels
6 contrary to those required pursuant to the federal act;

7 (d) Classes of devices which shall be subject to the Pesticide Act;

8 (e) Reporting and record-keeping requirements for persons
9 distributing or using pesticide products made available under 7 U.S.C.
10 136i-1 of the federal act and for persons required to keep records under
11 the Pesticide Act;

12 (f) Methods to be used in the application of pesticides when the
13 Department of Agriculture finds that such regulations are necessary to
14 carry out the purpose and intent of the Pesticide Act. Such regulations
15 may include methods to be used in the application of a restricted-use
16 pesticide, may relate to the time, place, manner, methods, materials,
17 amounts, and concentrations in connection with the use of the pesticide,
18 may restrict or prohibit use of the pesticides in designated areas during
19 specified periods of time, and may provide specific examples and
20 technical interpretations of subdivision (4) of section 2-2646. The
21 regulations shall encompass all reasonable factors which the department
22 deems necessary to prevent damage or injury by drift or misapplication to
23 (i) plants, including forage plants, or adjacent or nearby property, (ii)
24 wildlife in the adjoining or nearby areas, (iii) fish and other aquatic
25 life in waters in reasonable proximity to the area to be treated, (iv)
26 surface water or ground water, and (v) humans, animals, or beneficial
27 insects. In adopting and promulgating such regulations, the department
28 shall give consideration to pertinent research findings and
29 recommendations of other agencies of the state, the federal government,
30 or other reliable sources. The department may, by regulation, require
31 that notice of a proposed use of a pesticide be given to landowners whose

1 property is adjacent to the property to be treated or in the immediate
2 vicinity thereof if the department finds that such notice is necessary to
3 carry out the purpose of the act;

4 (g) State-limited-use pesticides for the state or for designated
5 areas in the state;

6 (h) Establishment of the amount of any fee or fine as directed by
7 the act;

8 (i) Establishment of the components of any state management plan or
9 pesticide management plan;

10 (j) Establishment of categories for licensed pesticide applicators
11 in addition to those established in 40 C.F.R. 171, as the regulation
12 existed on January 1, 2013; and

13 (k) Establishment of a process for the issuance of permits for
14 emergency-use pesticides made available under 7 U.S.C. 136p of the
15 federal act;

16 (5) To enter any public or private premises at any reasonable time
17 to:

18 (a) Inspect and sample any equipment authorized or required to be
19 inspected under the Pesticide Act or to inspect the premises on which the
20 equipment is kept or stored;

21 (b) Inspect or sample any area exposed or reported to be exposed to
22 a pesticide or where a pesticide use has occurred;

23 (c) Inspect and sample any area where a pesticide is disposed of or
24 stored;

25 (d) Observe the use and application of and sample any pesticide;

26 (e) Inspect and copy any records relating to the distribution or use
27 of any pesticide or the issuance of any license, permit, or registration
28 under the act; or

29 (f) Inspect, examine, or take samples from any application
30 equipment, building, or place owned, controlled, or operated by any
31 person engaging in an activity regulated by the act if, from probable

1 cause, it appears that the application equipment, building, or place
2 contains a pesticide;

3 (6) To sample, inspect, make analysis of, and test any pesticide
4 found within this state;

5 (7) To issue and enforce a written or printed order to stop the
6 sale, removal, or use of a pesticide if the Department of Agriculture has
7 reason to believe that the pesticide is in violation of any provision of
8 the act. The department shall present the order to the owner or custodian
9 of the pesticide. The person who receives the order shall not distribute,
10 remove, or use the pesticide until the department determines that the
11 pesticide is in compliance with the act. This subdivision shall not limit
12 the right of the department to proceed as authorized by any other
13 provision of the act;

14 (8)(a) To sue in the name of the director to enjoin any violation of
15 the act. Venue for such action shall be in the county in which the
16 alleged violation occurred, is occurring, or is threatening to occur; and

17 (b) To request the county attorney or the Attorney General to bring
18 suit to enjoin a violation or threatened violation of the act;

19 (9) To impose or levy an administrative fine of not more than five
20 thousand dollars for each violation on any person who has violated any
21 provision, requirement, condition, limitation, or duty imposed by the act
22 or rules and regulations adopted and promulgated pursuant to the act. A
23 violation means each action which violates any separate or distinct
24 provision, requirement, condition, limitation, or duty imposed by the act
25 or rules and regulations adopted and promulgated pursuant to the act;

26 (10) To cause a violation warning letter to be served upon the
27 alleged violator or violators pursuant to the act;

28 (11) To take reasonable measures to assess and collect all fees and
29 fines prescribed by the act and the rules or regulations adopted under
30 the act;

31 (12) To access, inspect, and copy all books, papers, records, bills

1 of lading, invoices, and other information relating to the use,
2 manufacture, repackaging, and distribution of pesticides necessary for
3 the enforcement of the act;

4 (13) To seize, for use as evidence, without formal warrant if
5 probable cause exists, any pesticide which is in violation of the act or
6 is not approved by the Department of Agriculture or which is found to be
7 used or distributed in the violation of the act or the rules and
8 regulations adopted and promulgated under it;

9 (14) To declare as a pest any form of plant or animal life, other
10 than humans and other than bacteria, viruses, and other microorganisms on
11 or in living humans or other living animals, which is injurious to health
12 or the environment;

13 (15) To adopt classifications of restricted-use pesticides as
14 determined by the federal agency under the federal act. In addition to
15 the restricted-use pesticides classified by the administrator, the
16 Department of Agriculture may also determine state-limited-use pesticides
17 for the state or for designated areas within the state as provided in
18 subdivision (3) of this section;

19 (16) To receive grants-in-aid from any federal entity, and to enter
20 into cooperative agreements with any federal entity, any agency of this
21 state, any subdivision of this state, any agency of another state, any
22 Indian tribe, or any private person for the purpose of obtaining
23 consistency with or assistance in the implementation of the Pesticide
24 Act. The Department of Agriculture may reimburse any such entity from the
25 Pesticide Administrative Cash Fund for the work performed under the
26 cooperative agreement. The department may delegate its administrative
27 responsibilities under the act to cities of the metropolitan and primary
28 classes if it reasonably believes that such cities can perform the
29 responsibilities in a manner consistent with the act and the rules and
30 regulations adopted and promulgated under it;

31 (17) To prepare and adopt such plans as are necessary to implement

1 any requirements of the federal agency under the federal act;

2 (18) To request the assistance of the Attorney General or the county
3 attorney in the county in which a violation of the Pesticide Act has
4 occurred with the prosecution or enforcement of any violation of the act;

5 (19) To enter into a settlement agreement with any person regarding
6 the disposition of any license, permit, registration, or administrative
7 fine;

8 (20) To issue a cease and desist order pursuant to section 2-2649;

9 (21) To deny an application or cancel, suspend, or modify the
10 registration of a pesticide pursuant to section 2-2632;

11 (22) To issue, cancel, suspend, modify, or place on probation any
12 license or permit issued pursuant to the act; and

13 (23) To make such reports to the federal agency as are required
14 under the federal act.

15 Sec. 12. Section 2-3241, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 2-3241 Each district shall have the power and authority to provide
18 technical and other assistance as may be necessary or desirable in rural
19 areas to abate the lowering of water quality in the state caused by
20 sedimentation, effluent from feedlots, and runoff from cropland areas
21 containing agricultural chemicals. Such assistance shall be coordinated
22 with the programs and the stream quality standards as established by the
23 Department of Environment and Energy ~~Environmental Quality~~.

24 Sec. 13. Section 2-4215, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 2-4215 In exercising any powers granted by the Conservation
27 Corporation Act, the corporation shall coordinate its activities with the
28 land and water resources policies, programs, and planning efforts of the
29 state, particularly the Department of Environment and Energy
30 ~~Environmental Quality~~ and the Department of Natural Resources, and with
31 the several natural resources districts throughout the state.

1 Sec. 14. Section 2-4604, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 2-4604 (1) The director shall, in cooperation with the commission,
4 the Department of Environment and Energy ~~Environmental Quality~~, the
5 Natural Resources Conservation Service of the United States Department of
6 Agriculture, and other appropriate state and federal agencies, develop
7 and coordinate a comprehensive state erosion and sediment control program
8 designed to reduce soil erosion in this state to tolerable levels. The
9 program, which shall be reasonable and attainable, shall include:

10 (a) The soil-loss tolerance level for the various types of soils in
11 the state;

12 (b) State goals and a state strategy for reducing soil losses on all
13 lands in the state to an amount no more than the applicable soil-loss
14 tolerance level;

15 (c) Guidelines for establishing priorities for implementation of the
16 program at the state and local levels;

17 (d) Types of assistance to be provided by the state to districts,
18 cities, and counties in the implementation of the state and local erosion
19 and sediment control programs; and

20 (e) Such other elements as the director deems appropriate in
21 accordance with the objectives of the Erosion and Sediment Control Act,
22 including any recommendations for further legislative or administrative
23 action.

24 (2) The state erosion and sediment control program may be revised by
25 the director and the commission at any time. Before approving any such
26 changes, the director and the commission shall conduct at least four
27 public hearings or meetings to receive information from interested
28 persons in different parts of the state.

29 Sec. 15. Section 13-1701, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 13-1701 For purposes of sections 13-1701 to 13-1714 and 76-2,119:

1 (1) Applicant shall mean any person as defined in section 81-1502
2 who is required to obtain a permit from the department for a solid waste
3 disposal area or a solid waste processing facility but shall not include
4 any person applying for renewal of such a permit or any person as defined
5 in such section who proposes to dispose of waste which he or she
6 generates on property which he or she owns as of January 1, 1991;

7 (2) Department shall mean the Department of Environment and Energy
8 ~~Environmental Quality~~;

9 (3) Solid waste disposal area shall mean an area used for the
10 disposal of solid waste from more than one residential premises or from
11 one or more recreational, commercial, industrial, manufacturing, or
12 governmental operations; and

13 (4) Solid waste processing facility shall mean an incinerator or a
14 compost plant receiving material, other than yard waste, in quantities
15 greater than one thousand cubic yards annually.

16 Sec. 16. Section 13-2008, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 13-2008 Department shall mean the Department of Environment and
19 Energy ~~Environmental Quality~~.

20 Sec. 17. Section 13-2009, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 13-2009 Director shall mean the Director of Environment and Energy
23 ~~Environmental Quality~~.

24 Sec. 18. Section 13-2042.01, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 13-2042.01 (1) The Department of Environment and Energy
27 ~~Environmental Quality~~ shall rebate to the municipality or county of
28 origin ten cents of the disposal fee required by section 13-2042 for
29 solid waste disposed of at landfills regulated by the department or
30 transported for disposal out of state from a solid waste processing
31 facility holding a permit under the Integrated Solid Waste Management Act

1 and when such solid waste originated in a municipality or county with a
2 purchasing policy approved by the department. The fee shall be rebated on
3 a schedule agreed upon between the municipality or county and the
4 department. The schedule shall be no more often than quarterly and no
5 less often than annually.

6 (2) Any municipality or county may apply to the department for the
7 rebate authorized in subsection (1) of this section if the municipality
8 or county has a written purchasing policy in effect requiring a
9 preference for purchasing products, materials, or supplies which are
10 manufactured or produced from recycled material. The policy shall provide
11 that the preference shall not operate when it would result in the
12 purchase of products, materials, or supplies which are of inadequate
13 quality as determined by the municipality or county. Upon receipt of an
14 application, the Department of Environment and Energy ~~Environmental~~
15 ~~Quality~~ shall submit the application to the materiel division of the
16 Department of Administrative Services for review. The materiel division
17 shall review the application for compliance with this section and any
18 rules and regulations adopted pursuant to this section and to determine
19 the probable effectiveness in assuring that a preference is given to
20 products, materials, or supplies which are manufactured or produced from
21 recycled material. The materiel division shall provide a report of its
22 findings to the Department of Environment and Energy ~~Environmental~~
23 ~~Quality~~ within thirty days after receiving the review request. The
24 Department of Environment and Energy ~~Environmental Quality~~ shall approve
25 the application or suggest modifications to the application within sixty
26 days after receiving the application based on the materiel division's
27 report, any analysis by the Department of Environment and Energy
28 ~~Environmental Quality~~, and any factors affecting compliance with this
29 section or the rules and regulations adopted pursuant to this section.

30 (3) A municipality or county shall file a report complying with the
31 rules and regulations adopted pursuant to this section with the

1 Department of Environment and Energy ~~Environmental Quality~~ before April 1
2 of each year documenting purchasing practices for the past calendar year
3 in order to continue receiving the rebate. The report shall include, but
4 not be limited to, quantities of products, materials, or supplies
5 purchased which were manufactured or produced from recycled material. The
6 department shall provide copies of each report to the materiel division
7 in a timely manner. If the department determines that a municipality or
8 county is not following the purchasing policy presented in the approved
9 application or that the purchasing policy presented in the approved
10 application is not effective in assuring that a preference is given to
11 products, materials, or supplies which are manufactured or produced from
12 recycled material, the department shall suspend the rebate until it
13 determines that the municipality or county is giving a preference to
14 products, materials, or supplies which are manufactured or produced from
15 recycled material pursuant to a written purchasing policy approved by the
16 department subsequent to the suspension. The materiel division may make
17 recommendations to the department regarding suspensions and
18 reinstatements of rebates. The Department of Administrative Services may
19 adopt and promulgate rules and regulations establishing procedures for
20 reviewing applications and for annual reports.

21 (4) Any suspension of the rebate or denial of an application made
22 under this section may be appealed. The appeal shall be in accordance
23 with the Administrative Procedure Act.

24 (5) The council shall adopt and promulgate rules and regulations
25 establishing criteria for application procedures, for accepting and
26 denying applications, for required reports, and for suspending and
27 reinstating the rebate. The materiel division shall recommend to the
28 council criteria for accepting and denying applications and for
29 suspending and reinstating the rebate. The materiel division may make
30 other recommendations to the council regarding rules and regulations
31 authorized under this section.

1 Sec. 19. Section 37-806, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 37-806 (1) Any species of wildlife or wild plants determined to be
4 an endangered species pursuant to the Endangered Species Act shall be an
5 endangered species under the Nongame and Endangered Species Conservation
6 Act, and any species of wildlife or wild plants determined to be a
7 threatened species pursuant to the Endangered Species Act shall be a
8 threatened species under the Nongame and Endangered Species Conservation
9 Act. The commission may determine that any such threatened species is an
10 endangered species throughout all or any portion of the range of such
11 species within this state.

12 (2) In addition to the species determined to be endangered or
13 threatened pursuant to the Endangered Species Act, the commission shall
14 by regulation determine whether any species of wildlife or wild plants
15 normally occurring within this state is an endangered or threatened
16 species as a result of any of the following factors:

17 (a) The present or threatened destruction, modification, or
18 curtailment of its habitat or range;

19 (b) Overutilization for commercial, sporting, scientific,
20 educational, or other purposes;

21 (c) Disease or predation;

22 (d) The inadequacy of existing regulatory mechanisms; or

23 (e) Other natural or manmade factors affecting its continued
24 existence within this state.

25 (3)(a) The commission shall make determinations required by
26 subsection (2) of this section on the basis of the best scientific,
27 commercial, and other data available to the commission.

28 (b) Except with respect to species of wildlife or wild plants
29 determined to be endangered or threatened species under subsection (1) of
30 this section, the commission may not add a species to nor remove a
31 species from any list published pursuant to subsection (5) of this

1 section unless the commission has first:

2 (i) Provided public notice of such proposed action by publication in
3 a newspaper of general circulation in each county in that portion of the
4 subject species' range in which it is endangered or threatened or, if the
5 subject species' range extends over more than five counties, in a
6 newspaper of statewide circulation distributed in the county;

7 (ii) Provided notice of such proposed action to and allowed comment
8 from the Department of Agriculture, the Department of Environment and
9 Energy Environmental Quality, and the Department of Natural Resources;

10 (iii) Provided notice of such proposed action to and allowed comment
11 from each natural resources district and public power district located in
12 that portion of the subject species' range in which it is endangered or
13 threatened;

14 (iv) Notified the Governor of any state sharing a common border with
15 this state, in which the subject species is known to occur, that such
16 action is being proposed;

17 (v) Allowed at least sixty days following publication for comment
18 from the public and other interested parties;

19 (vi) Held at least one public hearing on such proposed action in
20 each game and parks commissioner district of the subject species' range
21 in which it is endangered or threatened;

22 (vii) Submitted the scientific, commercial, and other data which is
23 the basis of the proposed action to scientists or experts outside and
24 independent of the commission for peer review of the data and
25 conclusions. If the commission submits the data to a state or federal
26 fish and wildlife agency for peer review, the commission shall also
27 submit the data to scientists or experts not affiliated with such an
28 agency for review. For purposes of this section, state fish and wildlife
29 agency does not include a postsecondary educational institution; and

30 (viii) For species proposed to be added under this subsection but
31 not for species proposed to be removed under this subsection, developed

1 an outline of the potential impacts, requirements, or regulations that
2 may be placed on private landowners, or other persons who hold state-
3 recognized property rights on behalf of themselves or others, as a result
4 of the listing of the species or the development of a proposed program
5 for the conservation of the species as required in subsection (1) of
6 section 37-807.

7 The inadvertent failure to provide notice as required by subdivision
8 (3)(b) of this section shall not prohibit the listing of a species and
9 shall not be deemed to be a violation of the Administrative Procedure Act
10 or the Nongame and Endangered Species Conservation Act.

11 (c) When the commission is proposing to add or remove a species
12 under this subsection, public notice under subdivision (3)(b)(i) of this
13 section shall include, but not be limited to, (i) the species proposed to
14 be listed and a description of that portion of its range in which the
15 species is endangered or threatened, (ii) a declaration that the
16 commission submitted the data which is the basis for the listing for peer
17 review and developed an outline if required under subdivision (b)(viii)
18 of this subsection, and (iii) a declaration of the availability of the
19 peer review, including an explanation of any changes or modifications the
20 commission has made to its proposal as a result of the peer review, and
21 the outline required under subdivision (b)(viii) of this subsection, if
22 applicable, for public examination.

23 (d) In cases when the commission determines that an emergency
24 situation exists involving the continued existence of such species as a
25 viable component of the wild fauna or flora of the state, the commission
26 may add species to such lists after having first published a public
27 notice that such an emergency situation exists together with a summary of
28 facts which support such determination.

29 (4) In determining whether any species of wildlife or wild plants is
30 an endangered or threatened species, the commission shall take into
31 consideration those actions being carried out by the federal government,

1 by other states, by other agencies of this state or political
2 subdivisions thereof, or by any other person which may affect the species
3 under consideration.

4 (5) The commission shall issue regulations containing a list of all
5 species of wildlife and wild plants normally occurring within this state
6 which it determines, in accordance with subsections (1) through (4) of
7 this section, to be endangered or threatened species and a list of all
8 such species. Each list shall refer to the species contained therein by
9 scientific and common name or names, if any, and shall specify with
10 respect to each such species over what portion of its range it is
11 endangered or threatened.

12 (6) Except with respect to species of wildlife or wild plants
13 determined to be endangered or threatened pursuant to the Endangered
14 Species Act, the commission shall, upon the petition of an interested
15 person, conduct a review of any listed or unlisted species proposed to be
16 removed from or added to the lists published pursuant to subsection (5)
17 of this section, but only if the commission publishes a public notice
18 that such person has presented substantial evidence which warrants such a
19 review.

20 (7) Whenever any species of wildlife or wild plants is listed as a
21 threatened species pursuant to subsection (5) of this section, the
22 commission shall issue such regulations as are necessary to provide for
23 the conservation of such species. The commission may prohibit, with
24 respect to any threatened species of wildlife or wild plants, any act
25 prohibited under subsection (8) or (9) of this section.

26 (8) With respect to any endangered species of wildlife, it shall be
27 unlawful, except as provided in subsection (7) of this section, for any
28 person subject to the jurisdiction of this state to:

- 29 (a) Export any such species from this state;
30 (b) Take any such species within this state;
31 (c) Possess, process, sell or offer for sale, deliver, carry,

1 transport, or ship, by any means whatsoever except as a common or
2 contract motor carrier under the jurisdiction of the Public Service
3 Commission or the Interstate Commerce Commission, any such species; or

4 (d) Violate any regulation pertaining to the conservation of such
5 species or to any threatened species of wildlife listed pursuant to this
6 section and promulgated by the commission pursuant to the Nongame and
7 Endangered Species Conservation Act.

8 (9) With respect to any endangered species of wild plants, it shall
9 be unlawful, except as provided in subsection (7) of this section, for
10 any person subject to the jurisdiction of this state to:

11 (a) Export any such species from this state;

12 (b) Possess, process, sell or offer for sale, deliver, carry,
13 transport, or ship, by any means whatsoever, any such species; or

14 (c) Violate any regulation pertaining to such species or to any
15 threatened species of wild plants listed pursuant to this section and
16 promulgated by the commission pursuant to the act.

17 (10) Any endangered species of wildlife or wild plants which enters
18 this state from another state or from a point outside the territorial
19 limits of the United States and which is being transported to a point
20 within or beyond this state may be so entered and transported without
21 restriction in accordance with the terms of any federal permit or permit
22 issued under the laws or regulations of another state.

23 (11) The commission may permit any act otherwise prohibited by
24 subsection (8) of this section for scientific purposes or to enhance the
25 propagation or survival of the affected species.

26 (12) Any law, regulation, or ordinance of any political subdivision
27 of this state which applies with respect to the taking, importation,
28 exportation, possession, sale or offer for sale, processing, delivery,
29 carrying, transportation other than under the jurisdiction of the Public
30 Service Commission, or shipment of species determined to be endangered or
31 threatened species pursuant to the Nongame and Endangered Species

1 Conservation Act shall be void to the extent that it may effectively (a)
2 permit that which is prohibited by the act or by any regulation which
3 implements the act or (b) prohibit that which is authorized pursuant to
4 an exemption or permit provided for in the act or in any regulation which
5 implements the act. The Nongame and Endangered Species Conservation Act
6 shall not otherwise be construed to void any law, regulation, or
7 ordinance of any political subdivision of this state which is intended to
8 conserve wildlife or wild plants.

9 Sec. 20. Section 46-2,109, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-2,109 Each natural resources district and the Game and Parks
12 Commission shall conduct studies to identify specific stream segments
13 which the district or commission considers to have a critical need for
14 instream flows. Such studies shall quantify the instream flow needs in
15 the identified stream segments. Any district or the Game and Parks
16 Commission may request the assistance of the Conservation and Survey
17 Division of the University of Nebraska, the Game and Parks Commission,
18 the Department of Environment and Energy ~~Environmental Quality~~, the
19 Department of Natural Resources, or any other state agency in order to
20 comply with this section.

21 Sec. 21. Section 46-2,139, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 46-2,139 The Storm Water Management Plan Program is created. The
24 purpose of the program is to facilitate and fund the duties of cities and
25 counties under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as
26 such act existed on January 1, 2006, regarding storm water runoff under
27 the National Pollutant Discharge Elimination System requirements. The
28 Storm Water Management Plan Program shall function as a grant program
29 administered by the Department of Environment and Energy ~~Environmental~~
30 ~~Quality~~, using funds appropriated for the program. The department shall
31 deduct from funds appropriated amounts sufficient to reimburse itself for

1 its costs of administration of the grant program. Any city or county when
2 applying for a grant under the program shall have a storm water
3 management plan approved by the department which meets the requirements
4 of the National Pollutant Discharge Elimination System. Grant
5 applications shall be made to the department on forms prescribed by the
6 department. Grant funds shall be distributed by the department as
7 follows:

8 (1) Not less than eighty percent of the funds available for grants
9 under this section shall be provided to cities and counties in urbanized
10 areas, as identified in 77 Federal Register 18652-18669, that apply for
11 grants and meet the requirements of this section. Grants made pursuant to
12 this subdivision shall be distributed proportionately based on the
13 population of applicants within such category, as determined by the most
14 recent federal census update or recount certified by the United States
15 Department of Commerce, Bureau of the Census. For the purpose of
16 distributing grant funds to a county pursuant to this subdivision, the
17 proportion shall be based on the county population, less the population
18 of city applicants within that county. Any funds available for grants
19 under this subdivision and not awarded by the end of a calendar year
20 shall be available for grants in the following year; and

21 (2) Not more than twenty percent of the funds available for grants
22 under this section shall be provided to cities and counties outside of
23 urbanized areas, as identified in 77 Federal Register 18652-18669, with
24 populations greater than ten thousand inhabitants as determined by the
25 most recent federal census update or recount certified by the United
26 States Department of Commerce, Bureau of the Census, that apply for
27 grants and meet the requirements of this section. Grants under this
28 subdivision shall be distributed proportionately based on the population
29 of applicants within this category as determined by the most recent
30 federal census update or recount certified by the United States
31 Department of Commerce, Bureau of the Census. For the purpose of

1 distributing grant funds to a county pursuant to this subdivision, the
2 proportion shall be based on the county population, less the population
3 of city applicants within that county. Any funds available for grants
4 pursuant to this subdivision which have not been awarded at the end of
5 each calendar year shall be available for awarding grants pursuant to
6 subdivision (1) of this section.

7 Any city or county receiving a grant under subdivision (1) or (2) of
8 this section shall contribute matching funds equal to twenty percent of
9 the grant amount.

10 Sec. 22. Section 46-602, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-602 (1) Each water well completed in this state on or after July
13 1, 2001, excluding test holes and dewatering wells to be used for less
14 than ninety days, shall be registered with the Department of Natural
15 Resources as provided in this section within sixty days after completion
16 of construction of the water well. The licensed water well contractor as
17 defined in section 46-1213 constructing the water well, or the owner of
18 the water well if the owner constructed the water well, shall file the
19 registration on a form made available by the department and shall also
20 file with the department the information from the well log required
21 pursuant to section 46-1241. The department shall, by January 1, 2002,
22 provide licensed water well contractors with the option of filing such
23 registration forms electronically. No signature shall be required on
24 forms filed electronically. The fee required by subsection (3) of section
25 46-1224 shall be the source of funds for any required fee to a contractor
26 which provides the online services for such registration. Any discount in
27 the amount paid the state by a credit card, charge card, or debit card
28 company or a third-party merchant bank for such registration fees shall
29 be deducted from the portion of the registration fee collected pursuant
30 to section 46-1224.

31 (2)(a) If the newly constructed water well is a replacement water

1 well, the registration form shall include (i) the registration number of
2 the water well being replaced, if applicable, and (ii) the date the
3 original water well was decommissioned or a certification that the water
4 well will be decommissioned within one hundred eighty days or a
5 certification that the original water well will be modified and equipped
6 to pump fifty gallons per minute or less and will be used only for
7 livestock, monitoring, observation, or any other nonconsumptive use or de
8 minimis use approved by the applicable natural resources district.

9 (b) For purposes of this section, replacement water well means a
10 water well which is constructed to provide water for the same purpose as
11 the original water well and is operating in accordance with any
12 applicable permit from the department and any applicable rules and
13 regulations of the natural resources district and, if the purpose is for
14 irrigation, the replacement water well delivers water to the same tract
15 of land served by the original water well and (i) replaces a
16 decommissioned water well within one hundred eighty days after the
17 decommissioning of the original water well, (ii) replaces a water well
18 that has not been decommissioned but will not be used after construction
19 of the new water well and the original water well will be decommissioned
20 within one hundred eighty days after such construction, except that in
21 the case of a municipal water well, the original municipal water well may
22 be used after construction of the new water well but shall be
23 decommissioned within one year after completion of the replacement water
24 well, or (iii) the original water well will continue to be used but will
25 be modified and equipped within one hundred eighty days after such
26 construction of the replacement water well to pump fifty gallons per
27 minute or less and will be used only for livestock, monitoring,
28 observation, or any other nonconsumptive or de minimis use approved by
29 the applicable natural resources district.

30 (c) No water well shall be registered as a replacement water well
31 until the Department of Natural Resources has received a properly

1 completed notice of decommissioning for the water well being replaced on
2 a form made available by the department, or properly completed notice,
3 prepared in accordance with subsection (7) of this section, of the
4 modification and equipping of the original water well to pump fifty
5 gallons per minute or less for use only for livestock, monitoring,
6 observation, or any other nonconsumptive or de minimis use approved by
7 the applicable natural resources district. Such notices, as required,
8 shall be completed by (i) the licensed water well contractor as defined
9 in section 46-1213 who decommissions the water well or modifies and
10 equips the water well, (ii) the licensed pump installation contractor as
11 defined in section 46-1209 who decommissions the water well or modifies
12 and equips the water well, or (iii) the owner if the owner decommissions
13 a driven sandpoint well which is on land owned by him or her for farming,
14 ranching, or agricultural purposes or as his or her place of abode. The
15 Department of Health and Human Services shall, by rule and regulation,
16 determine which contractor or owner shall be responsible for such notice
17 in situations in which more than one contractor or owner may be required
18 to provide notice under this subsection.

19 (3) For a series of two or more water wells completed and pumped
20 into a common carrier as part of a single site plan for irrigation
21 purposes, a registration form and a detailed site plan shall be filed for
22 each water well. The registration form shall include the registration
23 numbers of other water wells included in the series if such water wells
24 are already registered.

25 (4) A series of water wells completed for purposes of installation
26 of a ground heat exchanger for a structure for utilizing the geothermal
27 properties of the ground shall be considered as one water well. One
28 registration form and a detailed site plan shall be filed for each such
29 series.

30 (5) One registration form shall be required along with a detailed
31 site plan which shows the location of each such water well in the site

1 and a log from each such water well for water wells constructed as part
2 of a single site plan for (a) monitoring ground water, obtaining
3 hydrogeologic information, or extracting contaminants from the ground,
4 (b) water wells constructed as part of remedial action approved by the
5 Department of Environment and Energy ~~Environmental Quality~~ pursuant to
6 section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who
7 have a permit issued pursuant to the Industrial Ground Water Regulatory
8 Act and also have an underground injection control permit issued by the
9 Department of Environment and Energy ~~Environmental Quality~~.

10 (6) The Department of Natural Resources shall be notified by the
11 owner of any change in the ownership of a water well required to be
12 registered under this section. Notification shall be in such form and
13 include such evidence of ownership as the Director of Natural Resources
14 by rule and regulation directs. The department shall use such notice to
15 update the registration on file. The department shall not collect a fee
16 for the filing of the notice.

17 (7) The licensed water well contractor or licensed pump installation
18 contractor responsible therefor shall notify the department within sixty
19 days on a form provided by the department of any pump installation or any
20 modifications to the construction of the water well or pump, after the
21 initial registration of the well. For a change of use resulting in
22 modification and equipping of an original water well which is being
23 replaced in accordance with subsection (2) of this section, the licensed
24 water well contractor or licensed pump installation contractor shall
25 notify the department within sixty days on a form provided by the
26 department of the water well and pump modifications and equipping of the
27 original water well. A water well owner shall notify the department
28 within sixty days on a form provided by the department of any other
29 changes or any inaccuracies in recorded water well information,
30 including, but not limited to, changes in use. The department shall not
31 collect a fee for the filing of the notice.

1 (8) Whenever a water well becomes an illegal water well as defined
2 in section 46-706, the owner of the water well shall either correct the
3 deficiency that causes the well to be an illegal water well or shall
4 cause the proper decommissioning of the water well in accordance with
5 rules and regulations adopted pursuant to the Water Well Standards and
6 Contractors' Practice Act. The licensed water well contractor who
7 decommissions the water well, the licensed pump installation contractor
8 who decommissions the water well, or the owner if the owner decommissions
9 a driven sandpoint well which is on land owned by him or her for farming,
10 ranching, or agricultural purposes or as his or her place of abode, shall
11 provide a properly completed notice of decommissioning to the Department
12 of Natural Resources within sixty days. The Department of Health and
13 Human Services shall, by rule and regulation, determine which contractor
14 or owner shall be responsible for such notice in situations in which more
15 than one contractor or owner may be required to provide notice under this
16 subsection. The Department of Natural Resources shall not collect a fee
17 for the filing of the notice.

18 (9) Except for water wells which are used solely for domestic
19 purposes and were constructed before September 9, 1993, and for test
20 holes and dewatering wells used for less than ninety days, each water
21 well which was completed in this state before July 1, 2001, and which is
22 not registered on that date shall be an illegal water well until it is
23 registered with the Department of Natural Resources. Such registration
24 shall be completed by a licensed water well contractor or by the current
25 owner of the water well, shall be on forms provided by the department,
26 and shall provide as much of the information required by subsections (1)
27 through (5) of this section for registration of a new water well as is
28 possible at the time of registration.

29 (10) Water wells which are or were used solely for injecting any
30 fluid other than water into the underground water reservoir, which were
31 constructed before July 16, 2004, and which have not been properly

1 decommissioned on or before July 16, 2004, shall be registered on or
2 before July 1, 2005.

3 (11) Water wells described in subdivision (1)(b) of section
4 46-601.01 shall be registered with the Department of Natural Resources as
5 provided in subsection (1) of this section within sixty days after the
6 water well is constructed. Water wells described in subdivision (1)(b) of
7 section 46-601.01 which were constructed prior to May 2, 2007, shall be
8 registered within one hundred eighty days after such date.

9 Sec. 23. Section 46-606, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-606 (1) The Director of Natural Resources shall collect in
12 advance a registration fee of forty dollars and the fee required by
13 subsection (3) of section 46-1224 for each water well registered under
14 section 46-602 except as provided in subsections (2) through (5) of this
15 section.

16 (2) For water wells permitted pursuant to the Industrial Ground
17 Water Regulatory Act, the director shall collect in advance a
18 registration fee of forty dollars and the fee required by subsection (3)
19 of section 46-1224 for each of the first ten such water wells registered
20 under section 46-602, and for each group of ten or fewer such water wells
21 registered thereafter, the director shall collect in advance a
22 registration fee of forty dollars and the fee required by subsection (3)
23 of section 46-1224.

24 (3) For a series of water wells completed for purposes of
25 installation of a ground heat exchanger for a structure for utilizing the
26 geothermal properties of the ground, the director shall collect in
27 advance a fee of forty dollars for each such series and the fee required
28 by subsection (3) of section 46-1224.

29 (4) For water wells constructed as part of a single site plan for
30 monitoring ground water, obtaining hydrogeologic information, or
31 extracting contaminants from the ground, the director shall collect in

1 advance a registration fee of forty dollars and the fee required by
2 subsection (3) of section 46-1224 for each of the first five such water
3 wells registered under section 46-602, and for each group of five or
4 fewer such water wells registered thereafter, the director shall collect
5 in advance a registration fee of forty dollars and the fee required by
6 subsection (3) of section 46-1224. However, if such water wells are a
7 part of remedial action approved by the Department of Environment and
8 Energy Environmental Quality pursuant to section 66-1525, 66-1529.02, or
9 81-15,124, the fee set pursuant to this subsection shall be collected as
10 if only one water well was being registered and the fee required by
11 subsection (3) of section 46-1224 shall be collected.

12 (5)(a) For a series of two or more water wells completed and pumped
13 into a common carrier as part of a single site plan for irrigation
14 purposes, the director shall collect in advance a registration fee of
15 forty dollars and the fee required by subsection (3) of section 46-1224
16 for each of the first two such wells registered under section 46-602.

17 (b) Any additional water wells which are part of a series registered
18 under this subsection shall not be subject to a new well registration
19 fee.

20 (6) The director shall remit the fees collected to the State
21 Treasurer for credit to the appropriate fund. From the registration fees
22 required by subsections (1) through (5) of this section, the State
23 Treasurer shall credit to the Department of Natural Resources Cash Fund
24 the amount determined by the Department of Natural Resources to be
25 necessary to pay for the costs of processing notices filed pursuant to
26 section 46-230, the costs of water resources update notices required by
27 section 76-2,124, and the costs for making corrections to water well
28 registration data authorized by subsections (6) and (7) of section 46-602
29 and shall credit the remainder of the registration fees required by
30 subsections (1) through (5) of this section to the Water Well
31 Decommissioning Fund. The State Treasurer shall credit the fees required

1 by subsection (3) of section 46-1224 to the Water Well Standards and
2 Contractors' Licensing Fund.

3 Sec. 24. Section 46-683.01, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 46-683.01 If during construction or operation a permitholder
6 determines (1) that an additional amount of water is or will be required
7 for the proposed use set forth in a permit issued pursuant to section
8 46-683 or (2) that there is a need to amend any condition set forth in
9 the permit, the permitholder may file an application to amend the permit.
10 Following a hearing conducted in the manner prescribed by section 46-680,
11 the director shall issue a written order containing specific findings of
12 fact either granting or denying the proposed amendment in accordance with
13 the public interest considerations enumerated in section 46-683. An
14 application to amend a permit shall not be approved if the amendment
15 would increase the daily peak withdrawal or the annual volume by more
16 than twenty-five percent from the amounts approved in the original
17 permit, except for an amendment to increase the maximum daily volumetric
18 flow rate or annual volume to levels authorized under a permit issued by
19 the Department of Environment and Energy ~~Environmental Quality~~ pursuant
20 to section 81-1504 and subsection (9) of section 81-1505.

21 Sec. 25. Section 46-704, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-704 The Legislature also finds that:

24 (1) The levels of nitrate nitrogen and other contaminants in ground
25 water in certain areas of the state are increasing;

26 (2) Long-term solutions should be implemented and efforts should be
27 made to prevent the levels of ground water contaminants from becoming too
28 high and to reduce high levels sufficiently to eliminate health hazards;

29 (3) Agriculture has been very productive and should continue to be
30 an important industry to the State of Nebraska;

31 (4) Natural resources districts have the legal authority to regulate

1 certain activities and, as local entities, are the preferred regulators
2 of activities which may contribute to ground water contamination in both
3 urban and rural areas;

4 (5) The Department of Environment and Energy ~~Environmental Quality~~
5 should be given authority to regulate sources of contamination when
6 necessary to prevent serious deterioration of ground water quality;

7 (6) The powers given to districts and the Department of Environment
8 and Energy ~~Environmental Quality~~ should be used to stabilize, reduce, and
9 prevent the increase or spread of ground water contamination; and

10 (7) There is a need to provide for the orderly management of ground
11 water quality in areas where available data, evidence, and other
12 information indicate that present or potential ground water conditions
13 require the designation of such areas as management areas.

14 Sec. 26. Section 46-705, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-705 Nothing in the Nebraska Ground Water Management and
17 Protection Act shall be construed to limit the powers of the Department
18 of Health and Human Services provided in the Nebraska Safe Drinking Water
19 Act.

20 Nothing in the Nebraska Ground Water Management and Protection Act
21 relating to the contamination of ground water is intended to limit the
22 powers of the Department of Environment and Energy ~~Environmental Quality~~
23 provided in Chapter 81, article 15.

24 Sec. 27. Section 46-706, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-706 For purposes of the Municipal and Rural Domestic Ground Water
27 Transfers Permit Act, the Nebraska Ground Water Management and Protection
28 Act, and sections 46-601 to 46-613.02, 46-636, 46-637, and 46-651 to
29 46-655, unless the context otherwise requires:

30 (1) Person means a natural person, a partnership, a limited
31 liability company, an association, a corporation, a municipality, an

1 irrigation district, an agency or a political subdivision of the state,
2 or a department, an agency, or a bureau of the United States;

3 (2) Ground water means that water which occurs in or moves, seeps,
4 filters, or percolates through ground under the surface of the land;

5 (3) Contamination or contamination of ground water means nitrate
6 nitrogen or other material which enters the ground water due to action of
7 any person and causes degradation of the quality of ground water
8 sufficient to make such ground water unsuitable for present or reasonably
9 foreseeable beneficial uses;

10 (4) District means a natural resources district operating pursuant
11 to Chapter 2, article 32;

12 (5) Illegal water well means (a) any water well operated or
13 constructed without or in violation of a permit required by the Nebraska
14 Ground Water Management and Protection Act, (b) any water well not in
15 compliance with rules and regulations adopted and promulgated pursuant to
16 the act, (c) any water well not properly registered in accordance with
17 sections 46-602 to 46-604, or (d) any water well not in compliance with
18 any other applicable laws of the State of Nebraska or with rules and
19 regulations adopted and promulgated pursuant to such laws;

20 (6) To commence construction of a water well means the beginning of
21 the boring, drilling, jetting, digging, or excavating of the actual water
22 well from which ground water is to be withdrawn;

23 (7) Management area means any area so designated by a district
24 pursuant to section 46-712 or 46-718, by the Director of Environment and
25 Energy Environmental—Quality pursuant to section 46-725, or by the
26 Interrelated Water Review Board pursuant to section 46-719. Management
27 area includes a control area or a special ground water quality protection
28 area designated prior to July 19, 1996;

29 (8) Management plan means a ground water management plan developed
30 by a district and submitted to the Director of Natural Resources for
31 review pursuant to section 46-711;

1 (9) Ground water reservoir life goal means the finite or infinite
2 period of time which a district establishes as its goal for maintenance
3 of the supply and quality of water in a ground water reservoir at the
4 time a ground water management plan is adopted;

5 (10) Board means the board of directors of a district;

6 (11) Acre-inch means the amount of water necessary to cover an acre
7 of land one inch deep;

8 (12) Subirrigation or subirrigated land means the natural occurrence
9 of a ground water table within the root zone of agricultural vegetation,
10 not exceeding ten feet below the surface of the ground;

11 (13) Best management practices means schedules of activities,
12 maintenance procedures, and other management practices utilized for
13 purposes of irrigation efficiency, to conserve or effect a savings of
14 ground water, or to prevent or reduce present and future contamination of
15 ground water. Best management practices relating to contamination of
16 ground water may include, but not be limited to, irrigation scheduling,
17 proper rate and timing of fertilizer application, and other fertilizer
18 and pesticide management programs. In determining the rate of fertilizer
19 application, the district shall consult with the University of Nebraska
20 or a certified crop advisor certified by the American Society of
21 Agronomy;

22 (14) Point source means any discernible, confined, and discrete
23 conveyance, including, but not limited to, any pipe, channel, tunnel,
24 conduit, well, discrete fissure, container, rolling stock, vessel, other
25 floating craft, or other conveyance, over which the Department of
26 Environment and Energy ~~Environmental Quality~~ has regulatory authority and
27 from which a substance which can cause or contribute to contamination of
28 ground water is or may be discharged;

29 (15) Allocation, as it relates to water use for irrigation purposes,
30 means the allotment of a specified total number of acre-inches of
31 irrigation water per irrigated acre per year or an average number of

1 acre-inches of irrigation water per irrigated acre over any reasonable
2 period of time;

3 (16) Rotation means a recurring series of use and nonuse of
4 irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

5 (17) Water well has the same meaning as in section 46-601.01;

6 (18) Surface water project sponsor means an irrigation district
7 created pursuant to Chapter 46, article 1, a reclamation district created
8 pursuant to Chapter 46, article 5, or a public power and irrigation
9 district created pursuant to Chapter 70, article 6;

10 (19) Beneficial use means that use by which water may be put to use
11 to the benefit of humans or other species;

12 (20) Consumptive use means the amount of water that is consumed
13 under appropriate and reasonably efficient practices to accomplish
14 without waste the purposes for which the appropriation or other legally
15 permitted use is lawfully made;

16 (21) Dewatering well means a well constructed and used solely for
17 the purpose of lowering the ground water table elevation;

18 (22) Emergency situation means any set of circumstances that
19 requires the use of water from any source that might otherwise be
20 regulated or prohibited and the agency, district, or organization
21 responsible for regulating water use from such source reasonably and in
22 good faith believes that such use is necessary to protect the public
23 health, safety, and welfare, including, if applicable, compliance with
24 federal or state water quality standards;

25 (23) Good cause shown means a reasonable justification for granting
26 a variance for a consumptive use of water that would otherwise be
27 prohibited by rule or regulation and which the granting agency, district,
28 or organization reasonably and in good faith believes will provide an
29 economic, environmental, social, or public health and safety benefit that
30 is equal to or greater than the benefit resulting from the rule or
31 regulation from which a variance is sought;

1 (24) Historic consumptive use means the amount of water that has
2 previously been consumed under appropriate and reasonably efficient
3 practices to accomplish without waste the purposes for which the
4 appropriation or other legally permitted use was lawfully made;

5 (25) Monitoring well means a water well that is designed and
6 constructed to provide ongoing hydrologic or water quality information
7 and is not intended for consumptive use;

8 (26) Order, except as otherwise specifically provided, includes any
9 order required by the Nebraska Ground Water Management and Protection
10 Act, by rule or regulation, or by a decision adopted by a district by
11 vote of the board of directors of the district taken at any regularly
12 scheduled or specially scheduled meeting of the board;

13 (27) Overall difference between the current and fully appropriated
14 levels of development means the extent to which existing uses of
15 hydrologically connected surface water and ground water and conservation
16 activities result in the water supply available for purposes identified
17 in subsection (3) of section 46-713 to be less than the water supply
18 available if the river basin, subbasin, or reach had been determined to
19 be fully appropriated in accordance with section 46-714;

20 (28) Test hole means a hole designed solely for the purposes of
21 obtaining information on hydrologic or geologic conditions;

22 (29) Variance means (a) an approval to deviate from a restriction
23 imposed under subsection (1), (2), (8), or (9) of section 46-714 or (b)
24 the approval to act in a manner contrary to existing rules or regulations
25 from a governing body whose rule or regulation is otherwise applicable;

26 (30) Certified irrigated acres means the number of acres or portion
27 of an acre that a natural resources district has approved for irrigation
28 from ground water in accordance with law and with rules adopted by the
29 district; and

30 (31) Certified water uses means beneficial uses of ground water for
31 purposes other than irrigation identified by a district pursuant to rules

1 adopted by the district.

2 Sec. 28. Section 46-707, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:

4 46-707 (1) Regardless of whether or not any portion of a district
5 has been designated as a management area, in order to administer and
6 enforce the Nebraska Ground Water Management and Protection Act and to
7 effectuate the policy of the state to conserve ground water resources, a
8 district may:

9 (a) Adopt and promulgate rules and regulations necessary to
10 discharge the administrative duties assigned in the act;

11 (b) Require such reports from ground water users as may be
12 necessary;

13 (c) Require the reporting of water uses and irrigated acres by
14 landowners and others with control over the water uses and irrigated
15 acres for the purpose of certification by the district;

16 (d) Require meters to be placed on any water wells for the purpose
17 of acquiring water use data;

18 (e) Require decommissioning of water wells that are not properly
19 classified as active status water wells as defined in section 46-1204.02
20 or inactive status water wells as defined in section 46-1207.02;

21 (f) Conduct investigations and cooperate or contract with agencies
22 of the United States, agencies or political subdivisions of this state,
23 public or private corporations, or any association or individual on any
24 matter relevant to the administration of the act;

25 (g) Report to and consult with the Department of Environment and
26 Energy Environmental Quality on all matters concerning the entry of
27 contamination or contaminating materials into ground water supplies; and

28 (h) Issue cease and desist orders, following three days' notice to
29 the person affected stating the contemplated action and in general the
30 grounds for the action and following reasonable opportunity to be heard,
31 to enforce any of the provisions of the act or of orders or permits

1 issued pursuant to the act, to initiate suits to enforce the provisions
2 of orders issued pursuant to the act, and to restrain the construction of
3 illegal water wells or the withdrawal or use of water from illegal water
4 wells.

5 Before any rule or regulation is adopted pursuant to this
6 subsection, a public hearing shall be held within the district. Notice of
7 the hearing shall be given as provided in section 46-743.

8 (2) In addition to the powers enumerated in subsection (1) of this
9 section, a district may impose an immediate temporary stay for a period
10 of one hundred eighty days on the construction of any new water well and
11 on any increase in the number of acres historically irrigated, without
12 prior notice or hearing, upon adoption of a resolution by the board
13 finding that such temporary immediate stay is necessary. The district
14 shall hold at least one public hearing on the matter within the district
15 during such one hundred eighty days, with the notice of the hearing given
16 as provided in section 46-743, prior to making a determination as to
17 imposing a permanent stay or conditions in accordance with subsections
18 (1) and (6) of section 46-739. Within forty-five days after a hearing
19 pursuant to this subsection, the district shall decide whether to exempt
20 from the immediate temporary stay the construction of water wells for
21 which permits were issued prior to the date of the resolution commencing
22 the stay but for which construction had not begun prior to such date. If
23 construction of such water wells is allowed, all permits that were valid
24 when the stay went into effect shall be extended by a time period equal
25 to the length of the stay and such water wells shall otherwise be
26 completed in accordance with section 46-738. Water wells listed in
27 subsection (3) of section 46-714 and water wells of public water
28 suppliers are exempt from this subsection.

29 (3) In addition to the powers enumerated in subsections (1) and (2)
30 of this section, a district may assess a fee against a person requesting
31 a variance to cover the administrative cost of consideration of the

1 variance, including, but not limited to, costs of copying records and the
2 cost of publishing a notice in a legal newspaper of general circulation
3 in the county or counties of the district, radio announcements, or other
4 means of communication deemed necessary in the area where the property is
5 located.

6 Sec. 29. Section 46-711, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-711 (1) The Director of Natural Resources shall review any ground
9 water management plan or plan modification submitted by a district to
10 ensure that the best available studies, data, and information, whether
11 previously existing or newly initiated, were utilized and considered and
12 that such plan is supported by and is a reasonable application of such
13 information. If a management area is proposed and the primary purpose of
14 the proposed management area is protection of water quality, the director
15 shall consult with the Department of Environment and Energy ~~Environmental~~
16 ~~Quality~~ regarding approval or denial of the management plan. The director
17 shall consult with the Conservation and Survey Division of the University
18 of Nebraska and such other state or federal agencies the director shall
19 deem necessary when reviewing plans. Within ninety days after receipt of
20 a plan, the director shall transmit his or her specific findings,
21 conclusions, and reasons for approval or disapproval to the district
22 submitting the plan.

23 (2) If the Director of Natural Resources disapproves a ground water
24 management plan, the district which submitted the plan shall, in order to
25 establish a management area, submit to the director either the original
26 or a revised plan with an explanation of how the original or revised plan
27 addresses the issues raised by the director in his or her reasons for
28 disapproval. Once a district has submitted an explanation pursuant to
29 this section, such district may proceed to schedule a hearing pursuant to
30 section 46-712.

31 Sec. 30. Section 46-721, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-721 Each state agency and political subdivision shall promptly
3 report to the Department of Environment and Energy ~~Environmental Quality~~
4 any information which indicates that contamination is occurring.

5 Sec. 31. Section 46-722, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-722 If, as a result of information provided pursuant to section
8 46-721 or studies conducted by or otherwise available to the Department
9 of Environment and Energy ~~Environmental Quality~~ and following preliminary
10 investigation, the Director of Environment and Energy ~~Environmental~~
11 ~~Quality~~ makes a preliminary determination (1) that there is reason to
12 believe that contamination of ground water is occurring or likely to
13 occur in an area of the state in the reasonably foreseeable future and
14 (2) that the natural resources district or districts in which the area is
15 located have not designated a management area or have not implemented
16 adequate controls to prevent such contamination from occurring, the
17 department shall, in cooperation with any appropriate state agency and
18 district, conduct a study to determine the source or sources of the
19 contamination and the area affected by such contamination and shall issue
20 a written report within one year of the initiation of the study. During
21 the study, the department shall consider the relevant water quality
22 portions of the management plan developed by each district pursuant to
23 sections 46-709 to 46-711, whether the district has designated a
24 management area encompassing the area studied, and whether the district
25 has adopted any controls for the area.

26 Sec. 32. Section 46-723, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-723 If the Director of Environment and Energy ~~Environmental~~
29 ~~Quality~~ determines from the study conducted pursuant to section 46-722
30 that one or more sources of contamination are point sources, he or she
31 shall expeditiously use the procedures authorized in the Environmental

1 Protection Act to stabilize or reduce the level and prevent the increase
2 or spread of such contamination.

3 Sec. 33. Section 46-724, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-724 If the Director of Environment and Energy ~~Environmental~~
6 ~~Quality~~ determines from the study conducted pursuant to section 46-722
7 that one or more sources of contamination are not point sources and if a
8 management area, a purpose of which is protection of water quality, has
9 been established which includes the affected area, the Director of
10 Environment and Energy ~~Environmental~~ ~~Quality~~ shall consider whether to
11 require the district which established the management area to adopt an
12 action plan as provided in sections 46-725 to 46-729.

13 If the Director of Environment and Energy ~~Environmental~~ ~~Quality~~
14 determines that one or more of the sources are not point sources and if
15 such a management area has not been established or does not include all
16 the affected area, he or she shall, within thirty days after completion
17 of the report required by section 46-722, consult with the district
18 within whose boundaries the area affected by such contamination is
19 located and fix a time and place for a public hearing to consider the
20 report, hear any other evidence, and secure testimony on whether a
21 management area should be designated or whether an existing area should
22 be modified. The hearing shall be held within one hundred twenty days
23 after completion of the report. Notice of the hearing shall be given as
24 provided in section 46-743, and the hearing shall be conducted in
25 accordance with such section.

26 At the hearing, all interested persons shall be allowed to appear
27 and present testimony. The Conservation and Survey Division of the
28 University of Nebraska, the Department of Health and Human Services, the
29 Department of Natural Resources, and the appropriate district may offer
30 as evidence any information in their possession which they deem relevant
31 to the purpose of the hearing. After the hearing and after any studies or

1 investigations conducted by or on behalf of the Director of Environment
2 and Energy Environmental Quality as he or she deems necessary, the
3 director shall determine whether a management area shall be designated.

4 Sec. 34. Section 46-725, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-725 (1) When determining whether to designate or modify the
7 boundaries of a management area or to require a district which has
8 established a management area, a purpose of which is protection of water
9 quality, to adopt an action plan for the affected area, the Director of
10 Environment and Energy Environmental Quality shall consider:

11 (a) Whether contamination of ground water has occurred or is likely
12 to occur in the reasonably foreseeable future;

13 (b) Whether ground water users, including, but not limited to,
14 domestic, municipal, industrial, and agricultural users, are experiencing
15 or will experience within the foreseeable future substantial economic
16 hardships as a direct result of current or reasonably anticipated
17 activities which cause or contribute to contamination of ground water;

18 (c) Whether methods are available to stabilize or reduce the level
19 of contamination;

20 (d) Whether, if a management area has been established which
21 includes the affected area, the controls adopted by the district pursuant
22 to section 46-739 as administered and enforced by the district are
23 sufficient to address the ground water quality issues in the management
24 area; and

25 (e) Administrative factors directly affecting the ability to
26 implement and carry out regulatory activities.

27 (2) If the Director of Environment and Energy Environmental Quality
28 determines that no such area should be established, he or she shall issue
29 an order declaring that no management area shall be designated.

30 (3) If the Director of Environment and Energy Environmental Quality
31 determines that a management area shall be established, that the

1 boundaries of an existing management area shall be modified, or that the
2 district shall be required to adopt an action plan, he or she shall
3 consult with relevant state agencies and with the district or districts
4 affected and determine the boundaries of the area, taking into account
5 the effect on political subdivisions and the socioeconomic and
6 administrative factors directly affecting the ability to implement and
7 carry out local ground water management, control, and protection. The
8 report by the Director of Environment and Energy ~~Environmental Quality~~
9 shall include the specific reasons for the creation of the management
10 area or the requirement of such an action plan and a full disclosure of
11 the possible causes.

12 (4) When the boundaries of an area have been determined or modified,
13 the Director of Environment and Energy ~~Environmental Quality~~ shall issue
14 an order designating the area as a management area, specifying the
15 modified boundaries of the management area, or requiring such an action
16 plan. Such an order shall include a geographic and stratigraphic
17 definition of the area. Such order shall be published in the manner
18 provided in section 46-744.

19 Sec. 35. Section 46-726, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-726 (1) Within one hundred eighty days after the designation of a
22 management area or the requiring of an action plan for a management area,
23 a purpose of which is protection of water quality, the district or
24 districts within whose boundaries the area is located shall prepare an
25 action plan designed to stabilize or reduce the level and prevent the
26 increase or spread of ground water contamination. Whenever a management
27 area or the affected area of such a management area encompasses portions
28 of two or more districts, the responsibilities and authorities delegated
29 in this section shall be exercised jointly and uniformly by agreement of
30 the respective boards of all districts so affected.

31 (2) Within thirty days after an action plan has been prepared, a

1 public hearing on such plan shall be held by the district. Notice of the
2 hearing shall be given as provided in section 46-743, and the hearing
3 shall be conducted in accordance with such section.

4 (3) Within thirty days after the hearing, the district shall adopt
5 and submit an action plan to the Department of Environment and Energy
6 ~~Environmental Quality~~. Notice of the district's order adopting an action
7 plan shall be published as required by section 46-744.

8 Sec. 36. Section 46-728, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-728 (1) In adopting or amending an action plan authorized by
11 subsection (2) of this section, the district's considerations shall
12 include, but not be limited to, whether it reasonably appears that such
13 action will mitigate or eliminate the condition which led to designation
14 of the management area or the requirement of an action plan for a
15 management area or will improve the administration of the area.

16 (2) The Director of Environment and Energy ~~Environmental Quality~~
17 shall approve or deny the adoption or amendment of an action plan within
18 one hundred twenty days after the date the plan is submitted by the
19 district. He or she may hold a public hearing to consider testimony
20 regarding the action plan prior to the issuance of an order approving or
21 disapproving the adoption or amendment. In approving the adoption or
22 amendment of the plan in such an area, considerations shall include, but
23 not be limited to, those enumerated in subsection (1) of this section.

24 (3) If the director denies approval of an action plan by the
25 district, the order shall list the reason the action plan was not
26 approved. A district may submit a revised action plan within sixty days
27 after denial of its original action plan to the director for approval
28 subject to section 46-731.

29 Sec. 37. Section 46-729, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-729 Following approval of the action plan by the Director of

1 Environment and Energy ~~Environmental Quality~~, the district shall cause a
2 copy of the order adopted pursuant to section 46-728 to be published in
3 the manner provided in section 46-744.

4 Sec. 38. Section 46-730, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-730 Each district in which a management area has been designated
7 or an action plan for a management area has been required pursuant to
8 section 46-725 shall, in cooperation with the Department of Environment
9 and Energy ~~Environmental Quality~~, establish a program to monitor the
10 quality of the ground water in the area and shall if appropriate provide
11 each landowner or operator of an irrigation system with current
12 information available with respect to fertilizer and chemical usage for
13 the specific soil types present and cropping patterns used.

14 Sec. 39. Section 46-731, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-731 (1) The power to specify controls authorized by section
17 46-739 shall vest in the Director of Environment and Energy ~~Environmental~~
18 ~~Quality~~ if (a) at the end of one hundred eighty days following the
19 designation of a management area or the requiring of an action plan for a
20 management area pursuant to section 46-725, a district encompassed in
21 whole or in part by the management area has not completed and adopted an
22 action plan, (b) a district does not submit a revised action plan within
23 sixty days after denial of its original action plan, or (c) the district
24 submits a revised action plan which is not approved by the director.

25 (2) If the power to specify controls in such a management area is
26 vested in the Director of Environment and Energy ~~Environmental Quality~~,
27 he or she shall within ninety days adopt and promulgate by rule and
28 regulation such measures as he or she deems necessary for carrying out
29 the intent of the Nebraska Ground Water Management and Protection Act. He
30 or she shall conduct one or more public hearings prior to the adoption of
31 controls. Notice of any such additional hearings shall be given in the

1 manner provided in section 46-743. The enforcement of controls adopted
2 pursuant to this section shall be the responsibility of the Department of
3 Environment and Energy ~~Environmental Quality~~.

4 Sec. 40. Section 46-732, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-732 The controls in the action plan approved by the Director of
7 Environment and Energy ~~Environmental Quality~~ pursuant to section 46-728
8 shall be exercised by the district for the period of time necessary to
9 stabilize or reduce the level of contamination and prevent the increase
10 or spread of ground water contamination. An action plan may be amended by
11 the same method utilized in the adoption of the action plan.

12 Sec. 41. Section 46-733, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-733 A district may petition the Director of Environment and
15 Energy ~~Environmental Quality~~ to remove the director's designation of the
16 area as a management area or the requirement of an action plan for a
17 management area or to modify the boundaries of a management area
18 designated pursuant to section 46-725. If the director determines that
19 the level of contamination in a management area has stabilized at or been
20 reduced to a level which is not detrimental to beneficial uses of ground
21 water, he or she may remove the designation or action plan requirement or
22 modify the boundaries of the management area.

23 Sec. 42. Section 46-743, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-743 Any public hearing required under the Nebraska Ground Water
26 Management and Protection Act shall comply with the following
27 requirements:

28 (1) The hearing shall be located within or in reasonable proximity
29 to the area proposed for designation as a management area or affected by
30 the proposed rule or regulation;

31 (2) Notice of the hearing shall be published in a newspaper

1 published or of general circulation in the affected area at least once
2 each week for three consecutive weeks, the last publication of which
3 shall be not less than seven days prior to the hearing;

4 (3) As to the designation of a management area, adoption or
5 amendment of an action plan or integrated management plan, or adoption or
6 amendment of controls, the notice shall provide, as applicable, a general
7 description of (a) the contents of the plan, (b) the geographic area
8 which will be considered for inclusion in the management area, and (c) a
9 general description of all controls proposed for adoption or amendment
10 and shall identify all locations where a copy of the full text of the
11 proposed plan or controls may be obtained;

12 (4) For all other rules and regulations, the notice shall provide a
13 general description of the contents of the rules and regulations proposed
14 for adoption or amendment and shall identify all locations where a copy
15 of the full text of the proposed rules and regulations may be obtained;

16 (5) The full text of all controls, rules, or regulations shall be
17 available to the public upon request not later than the date of first
18 publication;

19 (6) All interested persons shall be allowed to appear and present
20 testimony; and

21 (7) The hearing shall include testimony of a representative of the
22 Department of Natural Resources and, if the primary purpose of the
23 proposed management area is protection of water quality, testimony of a
24 representative of the Department of Environment and Energy ~~Environmental~~
25 ~~Quality~~ and shall include the results of any relevant water quality
26 studies or investigations conducted by the district.

27 Sec. 43. Section 46-749, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-749 In the administration of the Nebraska Ground Water Management
30 and Protection Act, all actions of the Director of Environment and Energy
31 ~~Environmental Quality~~, the Director of Natural Resources, and the

1 districts shall be consistent with the provisions of section 46-613.

2 Sec. 44. Section 46-750, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-750 Any person aggrieved by any order of the district, the
5 Director of Environment and Energy ~~Environmental Quality~~, or the Director
6 of Natural Resources issued pursuant to the Nebraska Ground Water
7 Management and Protection Act may appeal the order. The appeal shall be
8 in accordance with the Administrative Procedure Act.

9 Sec. 45. Section 46-1102, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-1102 The Legislature finds that the use of chemigation throughout
12 the state is increasing and that, although chemigation provides a viable
13 alternative to other means of chemical application, if an irrigation
14 distribution system is not properly equipped or if a chemical is not used
15 with proper precautions, there exists a potential to contaminate the
16 water.

17 The Legislature also finds that complete information as to the
18 occurrences and use of chemigation in this state is essential to the
19 development of a sound state water management policy.

20 For these reasons, the Legislature deems it necessary to provide the
21 natural resources districts and the Department of Environment and Energy
22 ~~Environmental Quality~~ with the authority to document, monitor, regulate,
23 and enforce chemigation practices in Nebraska.

24 Sec. 46. Section 46-1108, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1108 Department shall mean the Department of Environment and
27 Energy ~~Environmental Quality~~.

28 Sec. 47. Section 46-1109, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-1109 Director shall mean the Director of Environment and Energy
31 ~~Environmental Quality~~.

1 Sec. 48. Section 46-1217, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-1217 (1) There is hereby created a Water Well Standards and
4 Contractors' Licensing Board. The board shall be composed of ten members,
5 six of whom shall be appointed by the Governor as follows: (a) A licensed
6 water well contractor representing irrigation water well contractors, (b)
7 a licensed water well contractor representing domestic water well
8 contractors, (c) a licensed water well contractor representing municipal
9 and industrial water well contractors, (d) a licensed pump installation
10 contractor, (e) a manufacturer or supplier of water well or pumping
11 equipment, and (f) a holder of a license issued under the Water Well
12 Standards and Contractors' Practice Act employed by a natural resources
13 district. The chief executive officer of the Department of Health and
14 Human Services or his or her designated representative, the Director of
15 Environment and Energy ~~Environmental Quality~~ or his or her designated
16 representative, the Director of Natural Resources or his or her
17 designated representative, and the director of the Conservation and
18 Survey Division of the University of Nebraska or his or her designated
19 representative shall also serve as members of the board.

20 (2) Each member shall be a resident of the state. Each industry
21 representative shall have had at least five years of experience in the
22 business of his or her category prior to appointment and shall be
23 actively engaged in such business at the time of appointment and while
24 serving on the board. Each member representing a category subject to
25 licensing under the Water Well Standards and Contractors' Practice Act
26 shall be licensed by the department pursuant to such act. In making
27 appointments, the Governor may consider recommendations made by the trade
28 associations of each category.

29 Sec. 49. Section 46-1224, Revised Statutes Cumulative Supplement,
30 2018, is amended to read:

31 46-1224 (1) Except as otherwise provided in subsections (2) through

1 (4) of this section, the board shall set reasonable fees in an amount
2 calculated to recover the costs incurred by the department and the board
3 in administering and carrying out the purposes of the Water Well
4 Standards and Contractors' Practice Act. Such fees shall be paid to the
5 department and remitted to the State Treasurer for credit to the Water
6 Well Standards and Contractors' Licensing Fund, which fund is hereby
7 created. Such fund shall be used by the department and the board for the
8 purpose of administering the Water Well Standards and Contractors'
9 Practice Act. Additionally, such fund shall be used to pay any required
10 fee to a contractor which provides the online services for registration
11 of water wells. Any discount in the amount paid the state by a credit
12 card, charge card, or debit card company or a third-party merchant bank
13 for such registration fees shall be deducted from the portion of the
14 registration fee collected pursuant to this section. Any money in the
15 fund available for investment shall be invested by the state investment
16 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
17 State Funds Investment Act.

18 (2) Fees for credentialing individuals under the Water Well
19 Standards and Contractors' Practice Act shall be established and
20 collected as provided in sections 38-151 to 38-157.

21 (3) The board shall set a fee of not less than twenty-five dollars
22 and not more than forty dollars for each water well which is required to
23 be registered and which is designed and constructed to pump fifty gallons
24 per minute or less and each monitoring and observation well and a fee of
25 not less than forty dollars and not more than eighty dollars for each
26 water well which is required to be registered and which is designed and
27 constructed to pump more than fifty gallons per minute. For water wells
28 permitted pursuant to the Industrial Ground Water Regulatory Act, the fee
29 set pursuant to this subsection shall be collected for each of the first
30 ten such water wells registered, and for each group of ten or fewer such
31 water wells registered thereafter, the fee shall be collected as if only

1 one water well was being registered. For a series of two or more water
2 wells completed and pumped into a common carrier, as defined in section
3 46-601.01, as part of a single site plan for irrigation purposes, the fee
4 set pursuant to this subsection shall be collected for each of the first
5 two such water wells registered. For a series of water wells completed
6 for purposes of installation of a ground heat exchanger for a structure
7 for utilizing the geothermal properties of the ground, the fee set
8 pursuant to this subsection shall be collected as if only one water well
9 was being registered. For water wells constructed as part of a single
10 site plan for monitoring ground water, obtaining hydrogeologic
11 information, or extracting contaminants from the ground and for water
12 wells constructed as part of remedial action approved by the Department
13 of Environment and Energy ~~Environmental~~ Quality pursuant to section
14 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this
15 subsection shall be collected for each of the first five such water wells
16 registered, and for each group of five or fewer such water wells
17 registered thereafter, the fee shall be collected as if only one water
18 well was being registered. The fees shall be remitted to the Director of
19 Natural Resources with the registration form required by section 46-602
20 and shall be in addition to the fee in section 46-606. The director shall
21 remit the fee to the State Treasurer for credit to the Water Well
22 Standards and Contractors' Licensing Fund.

23 (4) The board shall set an application fee for a declaratory ruling
24 or variance of not less than fifty dollars and not more than one hundred
25 dollars. The fee shall be remitted to the State Treasurer for credit to
26 the Water Well Standards and Contractors' Licensing Fund.

27 Sec. 50. Section 46-1301, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-1301 The Legislature finds that (1) existing monitoring of ground
30 water quality performed by natural resources districts is excellent and
31 deserves recognition, (2) substantial efforts have been undertaken by the

1 Department of Environment and Energy ~~Environmental Quality~~ to monitor
2 surface water quality, and (3) it is within the state's capacity to
3 develop a comprehensive, integrated statewide water quality monitoring
4 system.

5 Sec. 51. Section 46-1304, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 46-1304 The Department of Environment and Energy ~~Environmental~~
8 ~~Quality~~ shall prepare a report outlining the extent of ground water
9 quality monitoring conducted by natural resources districts during the
10 preceding calendar year. The department shall analyze the data collected
11 for the purpose of determining whether or not ground water quality is
12 degrading or improving and shall present the results electronically to
13 the Natural Resources Committee of the Legislature beginning December 1,
14 2001, and each year thereafter. The districts shall submit in a timely
15 manner all ground water quality monitoring data collected to the
16 department or its designee. The department shall use the data submitted
17 by the districts in conjunction with all other readily available and
18 compatible data for the purposes of the annual ground water quality trend
19 analysis.

20 Sec. 52. Section 46-1502, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1502 For purposes of the Wellhead Protection Area Act:

23 (1) Controlling entity means a city, a village, a natural resources
24 district, a rural water district, any other entity, including, but not
25 limited to, a privately owned public water supply system, or any
26 combination thereof operating under an agreement pursuant to the
27 Interlocal Cooperation Act or the Joint Public Agency Act that operates a
28 public water supply system;

29 (2) Department means the Department of Environment and Energy
30 ~~Environmental Quality~~;

31 (3) Director means the Director of Environment and Energy

1 ~~Environmental Quality~~; and

2 (4) Wellhead protection area means the surface and subsurface area
3 surrounding a water well or well field, supplying a public water system,
4 through which contaminants are reasonably likely to move toward and reach
5 such water well or well field.

6 Sec. 53. Section 46-1642, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1642 An applicant for a permit for a livestock waste control
9 facility which includes a dam, holding pond, or lagoon for which approval
10 by the Department of Natural Resources is not otherwise required but for
11 which approval by the Department of Environment and Energy ~~Environmental~~
12 ~~Quality~~ under section 54-2429 is required shall submit an application for
13 approval along with plans, drawings, and specifications to the Department
14 of Natural Resources and obtain approval from the Department of Natural
15 Resources before beginning construction. The Department of Natural
16 Resources shall approve or deny the dam, holding pond, or lagoon pursuant
17 to this section within sixty days after such application is submitted.

18 Sec. 54. Section 49-506, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 49-506 After the Secretary of State has made the distribution
21 provided by section 49-503, he or she shall deliver additional copies of
22 the session laws and the journal of the Legislature pursuant to this
23 section in print or electronic format as he or she determines, upon
24 recommendation by the Clerk of the Legislature and approval of the
25 Executive Board of the Legislative Council.

26 One copy of the session laws shall be delivered to the Lieutenant
27 Governor, the State Treasurer, the Auditor of Public Accounts, the
28 Reporter of the Supreme Court and Court of Appeals, the State Court
29 Administrator, the State Fire Marshal, the Department of Administrative
30 Services, the Department of Agriculture, the Department of Banking and
31 Finance, the State Department of Education, the Department of Environment

1 ~~and Energy Environmental Quality~~, the Department of Insurance, the
2 Department of Labor, the Department of Motor Vehicles, the Department of
3 Revenue, the Department of Transportation, the Department of Veterans'
4 Affairs, the Department of Natural Resources, the Military Department,
5 the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and
6 Criminal Justice, each of the Nebraska state colleges, the Game and Parks
7 Commission, the Nebraska Library Commission, the Nebraska Liquor Control
8 Commission, the Nebraska Accountability and Disclosure Commission, the
9 Public Service Commission, the State Real Estate Commission, the Nebraska
10 State Historical Society, the Public Employees Retirement Board, the Risk
11 Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel
12 division of the Department of Administrative Services, the State Records
13 Administrator, the budget division of the Department of Administrative
14 Services, the Tax Equalization and Review Commission, the inmate library
15 at all state penal and correctional institutions, the Commission on
16 Public Advocacy, and the Library of Congress; two copies to the Governor,
17 the Secretary of State, the Nebraska Workers' Compensation Court, the
18 Commission of Industrial Relations, and the Coordinating Commission for
19 Postsecondary Education, one of which shall be for use by the community
20 colleges; three copies to the Department of Health and Human Services;
21 four copies to the Nebraska Publications Clearinghouse; five copies to
22 the Attorney General; nine copies to the Revisor of Statutes; sixteen
23 copies to the Supreme Court and the Legislative Council; and thirty-five
24 copies to the University of Nebraska College of Law.

25 One copy of the journal of the Legislature shall be delivered to the
26 Governor, the Lieutenant Governor, the State Treasurer, the Auditor of
27 Public Accounts, the Reporter of the Supreme Court and Court of Appeals,
28 the State Court Administrator, the Nebraska State Historical Society, the
29 Legislative Fiscal Analyst, the Tax Equalization and Review Commission,
30 the Commission on Public Advocacy, and the Library of Congress; two
31 copies to the Secretary of State, the Commission of Industrial Relations,

1 and the Nebraska Workers' Compensation Court; four copies to the Nebraska
2 Publications Clearinghouse; five copies to the Attorney General and the
3 Revisor of Statutes; eight copies to the Clerk of the Legislature;
4 thirteen copies to the Supreme Court and the Legislative Council; and
5 thirty-five copies to the University of Nebraska College of Law. The
6 remaining copies shall be delivered to the State Librarian who shall use
7 the same, so far as required for exchange purposes, in building up the
8 State Library and in the manner specified in sections 49-507 to 49-509.

9 Sec. 55. Section 54-703, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 54-703 (1) The Department of Agriculture and all inspectors and
12 persons appointed and authorized to assist in the work of the department
13 shall enforce the Exotic Animal Auction or Exchange Venue Act and
14 sections 54-701 to 54-753.05 and 54-797 to 54-7,103 as designated.

15 (2) The department and any officer, agent, employee, or appointee of
16 the department shall have the right to enter upon the premises of any
17 person who has, or is suspected of having, any animal thereon, including
18 any premises where the carcass or carcasses of dead livestock may be
19 found or where a facility for the disposal or storage of dead livestock
20 is located, for the purpose of making any and all inspections,
21 examinations, tests, and treatments of such animal, to inspect livestock
22 carcass disposal practices, and to declare, carry out, and enforce any
23 and all quarantines.

24 (3) The department, in consultation with the Department of
25 Environment and Energy ~~Environmental Quality~~ and the Department of Health
26 and Human Services, may adopt and promulgate rules and regulations
27 reflecting best management practices for the burial of carcasses of dead
28 livestock.

29 (4) The Department of Agriculture may further adopt and promulgate
30 such rules and regulations as are necessary to promptly and efficiently
31 enforce and effectuate the general purpose and provisions of sections

1 54-701 to 54-753.05 and 54-797 to 54-7,103.

2 Sec. 56. Section 54-744.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 54-744.01 (1) Livestock carcasses may be disposed of in a research
5 or demonstration facility for innovative livestock disposal methods
6 registered with the Department of Agriculture, except that a research or
7 demonstration facility of liquefaction shall not be registered under this
8 section and liquefaction shall not be permitted as a method of livestock
9 disposal. The registration of a facility under this section shall contain
10 a description of the facility, the location and proposed duration of the
11 research or demonstration, and a description of the method of disposal to
12 be utilized. The department may register up to five such research or
13 demonstration facilities conducted in conjunction with private livestock
14 operations which meet all of the following conditions:

15 (a) The project is designed and conducted by one or more research
16 faculty of the University of Nebraska;

17 (b) The project does not duplicate other research or demonstration
18 projects;

19 (c) The project sponsors submit annual reports on the project and a
20 final report at the conclusion of the project;

21 (d) The project employs adequate safeguards against disease
22 transmission or environmental contamination; and

23 (e) The project meets any other conditions deemed prudent by the
24 director.

25 (2) It is the intent of the Legislature that the department register
26 at least one research or demonstration facility for innovative livestock
27 disposal methods which shall be located upon the premises of an animal
28 feeding operation as defined in section 54-2417. Before registering such
29 facility, the department shall first consult with the Department of
30 Environment and Energy ~~Environmental Quality~~ and the Department of Health
31 and Human Services. The Department of Agriculture may revoke the

1 registration of the facility at any time if the director has reason to
2 believe that the facility no longer meets the conditions for
3 registration.

4 (3) Only the carcasses of livestock that have died upon the animal
5 feeding operation premises where a research or demonstration facility for
6 innovative livestock disposal methods is located may be disposed of at
7 such facility. Carcasses from other locations shall not be transported to
8 such facility for disposal.

9 (4) A facility registered under this section is exempt from the
10 requirements for disposal of solid waste under the Integrated Solid Waste
11 Management Act.

12 Sec. 57. Section 54-2417, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 54-2417 For purposes of the Livestock Waste Management Act:

15 (1) Animal feeding operation means a location where beef cattle,
16 dairy cattle, horses, swine, sheep, poultry, or other livestock have
17 been, are, or will be stabled or confined and fed or maintained for a
18 total of forty-five days or more in any twelve-month period and crops,
19 vegetation, forage growth, or post-harvest residues are not sustained in
20 the normal growing season over any portion of the location. Two or more
21 animal feeding operations under common ownership are deemed to be a
22 single animal feeding operation if they are adjacent to each other or if
23 they utilize a common area or system for the disposal of livestock waste.
24 Animal feeding operation does not include aquaculture as defined in
25 section 2-3804.01;

26 (2) Best management practices means schedules of activities,
27 prohibitions, maintenance procedures, and other management practices
28 found to be the most effective methods based on the best available
29 technology achievable for specific sites to prevent or reduce the
30 discharge of pollutants to waters of the state and control odor where
31 appropriate. Best management practices also includes operating procedures

1 and practices to control site runoff, spillage, leaks, sludge or waste
2 disposal, or drainage from raw material storage;

3 (3) Construct means the initiation of physical onsite activities;

4 (4) Construction and operating permit means the state permit to
5 construct and operate a livestock waste control facility, including
6 conditions imposed on the livestock waste control facility and the
7 associated animal feeding operation;

8 (5) Construction approval means an approval issued prior to December
9 1, 2006, by the department allowing construction of a livestock waste
10 control facility;

11 (6) Council means the Environmental Quality Council;

12 (7) Department means the Department of Environment and Energy
13 ~~Environmental Quality~~;

14 (8) Discharge means the spilling, leaking, pumping, pouring,
15 emitting, emptying, or dumping of pollutants into any waters of the state
16 or in a place which will likely reach waters of the state;

17 (9) Existing livestock waste control facility means a livestock
18 waste control facility in existence prior to April 15, 1998, that does
19 not hold a permit and which has requested an inspection prior to January
20 1, 2000;

21 (10) Livestock waste control facility means any structure or
22 combination of structures utilized to control livestock waste at an
23 animal feeding operation until it can be used, recycled, or disposed of
24 in an environmentally acceptable manner. Such structures include, but are
25 not limited to, diversion terraces, holding ponds, debris basins, liquid
26 manure storage pits, lagoons, and other such devices utilized to control
27 livestock waste;

28 (11) Major modification means an expansion or increase to the lot
29 area or feeding area; change in the location of the animal feeding
30 operation; change in the methods of waste treatment, waste storage, or
31 land application of waste; increase in the number of animals; change in

1 animal species; or change in the size or location of the livestock waste
2 control facility;

3 (12) National Pollutant Discharge Elimination System permit means
4 either a general permit or an individual permit issued by the department
5 pursuant to subsection (11) of section 81-1505. A general permit
6 authorizes categories of disposal practices or livestock waste control
7 facilities and covers a geographic area corresponding to existing
8 geographic or political boundaries, though it may exclude specified areas
9 from coverage. General permits are limited to the same or similar types
10 of animal feeding operations or livestock waste control facilities which
11 require the same or similar monitoring and, in the opinion of the
12 Director of Environment and Energy ~~Environmental Quality~~, are more
13 appropriately controlled under a general permit than under an individual
14 permit;

15 (13) New animal feeding operation means an animal feeding operation
16 constructed after July 16, 2004;

17 (14) New livestock waste control facility means any livestock waste
18 control facility for which a construction permit, an operating permit, a
19 National Pollutant Discharge Elimination System permit, a construction
20 approval, or a construction and operating permit, or an application
21 therefor, is submitted on or after April 15, 1998;

22 (15) Operating permit means a permit issued prior to December 1,
23 2006, by the department after the completion of the livestock waste
24 control facility in accordance with the construction approval and the
25 submittal of a completed certification form to the department;

26 (16) Person has the same meaning as in section 81-1502; and

27 (17) Waters of the state has the same meaning as in section 81-1502.

28 Sec. 58. Section 54-2421, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 54-2421 A map delineating segments and watershed boundaries for cold
31 water class A streams, as designated prior to May 25, 1999, and prepared

1 by the Department of Environment and Energy ~~Environmental Quality~~ and the
2 Department of Natural Resources, shall be maintained by the Department of
3 Environment and Energy ~~Environmental Quality~~ and used by the department
4 for determinations made concerning cold water class A streams and stream
5 watersheds under the Livestock Waste Management Act unless changed by the
6 council. Beginning on May 25, 1999, the council may designate and may
7 redesignate previously designated waters of this state as cold water
8 class A streams for purposes of the act based on the determination by the
9 council that the waters provide or could provide habitat of sufficient
10 water volume or flow, water quality, substrate composition, and water
11 temperature capable of maintaining year-round populations of cold water
12 biota, including reproduction of a salmonoid (trout) population. The
13 council shall not designate or redesignate a stream as a cold water class
14 A stream unless the stream has supported the reproduction of a salmonoid
15 (trout) population within the previous five years. The department shall
16 revise and maintain the cold water class A stream and stream watershed
17 map to incorporate all designations and redesignations of the council.

18 Sec. 59. Section 54-2429, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 54-2429 (1) An applicant for a National Pollutant Discharge
21 Elimination System permit or a construction and operating permit under
22 the Environmental Protection Act or the Livestock Waste Management Act
23 shall, before issuance by the Department of Environment and Energy
24 ~~Environmental Quality~~, obtain any necessary approvals from the Department
25 of Natural Resources under the Safety of Dams and Reservoirs Act and
26 certify such approvals to the Department of Environment and Energy
27 ~~Environmental Quality~~. The Department of Environment and Energy
28 ~~Environmental Quality~~, with the concurrence of the Department of Natural
29 Resources, may require the applicant to obtain approval from the
30 Department of Natural Resources for any dam, holding pond, or lagoon
31 structure which would not otherwise require approval under the Safety of

1 Dams and Reservoirs Act but which in the event of a failure could result
2 in a significant discharge into waters of the state and have a
3 significant impact on the environment. The Department of Environment and
4 Energy Environmental Quality may provide for the payment of such costs of
5 the Department of Natural Resources with revenue generated under section
6 54-2428.

7 (2) An applicant required to obtain a National Pollutant Discharge
8 Elimination System permit is subject to the requirements of the Engineers
9 and Architects Regulation Act.

10 (3) An applicant who has a large concentrated animal feeding
11 operation, as defined in 40 C.F.R. 122 and 123, as such regulations
12 existed on January 1, 2004, and who is required to obtain a construction
13 and operating permit is subject to the requirements of the Engineers and
14 Architects Regulation Act.

15 (4) An applicant who has a small or medium animal feeding operation,
16 as defined in 40 C.F.R. 122 and 123, as such regulations existed on
17 January 1, 2004, and who is required to obtain a construction and
18 operating permit, but not required to obtain a National Pollutant
19 Discharge Elimination System permit, is exempt from the Engineers and
20 Architects Regulation Act.

21 (5) The department may require an engineering evaluation or
22 assessment performed by a licensed professional engineer for a livestock
23 waste control facility if after an inspection: (a) The department
24 determines that the facility has (i) visible signs of structural breakage
25 below the permanent pool, (ii) signs of discharge or proven discharge due
26 to structural weakness, (iii) improper maintenance, or (iv) inadequate
27 capacity; or (b) the department has reason to believe that an animal
28 feeding operation with a livestock waste control facility has violated or
29 threatens to violate the Environmental Protection Act, the Livestock
30 Waste Management Act, or any rules or regulations adopted and promulgated
31 under such acts. Animal feeding operations not required to have a permit

1 under the Environmental Protection Act, the Livestock Waste Management
2 Act, or the rules and regulations adopted and promulgated pursuant to
3 such acts are exempt from the Engineers and Architects Regulation Act.

4 Sec. 60. Section 57-705, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 57-705 (1) All severance taxes levied by Chapter 57, article 7,
7 shall be paid to the Tax Commissioner. He or she shall remit all such
8 money received to the State Treasurer. All such money received by the
9 State Treasurer shall be credited to a fund to be known as the Severance
10 Tax Fund. An amount equal to one percent of the gross severance tax
11 receipts, excluding those receipts from tax derived from oil and natural
12 gas severed from school lands, credited to the fund shall be credited by
13 the State Treasurer, upon the first day of each month, and shall inure to
14 the Severance Tax Administration Fund to be used for the expenses of
15 administering Chapter 57, article 7. Transfers may be made from the
16 Severance Tax Administration Fund to the General Fund at the direction of
17 the Legislature. The balance of the Severance Tax Fund received from
18 school lands shall be credited by the State Treasurer, upon the first day
19 of each month, and shall inure to the permanent school fund.

20 (2) Of the balance of the Severance Tax Fund received from other
21 than school lands (a) the Legislature may transfer an amount to be
22 determined by the Legislature through the appropriations process up to
23 three hundred thousand dollars for each year to the State Energy Office
24 Cash Fund, (b) the Legislature may transfer an amount to be determined by
25 the Legislature through the appropriations process up to thirty thousand
26 dollars for each year to the Public Service Commission for administration
27 of the Municipal Rate Negotiations Revolving Loan Fund, and (c) the
28 remainder shall be credited and inure to the permanent school fund.

29 (3) The State Treasurer shall transfer two hundred fifty thousand
30 dollars from the Severance Tax Administration Fund to the Department of
31 Revenue Enforcement Fund on July 1, 2009, or as soon thereafter as

1 administratively possible. The State Treasurer shall transfer two hundred
2 fifty thousand dollars from the Severance Tax Administration Fund to the
3 Department of Revenue Enforcement Fund on July 1, 2010, or as soon
4 thereafter as administratively possible.

5 Sec. 61. Section 57-1407, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 57-1407 (1) After receipt of an application under section 57-1405,
8 the commission shall:

9 (a) Within sixty days, schedule a public hearing;

10 (b) Notify the pipeline carrier of the time, place, and purpose of
11 the public hearing;

12 (c) Publish a notice of the time, place, and purpose of the public
13 hearing in at least one newspaper of general circulation in each county
14 in which the major oil pipeline is to be constructed; and

15 (d) Serve notice of the public hearing upon the governing bodies of
16 the counties and municipalities through which the proposed route of the
17 major oil pipeline would be located as specified in subdivision (2)(d) of
18 section 57-1405.

19 (2) The commission may hold additional public meetings for the
20 purpose of receiving input from the public at locations as close as
21 practicable to the proposed route of the major oil pipeline. The
22 commission shall make the public input part of the record.

23 (3) If requested by the commission, the following agencies shall
24 file a report with the commission, prior to the hearing on the
25 application, regarding information within the respective agencies' area
26 of expertise relating to the impact of the major oil pipeline on any area
27 within the respective agencies' jurisdiction, including in such report
28 opinions regarding the advisability of approving, denying, or modifying
29 the location of the proposed route of the major oil pipeline: The
30 Department of Environment and Energy ~~Environmental Quality~~, the
31 Department of Natural Resources, the Department of Revenue, the

1 Department of Transportation, the Game and Parks Commission, the Nebraska
2 Oil and Gas Conservation Commission, the Nebraska State Historical
3 Society, the State Fire Marshal, and the Board of Educational Lands and
4 Funds. The agencies may submit a request for reimbursement of reasonable
5 and necessary expenses incurred for any consultants hired pursuant to
6 this subsection.

7 (4) An application under the Major Oil Pipeline Siting Act shall be
8 approved if the proposed route of the major oil pipeline is determined by
9 the Public Service Commission to be in the public interest. The pipeline
10 carrier shall have the burden to establish that the proposed route of the
11 major oil pipeline would serve the public interest. In determining
12 whether the pipeline carrier has met its burden, the commission shall not
13 evaluate safety considerations, including the risk or impact of spills or
14 leaks from the major oil pipeline, but the commission shall evaluate:

15 (a) Whether the pipeline carrier has demonstrated compliance with
16 all applicable state statutes, rules, and regulations and local
17 ordinances;

18 (b) Evidence of the impact due to intrusion upon natural resources
19 and not due to safety of the proposed route of the major oil pipeline to
20 the natural resources of Nebraska, including evidence regarding the
21 irreversible and irretrievable commitments of land areas and connected
22 natural resources and the depletion of beneficial uses of the natural
23 resources;

24 (c) Evidence of methods to minimize or mitigate the potential
25 impacts of the major oil pipeline to natural resources;

26 (d) Evidence regarding the economic and social impacts of the major
27 oil pipeline;

28 (e) Whether any other utility corridor exists that could feasibly
29 and beneficially be used for the route of the major oil pipeline;

30 (f) The impact of the major oil pipeline on the orderly development
31 of the area around the proposed route of the major oil pipeline;

1 (g) The reports of the agencies filed pursuant to subsection (3) of
2 this section; and

3 (h) The views of the governing bodies of the counties and
4 municipalities in the area around the proposed route of the major oil
5 pipeline.

6 Sec. 62. Section 57-1502, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 57-1502 For purposes of sections 57-1501 to 57-1503:

9 (1) Department means the Department of Environment and Energy
10 ~~Environmental Quality~~;

11 (2) Oil pipeline means a pipeline which is larger than eight inches
12 in inside diameter and which is constructed in Nebraska for the
13 transportation of petroleum, or petroleum components, products, or
14 wastes, including crude oil or any fraction of crude oil, within,
15 through, or across Nebraska, but does not include in-field and gathering
16 lines; and

17 (3) Pipeline carrier means an individual, a company, a corporation,
18 an association, or any other legal entity that engages in owning,
19 operating, or managing an oil pipeline.

20 Sec. 63. Section 57-1503, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 57-1503 (1)(a) The department may:

23 (i) Evaluate any route for an oil pipeline within, through, or
24 across the state and submitted by a pipeline carrier for the stated
25 purpose of being included in a federal agency's or agencies' National
26 Environmental Policy Act review process. Any such evaluation shall
27 include at least one public hearing, provide opportunities for public
28 review and comment, and include, but not be limited to, an analysis of
29 the environmental, economic, social, and other impacts associated with
30 the proposed route and route alternatives in Nebraska. The department may
31 collaborate with a federal agency or agencies and set forth the

1 responsibilities and schedules that will lead to an effective and timely
2 evaluation; or

3 (ii) Collaborate with a federal agency or agencies in a review under
4 the National Environmental Policy Act involving a supplemental
5 environmental impact statement for oil pipeline projects within, through,
6 or across the state. Prior to entering into such shared jurisdiction and
7 authority, the department shall collaborate with such agencies to set
8 forth responsibilities and schedules for an effective and timely review
9 process.

10 (b) A pipeline carrier that has submitted a route for evaluation or
11 review pursuant to subdivision (1)(a) of this section shall reimburse the
12 department for the cost of the evaluation or review within sixty days
13 after notification from the department of the cost. The department shall
14 remit any reimbursement to the State Treasurer for credit to the
15 ~~Department of Environmental Quality~~ Cash Fund.

16 (2) The department may contract with outside vendors in the process
17 of preparation of a supplemental environmental impact statement or an
18 evaluation conducted under subdivision (1)(a) of this section. The
19 department shall make every reasonable effort to ensure that each vendor
20 has no conflict of interest or relationship to any pipeline carrier that
21 applies for an oil pipeline permit.

22 (3) In order for the process to be efficient and expeditious, the
23 department's contracts with vendors pursuant to this section for a
24 supplemental environmental impact statement or an evaluation conducted
25 under subdivision (1)(a) of this section shall not be subject to the
26 Nebraska Consultants' Competitive Negotiation Act or sections 73-301 to
27 73-306 or 73-501 to 73-510.

28 (4) After the supplemental environmental impact statement or the
29 evaluation conducted under subdivision (1)(a) of this section is
30 prepared, the department shall submit it to the Governor. Within thirty
31 days after receipt of the supplemental environmental impact statement or

1 the evaluation conducted under subdivision (1)(a) of this section from
2 the department, the Governor shall indicate, in writing, to the federal
3 agency or agencies involved in the review or any other appropriate
4 federal agency or body as to whether he or she approves any of the routes
5 reviewed in the supplemental environmental impact statement or the
6 evaluation conducted under subdivision (1)(a) of this section. If the
7 Governor does not approve any of the reviewed routes, he or she shall
8 notify the pipeline carrier that in order to obtain approval of a route
9 in Nebraska the pipeline carrier is required to file an application with
10 the Public Service Commission pursuant to the Major Oil Pipeline Siting
11 Act.

12 (5) The department shall not withhold any documents or records
13 relating to an oil pipeline from the public unless the documents or
14 records are of the type that can be withheld under section 84-712.05 or
15 unless federal law provides otherwise.

16 Sec. 64. Section 58-221, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 58-221 Residential energy conservation device shall mean any prudent
19 means of reducing the demands for conventional fuels or increasing the
20 supply or efficiency of these fuels in residential housing and shall
21 include, but not be limited to:

22 (1) Caulking and weather stripping of doors and windows;

23 (2) Furnace efficiency modifications, including:

24 (a) Replacement burners, furnaces, heat pumps, or boilers or any
25 combination thereof which, as determined by the Director of Environment
26 and Energy ~~the State Energy Office~~, substantially increases the energy
27 efficiency of the heating system;

28 (b) Any device for modifying flue openings which will increase the
29 energy efficiency of the heating system; and

30 (c) Any electrical or mechanical furnace ignition system which
31 replaces a standing gas pilot light;

1 (3) A clock thermostat;

2 (4) Ceiling, attic, wall, and floor insulation;

3 (5) Water heater insulation;

4 (6) Storm windows and doors, multiglazed windows and doors, and

5 heat-absorbed or heat-reflective glazed window and door materials;

6 (7) Any device which controls demand of appliances and aids load
7 management;

8 (8) Any device to utilize solar energy, biomass, or wind power for
9 any residential energy conservation purpose including heating of water
10 and space heating or cooling; and

11 (9) Any other conservation device, renewable energy technology, and
12 specific home improvement necessary to insure the effectiveness of the
13 energy conservation measures as the Director of Environment and Energy
14 ~~the State Energy Office~~ by rule or regulation identifies.

15 Sec. 65. Section 60-6,363, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 60-6,363 For purposes of sections 60-6,363 to 60-6,374:

18 (1) Diesel-powered motor vehicle shall mean a self-propelled vehicle
19 which is designed primarily for transporting persons or property on a
20 highway and which is powered by an internal combustion engine of the
21 compression ignition type;

22 (2) Motor vehicle shall mean a self-propelled vehicle with a gross
23 unloaded vehicle weight of ten thousand pounds or more or any combination
24 of vehicles of a type subject to registration which is towed by such a
25 vehicle;

26 (3) Smoke shall mean the solid or liquid matter, except water,
27 discharged from a motor vehicle engine which obscures the transmission of
28 light;

29 (4) Smokemeter shall mean a full-flow, light-extinction smokemeter
30 of a type approved by the Department of Environment and Energy
31 ~~Environmental Quality~~ and operating on the principles described in the

1 federal standards;

2 (5) Opacity shall mean the degree to which a smoke plume emitted
3 from a diesel-powered motor vehicle engine will block the passage of a
4 beam of light expressed as a percentage; and

5 (6) Smoke control system shall mean a system consisting of one or
6 more devices and adjustments designed to control the discharge of smoke
7 from diesel-powered motor vehicles.

8 Sec. 66. Section 60-6,364, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 60-6,364 Sections 60-6,363 to 60-6,374 shall apply to all diesel-
11 powered motor vehicles operated within this state with the exception of
12 the following:

13 (1) Emergency vehicles operated by federal, state, and local
14 governmental authorities;

15 (2) Vehicles which are not required to be registered in accordance
16 with the Motor Vehicle Registration Act;

17 (3) Vehicles used for research and development which have been
18 approved by the Director of Environment and Energy ~~Environmental Quality~~;

19 (4) Vehicles being operated while undergoing maintenance;

20 (5) Vehicles operated under emergency conditions;

21 (6) Vehicles being operated in the course of training programs which
22 have been approved by the director; and

23 (7) Other vehicles expressly exempted by the director.

24 Sec. 67. Section 60-6,367, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 60-6,367 (1) Officials of the Department of Environment and Energy
27 ~~Environmental Quality~~ and local enforcement officials shall have the
28 authority to issue citations to suspected violators of sections 60-6,363
29 to 60-6,374 on the basis of their visual evaluation of the smoke emitted
30 from a diesel-powered motor vehicle. A citation shall give the suspected
31 violator a reasonable time to furnish evidence to the department that

1 such alleged violation has been corrected or else such suspected violator
2 shall be subject to the penalties set out in section 60-6,373. A
3 suspected violator may demand that the suspected vehicle be tested by an
4 approved smokemeter prior to a trial on the alleged violation.

5 (2) Smokemeter tests shall be conducted (a) by or under the
6 supervision of a person or testing facility authorized by the Director of
7 Environment and Energy ~~Environmental Quality~~ to conduct such tests and
8 (b) by installing an approved smokemeter on the exhaust pipe and
9 operating the suspected vehicle at engine revolutions per minute
10 equivalent to the engine revolutions per minute at the time of the
11 alleged violation.

12 (3) The results of smokemeter tests run in accordance with this
13 section and after the alleged violation shall be admissible as evidence
14 in legal proceedings.

15 Sec. 68. Section 60-6,368, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 60-6,368 (1) The Director of Environment and Energy ~~Environmental~~
18 ~~Quality~~ shall have the power, after public hearings on due notice, to
19 adopt and promulgate, consistent with and in furtherance of the
20 provisions of sections 60-6,363 to 60-6,374, rules and regulations in
21 accordance with which he or she will carry out his or her
22 responsibilities and obligations under such sections.

23 (2) Any rules or regulations promulgated by the director shall be
24 consistent with the provisions of the federal standards, if any, relating
25 to control of emissions from the diesel-powered motor vehicles affected
26 by such rules and regulations. The director shall not require, as a
27 condition for the sale of any diesel-powered motor vehicle covered by
28 sections 60-6,363 to 60-6,374, the inspection, certification, or other
29 approval of any feature or equipment designed for the control of noise or
30 emissions from such diesel-powered motor vehicles if such feature or
31 equipment has been certified, approved, or otherwise authorized pursuant

1 to laws or regulations of any federal governmental body as sufficient to
2 make lawful the sale of any diesel-powered motor vehicle covered by such
3 sections.

4 Sec. 69. Section 66-203, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 66-203 (1) The Department of Environment and Energy ~~State Energy~~
7 ~~Office~~ shall offer a rebate for qualified clean-burning motor vehicle
8 fuel property.

9 (2)(a) The rebate for qualified clean-burning motor vehicle fuel
10 property as defined in subdivisions (4)(a) and (b) of section 66-202 is
11 the lesser of fifty percent of the cost of the qualified clean-burning
12 motor vehicle fuel property or four thousand five hundred dollars for
13 each motor vehicle.

14 (b) A qualified clean-burning motor vehicle fuel property is not
15 eligible for a rebate under this section if the person or entity applying
16 for the rebate has claimed another rebate or grant for the same motor
17 vehicle under any other state rebate or grant program.

18 (3) The rebate for qualified clean-burning motor vehicle fuel
19 property as defined in subdivision (4)(c) of section 66-202 is the lesser
20 of fifty percent of the cost of the qualified clean-burning motor vehicle
21 fuel property or two thousand five hundred dollars for each qualified
22 clean-burning motor vehicle fuel property.

23 (4) No qualified clean-burning motor vehicle fuel property shall
24 qualify for more than one rebate under this section.

25 Sec. 70. Section 66-204, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 66-204 (1) The Clean-burning Motor Fuel Development Fund is created.
28 The fund shall consist of grants, private contributions, and all other
29 sources.

30 (2) The fund shall be used by the Department of Environment and
31 Energy ~~State Energy Office~~ to provide rebates under the Nebraska Clean-

1 burning Motor Fuel Development Act up to the amount transferred under
2 subsection (3) of this section. No more than thirty-five percent of the
3 money in the fund annually shall be used as rebates for flex-fuel
4 dispensers. The department ~~State Energy Office~~ may use the fund for
5 necessary costs in the administration of the act up to an amount not
6 exceeding ten percent of the fund annually.

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

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

14 (5) The State Treasurer shall transfer two hundred thousand dollars
15 from the Clean-burning Motor Fuel Development Fund to the General Fund on
16 or before June 30, 2018, on such dates and in such amounts as directed by
17 the budget administrator of the budget division of the Department of
18 Administrative Services.

19 Sec. 71. Section 66-301, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 66-301 For purposes of sections 66-301 to 66-304:

22 (1) Covered electric generating unit means a fossil fuel-fired
23 electric generating unit existing within the state prior to August 30,
24 2015, that is subject to regulation under the federal emission
25 guidelines;

26 (2) Federal emission guidelines means any final rules, regulations,
27 guidelines, or other requirements that the United States Environmental
28 Protection Agency may adopt for regulating carbon dioxide emissions from
29 covered electric generating units under section 111(d) of the federal
30 Clean Air Act, 42 U.S.C. 7411(d);

31 (3) State means the State of Nebraska; and

1 (4) State plan means any plan to establish and enforce carbon
2 dioxide emission control measures that the Department of Environment and
3 Energy Environmental Quality may adopt to implement the obligations of
4 the state under the federal emission guidelines.

5 Sec. 72. Section 66-302, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 66-302 The Department of Environment and Energy Environmental
8 Quality shall not submit a state plan for regulating carbon dioxide
9 emissions from covered electric generating units to the United States
10 Environmental Protection Agency until the department has prepared a
11 report as required in section 66-303 ~~provided a copy of the state plan to~~
12 ~~the State Energy Office. The department shall provide such copy to the~~
13 ~~State Energy Office prior to the submission deadline for the state plan~~
14 ~~set by the United States Environmental Protection Agency. If the United~~
15 ~~States Environmental Protection Agency extends the submission deadline,~~
16 ~~the department shall provide such copy to the State Energy Office at~~
17 ~~least one hundred twenty days prior to the extended submission deadline.~~
18 Nothing in this section shall prevent the department from complying with
19 federally prescribed deadlines.

20 Sec. 73. Section 66-303, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 66-303 (1) The Department of Environment and Energy ~~After receiving~~
23 ~~the copy of the state plan under section 66-302, the State Energy Office~~
24 shall also prepare a report that assesses the effects of the state plan
25 for regulating carbon dioxide emissions from covered electric generating
26 units on:

27 (a) The electric power sector, including:

28 (i) The type and amount of electric generating capacity within the
29 state that is likely to retire or switch to another fuel;

30 (ii) The stranded investment in electric generating capacity and
31 other infrastructure;

1 (iii) The amount of investment necessary to offset retirements of
2 electric generating capacity and maintain generation reserve margins;

3 (iv) Potential risks to electric reliability, including resource
4 adequacy risks and transmission constraints; and

5 (v) The amount by which retail electricity prices within the state
6 are forecast to increase or decrease; and

7 (b) Employment within the state, including direct and indirect
8 employment effects within affected sectors of the state's economy.

9 (2) The department ~~State Energy Office~~ shall complete the report
10 required under this section at least within thirty days prior to
11 submitting ~~after receiving the copy of~~ the state plan prepared pursuant
12 to ~~under~~ section 66-302 and shall electronically submit to the
13 Legislature a copy of such report.

14 (3) If the Legislature is in session when it receives the report,
15 the Legislature may vote on a nonbinding legislative resolution endorsing
16 or disapproving the state plan based on the findings of the report.

17 Sec. 74. Section 66-304, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 66-304 Upon submitting a state plan to the United States
20 Environmental Protection Agency, the Department of Environment and Energy
21 ~~Environmental Quality~~ shall electronically submit to the Legislature a
22 copy of the state plan.

23 Sec. 75. Section 66-489.02, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 66-489.02 (1) For tax periods beginning on and after July 1, 2009,
26 at the time of filing the return required by section 66-488, the
27 producer, supplier, distributor, wholesaler, or importer shall, in
28 addition to the other taxes provided for by law, pay a tax at the rate of
29 five percent of the average wholesale price of gasoline for the gallons
30 of the motor fuels as shown by the return, except that there shall be no
31 tax on the motor fuels reported if they are otherwise exempted by

1 sections 66-482 to 66-4,149.

2 (2) The department shall calculate the average wholesale price of
3 gasoline on April 1, 2009, and on each April 1 and October 1 thereafter.
4 The average wholesale price on April 1 shall apply to returns for the tax
5 periods beginning on and after July 1, and the average wholesale price on
6 October 1 shall apply to returns for the tax periods beginning on and
7 after January 1. The average wholesale price shall be determined using
8 data available from the Department of Environment and Energy State Energy
9 ~~Office~~ and shall be an average wholesale price per gallon of gasoline
10 sold in the state over the previous six-month period, excluding any state
11 or federal excise tax or environmental fees. The change in the average
12 wholesale price between two six-month periods shall be adjusted so that
13 the increase or decrease in the tax provided for in this section or
14 section 66-6,109.02 does not exceed one cent per gallon.

15 (3) All sums of money received under this section shall be credited
16 to the Highway Trust Fund. Credits and refunds of such tax allowed to
17 producers, suppliers, distributors, wholesalers, or importers shall be
18 paid from the Highway Trust Fund. The balance of the amount credited,
19 after credits and refunds, shall be allocated as follows:

20 (a) Sixty-six percent to the Highway Cash Fund for the Department of
21 Transportation;

22 (b) Seventeen percent to the Highway Allocation Fund for allocation
23 to the various counties for road purposes; and

24 (c) Seventeen percent to the Highway Allocation Fund for allocation
25 to the various municipalities for street purposes.

26 Sec. 76. Section 66-1004, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 66-1004 Energy conservation measure shall mean installing or using
29 any:

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

31 (2) Furnace efficiency modifications involving electric service;

- 1 (3) Clock thermostats;
- 2 (4) Water heater insulation or modification;
- 3 (5) Ceiling, attic, wall, or floor insulation;
- 4 (6) Storm windows or doors, multiglazed windows or doors, or heat
- 5 absorbing or reflective glazed window and door material;
- 6 (7) Devices which control demand of appliances and aid load
- 7 management;
- 8 (8) Devices to utilize solar energy, biomass, or wind power for any
- 9 energy conservation purpose, including heating of water and space heating
- 10 or cooling, which have been identified by the Department of Environment
- 11 and Energy State Energy Office as an energy conservation measure for the
- 12 purposes of sections 66-1001 to 66-1011;
- 13 (9) High-efficiency lighting and motors;
- 14 (10) Devices which are designed to increase energy efficiency, the
- 15 utilization of renewable resources, or both; and
- 16 (11) Such other conservation measures as the department State Energy
- 17 Office shall identify.

18 Sec. 77. Section 66-1009, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 66-1009 (1) A customer borrowing from a utility under a plan adopted
21 pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with
22 the utility for a repayment plan and shall be offered a repayment period
23 of not less than three years and not more than twenty years.

24 (2) Upon default on a loan by a customer, after expending reasonable
25 efforts to collect, a utility may treat the entire unpaid contract amount
26 as due, but services to a residential, agricultural, or commercial
27 customer may not be terminated as a result of such default. Default
28 occurs when any amount due a utility under a plan adopted pursuant to
29 sections 66-1001 to 66-1011, 70-625, 70-704, 81-161, ~~81-1602~~, 81-1606 to
30 81-1626, and 84-162 to 84-167 is not paid within sixty days of the due
31 date.

1 (3) Any customer obtaining a loan pursuant to section 66-1007 shall
2 only use the funds to accomplish the purposes agreed upon at the time of
3 the loan. If the borrower of any funds obtained pursuant to sections
4 66-1001 to 66-1011 uses such funds in a manner or for a purpose not
5 authorized by this section, the total amount of the loan shall
6 immediately become due and payable.

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

26 (5) Any loan made under a plan adopted pursuant to sections 66-1001
27 to 66-1011 shall not exceed fifteen thousand dollars, subject to any
28 existing limitations under federal law. Any loan to be made by a utility
29 which exceeds ten thousand dollars shall only be made in participation
30 with a bank pursuant to a contract. The utility and the participating
31 bank shall determine the terms and conditions of the contract.

1 (6) The Director of Environment and Energy ~~State Energy Office~~ may
2 adopt and promulgate rules and regulations to carry out sections 66-1001
3 to 66-1011.

4 Sec. 78. Section 66-1105, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 66-1105 Any person who desires to withdraw ground water within the
7 State of Nebraska for geothermal resource development shall, prior to
8 commencing construction of any wells, obtain from the Director of Natural
9 Resources a permit to authorize the withdrawal, transfer, and further use
10 or reinjection of such ground water. The Department of Natural Resources
11 shall adopt and promulgate rules and regulations governing the issuance
12 of such permits, consistent with sections 66-1101 to 66-1106 and with
13 Chapter 46, article 6. Such rules and regulations shall provide for
14 consultation with the Department of Environment and Energy ~~Environmental~~
15 ~~Quality~~ pursuant to the issuance of such permits and shall be compatible
16 with rules and regulations adopted and promulgated by the Department of
17 Environment and Energy ~~Environmental Quality~~ under the Environmental
18 Protection Act. Any geothermal fluids produced incident to the
19 development and production of geothermal resources shall be reinjected
20 into the same geologic formation from which they were extracted in
21 substantially the same volume and substantially the same or higher
22 quality as when extracted unless the permit issued in accordance with
23 this section authorizes further uses or processing other than those
24 incident to reinjection.

25 Sec. 79. Section 66-1344, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 66-1344 (1) Beginning June 1, 2000, during such period as funds
28 remain in the Ethanol Production Incentive Cash Fund, any ethanol
29 facility shall receive a credit of seven and one-half cents per gallon of
30 ethanol, before denaturing, for new production for a period not to exceed
31 thirty-six consecutive months. For purposes of this subsection, new

1 production means production which results from the expansion of an
2 existing facility's capacity by at least two million gallons first placed
3 into service after June 1, 1999, as certified by the facility's design
4 engineer to the Department of Revenue. For expansion of an existing
5 facility's capacity, new production means production in excess of the
6 average of the highest three months of ethanol production at an ethanol
7 facility during the twenty-four-month period immediately preceding
8 certification of the facility by the design engineer. No credits shall be
9 allowed under this subsection for expansion of an existing facility's
10 capacity until production is in excess of twelve times the three-month
11 average amount determined under this subsection during any twelve-
12 consecutive-month period beginning no sooner than June 1, 2000. New
13 production shall be approved by the Department of Revenue based on such
14 ethanol production records as may be necessary to reasonably determine
15 new production. This credit must be earned on or before December 31,
16 2003.

17 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
18 in production at the minimum rate of one hundred thousand gallons
19 annually for the production of ethanol, before denaturing, and which has
20 provided to the Department of Revenue written evidence substantiating
21 that the ethanol facility has received the requisite authority from the
22 Department of Environment and Energy ~~Environmental Quality~~ and from the
23 United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms
24 and Explosives, on or before June 30, 2004, shall receive a credit of
25 eighteen cents per gallon of ethanol produced for ninety-six consecutive
26 months beginning with the first calendar month for which it is eligible
27 to receive such credit and ending not later than June 30, 2012, if the
28 facility is defined by subdivision (b)(i) of this subsection, and for
29 forty-eight consecutive months beginning with the first calendar month
30 for which it is eligible to receive such credit and ending not later than
31 June 30, 2008, if the facility is defined by subdivision (b)(ii) of this

1 subsection. The new ethanol facility shall provide an analysis to the
2 Department of Revenue of samples of the product collected according to
3 procedures specified by the department no later than July 30, 2004, and
4 at least annually thereafter. The analysis shall be prepared by an
5 independent laboratory meeting the International Organization for
6 Standardization standard ISO/IEC 17025:1999. Prior to collecting the
7 samples, the new ethanol facility shall notify the department which may
8 observe the sampling procedures utilized by the new ethanol facility to
9 obtain the samples to be submitted for independent analysis. The minimum
10 rate shall be established for a period of at least thirty days. In this
11 regard, the new ethanol facility must produce at least eight thousand two
12 hundred nineteen gallons of ethanol within a thirty-day period. The
13 ethanol must be finished product which is ready for sale to customers.

14 (b) For purposes of this subsection, new ethanol facility means a
15 facility for the conversion of grain or other raw feedstock into ethanol
16 and other byproducts of ethanol production which (i) is not in production
17 on or before September 1, 2001, or (ii) has not received credits prior to
18 June 1, 1999. A new ethanol facility does not mean an expansion of an
19 existing ethanol plant that does not result in the physical construction
20 of an entire ethanol processing facility or which shares or uses in a
21 significant manner any existing plant's systems or processes and does not
22 include the expansion of production capacity constructed after June 30,
23 2004, of a plant qualifying for credits under this subsection. This
24 definition applies to contracts entered into after April 16, 2004.

25 (c) Not more than fifteen million six hundred twenty-five thousand
26 gallons of ethanol produced annually at an ethanol facility shall be
27 eligible for credits under this subsection. Not more than one hundred
28 twenty-five million gallons of ethanol produced at an ethanol facility by
29 the end of the ninety-six-consecutive-month period or forty-eight-
30 consecutive-month period set forth in this subsection shall be eligible
31 for credits under this subsection.

1 (3) The credits described in this section shall be given only for
2 ethanol produced at a plant in Nebraska at which all fermentation,
3 distillation, and dehydration takes place. No credit shall be given on
4 ethanol produced for or sold for use in the production of beverage
5 alcohol. Not more than ten million gallons of ethanol produced during any
6 twelve-consecutive-month period at an ethanol facility shall be eligible
7 for the credit described in subsection (1) of this section. The credits
8 described in this section shall be in the form of a nonrefundable,
9 transferable motor vehicle fuel tax credit certificate. No transfer of
10 credits will be allowed between the ethanol producer and motor vehicle
11 fuel licensees who are related parties.

12 (4) Ethanol production eligible for credits under this section shall
13 be measured by a device approved by the Division of Weights and Measures
14 of the Department of Agriculture. Confirmation of approval by the
15 division shall be provided by the ethanol facility at the time the
16 initial claim for credits provided under this section is submitted to the
17 Department of Revenue and annually thereafter. Claims submitted by the
18 ethanol producer shall be based on the total number of gallons of ethanol
19 produced, before denaturing, during the reporting period measured in
20 gross gallons.

21 (5) The Department of Revenue shall prescribe an application form
22 and procedures for claiming credits under this section. In order for a
23 claim for credits to be accepted, it must be filed by the ethanol
24 producer within three years of the date the ethanol was produced or by
25 September 30, 2012, whichever occurs first.

26 (6) Every producer of ethanol shall maintain records similar to
27 those required by section 66-487. The ethanol producer must maintain
28 invoices, meter readings, load-out sheets or documents, inventory
29 records, including work-in-progress, finished goods, and denaturant, and
30 other memoranda requested by the Department of Revenue relevant to the
31 production of ethanol. On an annual basis, the ethanol producer shall

1 also be required to furnish the department with copies of the reports
2 filed with the United States Department of Justice, Bureau of Alcohol,
3 Tobacco, Firearms and Explosives. The maintenance of all of this
4 information in a provable computer format or on microfilm is acceptable
5 in lieu of retention of the original documents. The records must be
6 retained for a period of not less than three years after the claim for
7 ethanol credits is filed.

8 (7) For purposes of ascertaining the correctness of any application
9 for claiming a credit provided in this section, the Tax Commissioner (a)
10 may examine or cause to have examined, by any agent or representative
11 designated by him or her for that purpose, any books, papers, records, or
12 memoranda bearing upon such matters, (b) may by summons require the
13 attendance of the person responsible for rendering the application or
14 other document or any officer or employee of such person or the
15 attendance of any other person having knowledge in the premises, and (c)
16 may take testimony and require proof material for his or her information,
17 with power to administer oaths or affirmations to such person or persons.
18 The time and place of examination pursuant to this subsection shall be
19 such time and place as may be fixed by the Tax Commissioner and as are
20 reasonable under the circumstances. In the case of a summons, the date
21 fixed for appearance before the Tax Commissioner shall not be less than
22 twenty days from the time of service of the summons. No taxpayer shall be
23 subjected to unreasonable or unnecessary examinations or investigations.
24 All records obtained pursuant to this subsection shall be subject to the
25 confidentiality requirements and exceptions thereto as provided in
26 section 77-27,119.

27 (8) To qualify for credits under this section, an ethanol producer
28 shall provide public notice for bids before entering into any contract
29 for the construction of a new ethanol facility. Preference shall be given
30 to a bidder residing in Nebraska when awarding any contract for
31 construction of a new ethanol facility if comparable bids are submitted.

1 For purposes of this subsection, bidder residing in Nebraska means any
2 person, partnership, foreign or domestic limited liability company,
3 association, or corporation authorized to engage in business in the state
4 with employees permanently located in Nebraska. If an ethanol producer
5 enters into a contract for the construction of a new ethanol facility
6 with a bidder who is not a bidder residing in Nebraska, such producer
7 shall demonstrate to the satisfaction of the Department of Revenue in its
8 application for credits that no comparable bid was submitted by a
9 responsible bidder residing in Nebraska. The department shall deny an
10 application for credits if it is determined that the contract was denied
11 to a responsible bidder residing in Nebraska without cause.

12 (9) The pertinent provisions of Chapter 66, article 7, relating to
13 the administration and imposition of motor fuel taxes shall apply to the
14 administration and imposition of assessments made by the Department of
15 Revenue relating to excess credits claimed by ethanol producers under the
16 Ethanol Development Act. These provisions include, but are not limited
17 to, issuance of a deficiency following an examination of records, an
18 assessment becoming final after sixty days absent a written protest,
19 presumptions regarding the burden of proof, issuance of deficiency within
20 three years of original filing, issuance of notice by registered or
21 certified mail, issuance of penalties and waiver thereof, issuance of
22 interest and waiver thereof, and issuance of corporate officer or
23 employee or limited liability company manager or member assessments. For
24 purposes of determining interest and penalties, the due date will be
25 considered to be the date on which the credits were used by the licensees
26 to whom the credits were transferred.

27 (10) If a written protest is filed by the ethanol producer with the
28 department within the sixty-day period in subsection (9) of this section,
29 the protest shall: (a) Identify the ethanol producer; (b) identify the
30 proposed assessment which is being protested; (c) set forth each ground
31 under which a redetermination of the department's position is requested

1 together with facts sufficient to acquaint the department with the exact
2 basis thereof; (d) demand the relief to which the ethanol producer
3 considers itself entitled; and (e) request that an evidentiary hearing be
4 held to determine any issues raised by the protest if the ethanol
5 producer desires such a hearing.

6 (11) For applications received after April 16, 2004, an ethanol
7 facility receiving benefits under the Ethanol Development Act shall not
8 be eligible for benefits under the Employment and Investment Growth Act,
9 the Invest Nebraska Act, or the Nebraska Advantage Act.

10 Sec. 80. Section 66-1504, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 66-1504 Department shall mean the Department of Environment and
13 Energy Environmental Quality.

14 Sec. 81. Section 66-1518, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 66-1518 (1) The Environmental Quality Council shall adopt and
17 promulgate rules and regulations governing reimbursements authorized
18 under the Petroleum Release Remedial Action Act. Such rules and
19 regulations shall include:

20 (a) Procedures regarding the form and procedure for application for
21 payment or reimbursement from the fund, including the requirement for
22 timely filing of applications;

23 (b) Procedures for the requirement of submitting cost estimates for
24 phases or stages of remedial actions, procurement requirements to be
25 followed by responsible persons, and requirements for reuse of fixtures
26 and tangible personal property by responsible persons during a remedial
27 action;

28 (c) Procedures for investigation of claims for payment or
29 reimbursement;

30 (d) Procedures for determining the amount and type of costs that are
31 eligible for payment or reimbursement from the fund;

1 (e) Procedures for auditing persons who have received payments from
2 the fund;

3 (f) Procedures for reducing reimbursements made for a remedial
4 action for failure by the responsible person to comply with applicable
5 statutory or regulatory requirements. Reimbursement may be reduced as
6 much as one hundred percent; and

7 (g) Other procedures necessary to carry out the act.

8 (2) The Director of Environment and Energy ~~Environmental Quality~~
9 shall (a) estimate the cost to complete remedial action at each petroleum
10 contaminated site where the responsible party has been ordered by the
11 department to begin remedial action, and, based on such estimates,
12 determine the total cost that would be incurred in completing all
13 remedial actions ordered; (b) determine the total estimated cost of all
14 approved remedial actions; (c) determine the total dollar amount of all
15 pending claims for payment or reimbursement; (d) determine the total of
16 all funds available for reimbursement of pending claims; and (e) include
17 the determinations made pursuant to this subsection in the department's
18 annual report to the Legislature.

19 (3) The Department of Environment and Energy ~~Environmental Quality~~
20 shall make available to the public a current schedule of reasonable rates
21 for equipment, services, material, and personnel commonly used for
22 remedial action. The department shall consider the schedule of reasonable
23 rates in reviewing all costs for the remedial action which are submitted
24 in a plan. The rates shall be used to determine the amount of
25 reimbursement for the eligible and reasonable costs of the remedial
26 action, except that (a) the reimbursement for the costs of the remedial
27 action shall not exceed the actual eligible and reasonable costs incurred
28 by the responsible person or his or her designated representative and (b)
29 reimbursement may be made for costs which exceed or are not included on
30 the schedule of reasonable rates if the application for such
31 reimbursement is accompanied by sufficient evidence for the department to

1 determine and the department does determine that such costs are
2 reasonable.

3 Sec. 82. Section 66-1529.02, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 66-1529.02 (1) The department may undertake remedial actions in
6 response to a release first reported after July 17, 1983, and on or
7 before June 30, 2020, with money available in the fund if:

8 (a) The responsible person cannot be identified or located;

9 (b) An identified responsible person cannot or will not comply with
10 the remedial action requirements; or

11 (c) Immediate remedial action is necessary, as determined by the
12 Director of Environment and Energy ~~Environmental Quality~~, to protect
13 human health or the environment.

14 (2) The department may pay the costs of a third-party claim meeting
15 the requirements of subdivision (2)(f) of section 66-1525 with money
16 available in the fund if the responsible person cannot or will not pay
17 the third-party claim.

18 (3) Reimbursement for any damages caused by the department or a
19 person acting at the department's direction while investigating or
20 inspecting or during remedial action on property other than property on
21 which a release or suspected release has occurred shall be considered as
22 part of the cost of remedial action involving the site where the release
23 or suspected release occurred. The costs shall be reimbursed from money
24 available in the fund. If such reimbursement is deemed inadequate by the
25 party claiming the damages, the party's claim for damages caused by the
26 department shall be filed as provided in section 76-705.

27 (4) All expenses paid from the fund under this section, court costs,
28 and attorney's fees may be recovered in a civil action in the district
29 court of Lancaster County. The action may be brought by the county
30 attorney or Attorney General at the request of the director against the
31 responsible person. All recovered expenses shall be deposited into the

1 fund.

2 Sec. 83. Section 66-2001, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 66-2001 (1) The Natural Gas Fuel Board is hereby established to
5 advise the Department of Environment and Energy State Energy Office
6 regarding the promotion of natural gas as a motor vehicle fuel in
7 Nebraska. The board shall provide recommendations relating to:

8 (a) Distribution, infrastructure, and workforce development for
9 natural gas to be used as a motor vehicle fuel;

10 (b) Loans, grants, and tax incentives to encourage the use of
11 natural gas as a motor vehicle fuel for individuals and public and
12 private fleets; and

13 (c) Such other matters as it deems appropriate.

14 (2) The board shall consist of eight members appointed by the
15 Governor. The Governor shall make the initial appointments by October 1,
16 2012. The board shall include:

17 (a) One member representing a jurisdictional utility as defined in
18 section 66-1802;

19 (b) One member representing a metropolitan utilities district;

20 (c) One member representing the interests of the transportation
21 industry in the state;

22 (d) One member representing the interests of the business community
23 in the state, specifically fueling station owners or operators;

24 (e) One member representing natural gas marketers or pipelines in
25 the state;

26 (f) One member representing automobile dealerships or repair
27 businesses in the state;

28 (g) One member representing labor interests in the state; and

29 (h) One member representing environmental interests in the state,
30 specifically air quality.

31 (3) All appointments shall be subject to the approval of a majority

1 of the members of the Legislature if the Legislature is in session, and
2 if the Legislature is not in session, any appointment to fill a vacancy
3 shall be temporary until the next session of the Legislature, at which
4 time a majority of the members of the Legislature may approve or
5 disapprove such appointment.

6 (4) Members shall be appointed for terms of four years, except that
7 of the initial appointees the terms of the members representing a
8 jurisdictional utility and a metropolitan utilities district shall expire
9 on September 30, 2015, the terms of the members representing the
10 transportation industry, the business community, natural gas marketers or
11 pipelines, and automobile dealerships or repair businesses shall expire
12 on September 30, 2014, and the terms of the members representing labor
13 and environmental interests shall expire on September 30, 2013. Members
14 may be reappointed. A member shall serve until a successor is appointed
15 and qualified.

16 (5) A vacancy on the board shall exist in the event of death,
17 disability, resignation, or removal for cause of a member. Any vacancy on
18 the board arising other than from the expiration of a term shall be
19 filled by appointment for the unexpired portion of the term. An
20 appointment to fill a vacancy shall be made by the Governor with the
21 approval of a majority of the Legislature, and any person so appointed
22 shall have the same qualifications as the person whom he or she succeeds.

23 (6) The board shall meet at least once annually.

24 (7) The members shall not be reimbursed for expenses associated with
25 carrying out their duties as members.

26 (8) The department ~~State Energy Office~~ shall provide administrative
27 support to the board as necessary so that the board may carry out its
28 duties.

29 Sec. 84. Section 69-2011, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 69-2011 On and after October 1, 1993, a person shall not sell or

1 offer for sale at retail any disposable diaper which is constructed of a
2 material which is not biodegradable or photodegradable if the Director of
3 Environment and Energy ~~Environmental Quality~~ determines that
4 biodegradable or photodegradable disposable diapers are readily available
5 at a comparable price and quality. The determination of quality shall
6 include a study of the environmental impact and fate of such disposable
7 diapers. The director shall issue his or her determination to the
8 Legislature on or before October 1, 1992. For purposes of this section
9 (1) readily available shall mean available for purchase in sufficient
10 quantities to meet demand through usual retail channels throughout the
11 state and (2) comparable price and quality shall mean at a cost not in
12 excess of five percent above the average price for products of comparable
13 quality which are not biodegradable or photodegradable.

14 Sec. 85. Section 69-2502, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 69-2502 For purposes of the Plastic Container Coding Act:

17 (1) Code shall mean a molded, imprinted, or raised symbol on or near
18 the bottom of a plastic bottle or rigid plastic container;

19 (2) Department shall mean the Department of Environment and Energy
20 ~~Environmental Quality~~;

21 (3) Plastic shall mean any material made of polymeric organic
22 compounds and additives that can be shaped by flow;

23 (4) Plastic bottle shall mean a plastic container intended for a
24 single use that:

25 (a) Has a neck smaller than the body of the container;

26 (b) Is designed for a screw-top, snap cap, or other closure; and

27 (c) Has a capacity of not less than sixteen fluid ounces or more
28 than five gallons; and

29 (5) Rigid plastic container shall mean any formed or molded
30 container intended for a single use, composed predominately of plastic
31 resin, that has a relatively inflexible finite shape or form with a

1 capacity of not less than eight ounces or more than five gallons. Rigid
2 plastic container shall not include a plastic bottle.

3 Sec. 86. Section 70-1003, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 70-1003 (1) There is hereby established an independent board to be
6 known as the Nebraska Power Review Board to consist of five members, one
7 of whom shall be an engineer, one an attorney, one an accountant, and two
8 laypersons. No person who is or who has within four years preceding his
9 or her appointment been either a director, officer, or employee of any
10 electric utility or an elective state officer shall be eligible for
11 membership on the board. Members of the board shall be appointed by the
12 Governor subject to the approval of the Legislature. Upon expiration of
13 the terms of the members first appointed, the successors shall be
14 appointed for terms of four years. No member of the board shall serve
15 more than two consecutive terms. Any vacancy on the board arising other
16 than from the expiration of a term shall be filled by appointment for the
17 unexpired portion of the term, and any person appointed to fill a vacancy
18 on the board shall be eligible for reappointment for two more consecutive
19 terms. No more than three members of the board shall be registered
20 members of that political party represented by the Governor.

21 (2) Each member of the board shall receive sixty dollars per day for
22 each day actually and necessarily engaged in the performance of his or
23 her duties, but not to exceed six thousand dollars in any one year,
24 except for the member designated to represent the board on the Southwest
25 Power Pool Regional State Committee or its equivalent successor, who
26 shall receive two hundred fifty dollars for each day actually and
27 necessarily engaged in the performance of his or her duties, not to
28 exceed twenty thousand dollars in any one year. If the member designated
29 to represent the board on the Southwest Power Pool Regional State
30 Committee should for any reason no longer serve in that capacity during a
31 year, the pay received while serving in such capacity shall not be used

1 for purposes of calculating the six-thousand-dollar limitation for board
2 members not serving in that capacity. When another board member acts as
3 the proxy for the designated Southwest Power Pool Regional State
4 Committee member, he or she shall receive the same pay as the designated
5 member would have for that activity. Pay received while serving as proxy
6 for such designated member shall not be used for purposes of determining
7 whether the six-thousand-dollar limitation has been met for board members
8 not serving as such designated member. Total pay to board members for
9 activities related to the Southwest Power Pool shall not exceed an
10 aggregate total of twenty-five thousand dollars in any one year. Each
11 member shall be reimbursed for his or her actual and necessary expenses
12 while so engaged as provided in sections 81-1174 to 81-1177. The board
13 shall have jurisdiction as provided in Chapter 70, article 10.

14 (3) The board shall elect from their members a chairperson and a
15 vice-chairperson. Decisions of the board shall require the approval of a
16 majority of the members of the board.

17 (4) The board shall employ an executive director and may employ such
18 other staff necessary to carry out the duties pursuant to Chapter 70,
19 article 10. The executive director shall serve at the pleasure of the
20 board and shall be solely responsible to the board. The executive
21 director shall be responsible for the administrative operations of the
22 board and shall perform such other duties as may be delegated or assigned
23 to him or her by the board. The board may obtain the services of experts
24 and consultants necessary to carry out the board's duties pursuant to
25 Chapter 70, article 10.

26 (5) The board shall publish and submit a biennial report with annual
27 data to the Governor, with copies to be filed with the Clerk of the
28 Legislature and with the Department of Environment and Energy State
29 Energy Office. The report submitted to the Clerk of the Legislature shall
30 be submitted electronically. The department State Energy Office shall
31 consider the information in the Nebraska Power Review Board's report when

1 the ~~department State Energy Office~~ prepares its own reports pursuant to
2 sections 81-1606 and 81-1607. The report of the board shall include:

3 (a) The assessments for the fiscal year imposed pursuant to section
4 70-1020;

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

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

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

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

14 (f) A description of Nebraska's current electric system and
15 information on additions to and retirements from the system during the
16 fiscal year, including microwave facilities;

17 (g) A statistical summary of board activities and an expenditure
18 summary;

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

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

26 (6) The board may, in its discretion, hold public hearings
27 concerning the conditions that may indicate that retail competition in
28 the electric industry would benefit Nebraska's citizens and what steps,
29 if any, should be taken to prepare for retail competition in Nebraska's
30 electricity market. In determining whether to hold such hearings, the
31 board shall consider the sufficiency of public interest.

1 (7) The board may, at any time deemed beneficial by the board,
2 submit a report to the Governor with copies to be filed with the Clerk of
3 the Legislature and the Natural Resources Committee of the Legislature.
4 The report filed with the Clerk of the Legislature and the committee
5 shall be filed electronically. The report may include:

6 (a) Whether or not a viable regional transmission organization and
7 adequate transmission exist in Nebraska or in a region which includes
8 Nebraska;

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

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

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

14 (e) Any other information the board believes to be beneficial to the
15 Governor, the Legislature, and Nebraska's citizens when considering
16 whether retail electric competition would be beneficial, such as, but not
17 limited to, an update on deregulation activities in other states and an
18 update on federal deregulation legislation.

19 (8) The board may establish working groups of interested parties to
20 assist the board in carrying out the powers set forth in subsections (6)
21 and (7) of this section.

22 Sec. 87. Section 70-1032, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 70-1032 The scope of the study provided for under sections 70-1029
25 to 70-1033 shall receive input from a working group that may include, but
26 not be limited to, members of the Legislature, ~~the State Energy Office,~~
27 the Department of Economic Development, the Department of Environment and
28 Energy, public power districts and other Nebraska electric providers,
29 renewable energy development companies, municipalities, the Southwest
30 Power Pool, the Western Area Power Administration, other transmission
31 system owners, transmission operators, transmission developers,

1 environmental interests, and other interested parties.

2 Sec. 88. Section 71-2433, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 71-2433 A property owner with knowledge of a clandestine drug lab on
5 his or her property shall report such knowledge and location as soon as
6 practicable to the local law enforcement agency or to the Nebraska State
7 Patrol. A law enforcement agency that discovers a clandestine drug lab in
8 the State of Nebraska shall report the location of such lab to the
9 Nebraska State Patrol within thirty days after making such discovery.
10 Such report shall include the date of discovery of such lab, the county
11 where the property containing such lab is located, and a legal
12 description of the property or other description or address of such
13 property sufficient to clearly establish its location. As soon as
14 practicable after such discovery, the appropriate law enforcement agency
15 shall provide the Nebraska State Patrol with a complete list of the
16 chemicals, including methamphetamine, its precursors, solvents, and
17 related reagents, found at or removed from the location of such lab. Upon
18 receipt, the Nebraska State Patrol shall promptly forward a copy of such
19 report and list to the department, the Department of Environment and
20 Energy Environmental Quality, the municipality or county where the lab is
21 located, the director of the local public health department serving such
22 municipality or county, and the property owner or owners.

23 Sec. 89. Section 71-3503, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 71-3503 For purposes of the Radiation Control Act, unless the
26 context otherwise requires:

27 (1) Radiation means ionizing radiation and nonionizing radiation as
28 follows:

29 (a) Ionizing radiation means gamma rays, X-rays, alpha and beta
30 particles, high-speed electrons, neutrons, protons, and other atomic or
31 nuclear particles or rays but does not include sound or radio waves or

1 visible, infrared, or ultraviolet light; and

2 (b) Nonionizing radiation means (i) any electromagnetic radiation
3 which can be generated during the operations of electronic products to
4 such energy density levels as to present a biological hazard to
5 occupational and public health and safety and the environment, other than
6 ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or
7 infrasonic waves which are emitted from an electronic product as a result
8 of the operation of an electronic circuit in such product and to such
9 energy density levels as to present a biological hazard to occupational
10 and public health and safety and the environment;

11 (2) Radioactive material means any material, whether solid, liquid,
12 or gas, which emits ionizing radiation spontaneously. Radioactive
13 material includes, but is not limited to, accelerator-produced material,
14 byproduct material, naturally occurring material, source material, and
15 special nuclear material;

16 (3) Radiation-generating equipment means any manufactured product or
17 device, component part of such a product or device, or machine or system
18 which during operation can generate or emit radiation except devices
19 which emit radiation only from radioactive material;

20 (4) Sources of radiation means any radioactive material, any
21 radiation-generating equipment, or any device or equipment emitting or
22 capable of emitting radiation or radioactive material;

23 (5) Undesirable radiation means radiation in such quantity and under
24 such circumstances as determined from time to time by rules and
25 regulations adopted and promulgated by the department;

26 (6) Person means any individual, corporation, partnership, limited
27 liability company, firm, association, trust, estate, public or private
28 institution, group, agency, political subdivision of this state, any
29 other state or political subdivision or agency thereof, and any legal
30 successor, representative, agent, or agency of the foregoing;

31 (7) Registration means registration with the department pursuant to

1 the Radiation Control Act;

2 (8) Department means the Department of Health and Human Services;

3 (9) Administrator means the administrator of radiation control
4 designated pursuant to section 71-3504;

5 (10) Electronic product means any manufactured product, device,
6 assembly, or assemblies of such products or devices which, during
7 operation in an electronic circuit, can generate or emit a physical field
8 of radiation;

9 (11) License means:

10 (a) A general license issued pursuant to rules and regulations
11 adopted and promulgated by the department without the filing of an
12 application with the department or the issuance of licensing documents to
13 particular persons to transfer, acquire, own, possess, or use quantities
14 of or devices or equipment utilizing radioactive materials;

15 (b) A specific license, issued to a named person upon application
16 filed with the department pursuant to the Radiation Control Act and rules
17 and regulations adopted and promulgated pursuant to the act, to use,
18 manufacture, produce, transfer, receive, acquire, own, or possess
19 quantities of or devices or equipment utilizing radioactive materials; or

20 (c) A license issued to a radon measurement specialist, radon
21 mitigation specialist, radon measurement business, or radon mitigation
22 business;

23 (12) Byproduct material means:

24 (a) Any radioactive material, except special nuclear material,
25 yielded in or made radioactive by exposure to the radiation incident to
26 the process of producing or utilizing special nuclear material;

27 (b) The tailings or wastes produced by the extraction or
28 concentration of uranium or thorium from any ore processed primarily for
29 its source material content, including discrete surface wastes resulting
30 from uranium or thorium solution extraction processes. Underground ore
31 bodies depleted by such solution extraction operations do not constitute

1 byproduct material;

2 (c)(i) Any discrete source of radium-226 that is produced,
3 extracted, or converted after extraction for use for a commercial,
4 medical, or research activity; or

5 (ii) Any material that (A) has been made radioactive by use of a
6 particle accelerator and (B) is produced, extracted, or converted after
7 extraction for use for a commercial, medical, or research activity; and

8 (d) Any discrete source of naturally occurring radioactive material,
9 other than source material, that:

10 (i) The United States Nuclear Regulatory Commission, in consultation
11 with the Administrator of the United States Environmental Protection
12 Agency, the United States Secretary of Energy, the United States
13 Secretary of Homeland Security, and the head of any other appropriate
14 federal agency, determines would pose a threat similar to the threat
15 posed by a discrete source of radium-226 to the public health and safety
16 or the common defense and security; and

17 (ii) Is extracted or converted after extraction for use in a
18 commercial, medical, or research activity;

19 (13) Source material means:

20 (a) Uranium or thorium or any combination thereof in any physical or
21 chemical form; or

22 (b) Ores which contain by weight one-twentieth of one percent or
23 more of uranium, thorium, or any combination thereof. Source material
24 does not include special nuclear material;

25 (14) Special nuclear material means:

26 (a) Plutonium, uranium 233, or uranium enriched in the isotope 233
27 or in the isotope 235 and any other material that the United States
28 Nuclear Regulatory Commission pursuant to the provisions of section 51 of
29 the federal Atomic Energy Act of 1954, as amended, determines to be
30 special nuclear material but does not include source material; or

31 (b) Any material artificially enriched by any material listed in

- 1 subdivision (14)(a) of this section but does not include source material;
- 2 (15) Users of sources of radiation means:
- 3 (a) Physicians using radioactive material or radiation-generating
4 equipment for human use;
- 5 (b) Natural persons using radioactive material or radiation-
6 generating equipment for education, research, or development purposes;
- 7 (c) Natural persons using radioactive material or radiation-
8 generating equipment for manufacture or distribution purposes;
- 9 (d) Natural persons using radioactive material or radiation-
10 generating equipment for industrial purposes; and
- 11 (e) Natural persons using radioactive material or radiation-
12 generating equipment for any other similar purpose;
- 13 (16) Civil penalty means any monetary penalty levied on a licensee
14 or registrant because of violations of statutes, rules, regulations,
15 licenses, or registration certificates but does not include criminal
16 penalties;
- 17 (17) Closure means all activities performed at a waste handling,
18 processing, management, or disposal site, such as stabilization and
19 contouring, to assure that the site is in a stable condition so that only
20 minor custodial care, surveillance, and monitoring are necessary at the
21 site following termination of licensed operation;
- 22 (18) Decommissioning means final operational activities at a
23 facility to dismantle site structures, to decontaminate site surfaces and
24 remaining structures, to stabilize and contain residual radioactive
25 material, and to carry out any other activities to prepare the site for
26 postoperational care;
- 27 (19) Disposal means the permanent isolation of low-level radioactive
28 waste pursuant to the Radiation Control Act and rules and regulations
29 adopted and promulgated pursuant to such act;
- 30 (20) Generate means to produce low-level radioactive waste when used
31 in relation to low-level radioactive waste;

1 (21) High-level radioactive waste means:

2 (a) Irradiated reactor fuel;

3 (b) Liquid wastes resulting from the operation of the first cycle
4 solvent extraction system or equivalent and the concentrated wastes from
5 subsequent extraction cycles or the equivalent in a facility for
6 reprocessing irradiated reactor fuel; and

7 (c) Solids into which such liquid wastes have been converted;

8 (22) Low-level radioactive waste means radioactive waste not defined
9 as high-level radioactive waste, spent nuclear fuel, or byproduct
10 material as defined in subdivision (12)(b) of this section;

11 (23) Management of low-level radioactive waste means the handling,
12 processing, storage, reduction in volume, disposal, or isolation of such
13 waste from the biosphere in any manner;

14 (24) Source material mill tailings or mill tailings means the
15 tailings or wastes produced by the extraction or concentration of uranium
16 or thorium from any ore processed primarily for its source material
17 content, including discrete surface wastes resulting from underground
18 solution extraction processes, but not including underground ore bodies
19 depleted by such solution extraction processes;

20 (25) Source material milling means any processing of ore, including
21 underground solution extraction of unmined ore, primarily for the purpose
22 of extracting or concentrating uranium or thorium therefrom and which
23 results in the production of source material and source material mill
24 tailings;

25 (26) Spent nuclear fuel means irradiated nuclear fuel that has
26 undergone at least one year of decay since being used as a source of
27 energy in a power reactor. Spent nuclear fuel includes the special
28 nuclear material, byproduct material, source material, and other
29 radioactive material associated with fuel assemblies;

30 (27) Transuranic waste means radioactive waste material containing
31 alpha-emitting radioactive elements, with radioactive half-lives greater

1 than five years, having an atomic number greater than 92 in
2 concentrations in excess of one hundred nanocuries per gram;

3 (28) Licensed practitioner means a person licensed to practice
4 medicine, dentistry, podiatry, chiropractic, osteopathic medicine and
5 surgery, or as an osteopathic physician;

6 (29) X-ray system means an assemblage of components for the
7 controlled production of X-rays, including, but not limited to, an X-ray
8 high-voltage generator, an X-ray control, a tube housing assembly, a
9 beam-limiting device, and the necessary supporting structures. Additional
10 components which function with the system are considered integral parts
11 of the system;

12 (30) Licensed facility operator means any person or entity who has
13 obtained a license under the Low-Level Radioactive Waste Disposal Act to
14 operate a facility, including any person or entity to whom an assignment
15 of a license is approved by the Department of Environment and Energy
16 ~~Environmental Quality~~; and

17 (31) Deliberate misconduct means an intentional act or omission by a
18 person that (a) would intentionally cause a licensee, registrant, or
19 applicant for a license or registration to be in violation of any rule,
20 regulation, or order of or any term, condition, or limitation of any
21 license or registration issued by the department under the Radiation
22 Control Act or (b) constitutes an intentional violation of a requirement,
23 procedure, instruction, contract, purchase order, or policy under the
24 Radiation Control Act by a licensee, a registrant, an applicant for a
25 license or registration, or a contractor or subcontractor of a licensee,
26 registrant, or applicant for a license or registration.

27 Sec. 90. Section 71-5302, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 71-5302 (1) The director shall adopt and promulgate necessary
30 minimum drinking water standards, in the form of rules and regulations,
31 to insure that drinking water supplied to consumers through all public

1 water systems shall not contain amounts of chemical, radiological,
2 physical, or bacteriological material determined by the director to be
3 harmful to human health.

4 (2) The director may adopt and promulgate rules and regulations to
5 require the monitoring of drinking water supplied to consumers through
6 public water systems for chemical, radiological, physical, or
7 bacteriological material determined by the director to be potentially
8 harmful to human health.

9 (3) In determining what materials are harmful or potentially harmful
10 to human health and in setting maximum levels for such harmful materials,
11 the director shall be guided by:

12 (a) General knowledge of the medical profession and related
13 scientific fields as to materials and substances which are harmful to
14 humans if ingested through drinking water; and

15 (b) General knowledge of the medical profession and related
16 scientific fields as to the maximum amounts of such harmful materials
17 which may be ingested by human beings, over varying lengths of time,
18 without resultant adverse effects on health.

19 (4) Subject to section 71-5310, state drinking water standards shall
20 apply to each public water system in the state, except that such
21 standards shall not apply to a public water system:

22 (a) Which consists only of distribution and storage facilities and
23 does not have any collection and treatment facilities;

24 (b) Which obtains all of its water from, but is not owned or
25 operated by, a public water system to which such standards apply;

26 (c) Which does not sell water to any person; and

27 (d) Which is not a carrier which conveys passengers in interstate
28 commerce.

29 (5) The director may adopt alternative monitoring requirements for
30 public water systems in accordance with section 1418 of the federal Safe
31 Drinking Water Act, as such section existed on May 22, 2001.

1 (6) The director may adopt a system for the ranking of safe drinking
2 water projects with known needs or for which loan applications have been
3 received by the director or the Department of Environment and Energy
4 ~~Environmental Quality~~. In establishing the ranking system the director
5 shall consider, among other things, the risk to human health, compliance
6 with the federal Safe Drinking Water Act, as the act existed on May 22,
7 2001, and assistance to systems most in need based upon affordability
8 criteria adopted by the director. This priority system shall be reviewed
9 annually by the director.

10 Sec. 91. Section 71-5316, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-5316 For purposes of the Drinking Water State Revolving Fund Act,
13 unless the context otherwise requires:

14 (1) Safe Drinking Water Act means the federal Safe Drinking Water
15 Act, as the act existed on May 22, 2001;

16 (2) Construction means any of the following: Preliminary planning to
17 determine the feasibility of a safe drinking water project for a public
18 water system; engineering, architectural, legal, fiscal, or economic
19 investigations or studies; surveys, designs, plans, working drawings,
20 specifications, procedures, or other necessary preliminary actions;
21 erection, building, acquisition, alteration, remodeling, improvement, or
22 extension of public water systems; or the inspection or supervision of
23 any of such items;

24 (3) Council means the Environmental Quality Council;

25 (4) Department means the Department of Environment and Energy
26 ~~Environmental Quality~~;

27 (5) Director means the Director of Environment and Energy
28 ~~Environmental Quality~~;

29 (6) Operate and maintain means all necessary activities, including
30 the normal replacement of equipment or appurtenances, to assure the
31 dependable and economical function of a public water system in accordance

1 with its intended purpose;

2 (7) Owner means any person owning or operating a public water
3 system;

4 (8) Public water system has the definition found in section 71-5301;
5 and

6 (9) Safe drinking water project means the structures, equipment,
7 surroundings, and processes required to establish and operate a public
8 water system.

9 Sec. 92. Section 72-804, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 72-804 (1) Any new state building shall meet or exceed the
12 requirements of the 2009 International Energy Conservation Code.

13 (2) Any new lighting, heating, cooling, ventilating, or water
14 heating equipment or controls in a state-owned building and any new
15 building envelope components installed in a state-owned building shall
16 meet or exceed the requirements of the 2009 International Energy
17 Conservation Code.

18 (3) The State Building Administrator of the Department of
19 Administrative Services, in consultation with the Department of
20 Environment and Energy State Energy Office, may specify:

21 (a) A more recent edition of the International Energy Conservation
22 Code;

23 (b) Additional energy efficiency or renewable energy requirements
24 for buildings; and

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

29 Sec. 93. Section 72-805, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 72-805 The 2009 International Energy Conservation Code applies to

1 all new buildings constructed in whole or in part with state funds after
2 August 27, 2011. The Department of Environment and Energy State Energy
3 Office shall review building plans and specifications necessary to
4 determine whether a building will meet the requirements of this section.
5 The department State Energy Office shall provide a copy of its review to
6 the agency receiving funding. The agency receiving the funding shall
7 verify that the building as constructed meets or exceeds the code. The
8 verification shall be provided to the department State Energy Office. The
9 Director of Environment and Energy may State Energy Office shall, in
10 consultation with the State Building Administrator of the Department of
11 Administrative Services, adopt and promulgate rules and regulations to
12 carry out this section.

13 Sec. 94. Section 76-2602, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 76-2602 In the Uniform Environmental Covenants Act:

16 (1) Activity and use limitations means restrictions or obligations
17 created under the act with respect to real property.

18 (2) Agency means the Department of Environment and Energy
19 Environmental Quality or any other Nebraska or federal agency that
20 determines or approves the environmental response project pursuant to
21 which the environmental covenant is created.

22 (3) Common interest community means a condominium, cooperative, or
23 other real property with respect to which a person, by virtue of the
24 person's ownership of a parcel of real property, is obligated to pay
25 property taxes or insurance premiums, or for maintenance, or improvement
26 of other real property described in a recorded covenant that creates the
27 common interest community.

28 (4) Environmental covenant means a servitude arising under an
29 environmental response project that imposes activity and use limitations.

30 (5) Environmental response project means a plan or work performed
31 for environmental remediation of real property and conducted:

1 (A) Under a federal or state program governing environmental
2 remediation of real property, including the Petroleum Release Remedial
3 Action Act;

4 (B) Incident to closure of a solid or hazardous waste management
5 unit, if the closure is conducted with approval of an agency; or

6 (C) Under a state voluntary cleanup program authorized by the
7 Remedial Action Plan Monitoring Act.

8 (6) Holder means the grantee of an environmental covenant as
9 specified in subsection (a) of section 76-2603.

10 (7) Person means an individual, corporation, business trust, estate,
11 trust, partnership, limited liability company, association, joint
12 venture, public corporation, government, governmental subdivision,
13 agency, or instrumentality, or any other legal or commercial entity.

14 (8) Record, used as a noun, means information that is inscribed on a
15 tangible medium or that is stored in an electronic or other medium and is
16 retrievable in perceivable form.

17 (9) State means a state of the United States, the District of
18 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
19 or insular possession subject to the jurisdiction of the United States.

20 Sec. 95. Section 76-2608, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 76-2608 (a) An environmental covenant, any amendment or termination
23 of the covenant under section 76-2609 or 76-2610, and any subordination
24 agreement must be recorded in every county in which any portion of the
25 real property subject to the covenant is located. For purposes of
26 indexing, a holder shall be treated as a grantee.

27 (b) Except as otherwise provided in subsection (c) of section
28 76-2609, an environmental covenant is subject to the laws of this state
29 governing recording and priority of interests in real property.

30 (c) A copy of a document recorded under subsection (a) of this
31 section shall also be provided to the Department of Environment and

1 ~~Energy Environmental Quality~~ if the department has not signed the
2 covenant.

3 (d) The department shall make available to the public a listing of
4 all documents under subsection (a) of this section or documents under
5 subsection (c) of this section which have been provided to the
6 department.

7 Sec. 96. Section 77-27,150, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-27,150 (1) An application for a refund of Nebraska sales and use
10 taxes paid for any air or water pollution control facility may be filed
11 with the Tax Commissioner by the owner of such facility in such manner
12 and in such form as may be prescribed by the commissioner. The
13 application for a refund shall contain: (a) Plans and specifications of
14 such facility including all materials incorporated therein; (b) a
15 descriptive list of all equipment acquired by the applicant for the
16 purpose of industrial or agricultural waste pollution control; (c) the
17 proposed operating procedure for the facility; (d) the acquisition cost
18 of the facility for which a refund is claimed; and (e) a copy of the
19 final findings of the Department of Environment and Energy ~~Environmental~~
20 ~~Quality~~ issued pursuant to section 77-27,151.

21 (2) The Tax Commissioner shall offer an applicant a hearing upon
22 request of such applicant. The hearing shall not affect the authority of
23 the Department of Environment and Energy ~~Environmental Quality~~ to
24 determine whether or not industrial or agricultural waste pollution
25 control exists within the meaning of the Air and Water Pollution Control
26 Tax Refund Act.

27 (3) A claim for refund received without a copy of the final findings
28 of the Department of Environment and Energy ~~Environmental Quality~~ issued
29 pursuant to section 77-27,151 shall not be considered a valid claim and
30 shall be returned to the applicant.

31 (4) Notice of the Tax Commissioner's refusal to issue a refund shall

1 be mailed to the applicant.

2 Sec. 97. Section 77-27,151, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 77-27,151 If the Department of Environment and Energy ~~Environmental~~
5 ~~Quality~~ finds that a facility or multiple facilities at a single location
6 are designed and operated primarily for control, capture, abatement, or
7 removal of industrial or agricultural waste from air or water and are
8 suitable, are reasonably adequate, and meet the intent and purposes of
9 the Environmental Protection Act, the Department of Environment and
10 Energy ~~Environmental Quality~~ shall so notify the owner of the facility in
11 writing of its findings that the facility, multiple facilities, or the
12 specified portions of any facility are approved. The Department of
13 Environment and Energy ~~Environmental Quality~~ shall also notify the Tax
14 Commissioner of its findings and the extent of commercial or productive
15 value derived from any materials captured or recovered by the facility.

16 Sec. 98. Section 77-27,152, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-27,152 (1) The Tax Commissioner, after giving notice by mail to
19 the applicant and giving an opportunity for a hearing, shall modify or
20 revoke the refund whenever the following appears: (a) The refund was
21 obtained by fraud or misrepresentation regarding the payment of tax on
22 materials incorporated into the facility or facilities; or (b) the
23 Department of Environment and Energy ~~Environmental Quality~~ has modified
24 its findings regarding the facility covered by the refund.

25 (2) The Department of Environment and Energy ~~Environmental Quality~~
26 may modify its findings when it determines any of the following: (a) The
27 refund was obtained by fraud or misrepresentation regarding the facility
28 or planned operation of the facility; (b) the applicant has failed
29 substantially to operate the facility for the purpose and degree of
30 control specified in the application or an amended application; or (c)
31 the facility covered by the refund is no longer used for the primary

1 purpose of pollution control.

2 (3) On the mailing to the refund applicant of notice of the action
3 of the Tax Commissioner modifying or revoking the refund, the refund
4 shall cease to be in force or shall remain in force only as modified.
5 When a refund is revoked because a refund was obtained by fraud or
6 misrepresentation, all taxes which would have been payable if no
7 certificate had been issued shall be immediately due and payable with the
8 maximum interest and penalties prescribed by the Nebraska Revenue Act of
9 1967. No statute of limitations shall operate in the event of fraud or
10 misrepresentation.

11 Sec. 99. Section 77-27,153, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-27,153 (1) A party aggrieved by the issuance, refusal to issue,
14 revocation, or modification of a pollution control tax refund may appeal
15 from the finding and order of the Tax Commissioner. The finding and order
16 shall not affect the authority of the Department of Environment and
17 Energy Environmental Quality to determine whether or not industrial or
18 agricultural waste pollution control exists within the meaning of the Air
19 and Water Pollution Control Tax Refund Act. The appeal shall be in
20 accordance with the Administrative Procedure Act.

21 (2) The Department of Environment and Energy Environmental Quality
22 shall make its findings for the Air and Water Pollution Control Tax
23 Refund Act in accordance with its normal administrative procedures.
24 Nothing in the act is intended to affect the department's authority to
25 make findings and to determine whether or not industrial or agricultural
26 waste pollution control exists within the meaning of the act.

27 Sec. 100. Section 77-27,154, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 77-27,154 The Tax Commissioner may adopt and promulgate rules and
30 regulations that are necessary for the administration of the Air and
31 Water Pollution Control Tax Refund Act. Such rules and regulations shall

1 not abridge the authority of the Department of Environment and Energy
2 ~~Environmental Quality~~ to determine whether or not industrial or
3 agricultural waste pollution control exists within the meaning of the
4 act.

5 Sec. 101. Section 77-27,187.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-27,187.01 For purposes of the Nebraska Advantage Rural
8 Development Act, unless the context otherwise requires:

9 (1) Any term has the same meaning as used in the Nebraska Revenue
10 Act of 1967;

11 (2) Equivalent employees means the number of employees computed by
12 dividing the total hours paid in a year to employees by the product of
13 forty times the number of weeks in a year;

14 (3) Livestock means all animals, including cattle, horses, sheep,
15 goats, hogs, dairy animals, chickens, turkeys, and other species of game
16 birds and animals raised and produced subject to permit and regulation by
17 the Game and Parks Commission or the Department of Agriculture;

18 (4) Livestock modernization or expansion means the construction,
19 improvement, or acquisition of buildings, facilities, or equipment for
20 livestock housing, confinement, feeding, production, and waste
21 management. Livestock modernization or expansion does not include any
22 improvements made to correct a violation of the Environmental Protection
23 Act, the Integrated Solid Waste Management Act, the Livestock Waste
24 Management Act, a rule or regulation adopted and promulgated pursuant to
25 such acts, or any order of the Department of Environment and Energy
26 ~~Environmental Quality~~ undertaken within five years after a complaint
27 issued from the Director of Environment and Energy ~~Environmental Quality~~
28 under section 81-1507;

29 (5) Livestock production means the active use, management, and
30 operation of real and personal property (a) for the commercial production
31 of livestock, (b) for the commercial breeding, training, showing, or

1 racing of horses or for the use of horses in a recreational or tourism
2 enterprise, and (c) for the commercial production of dairy and eggs. The
3 activity will be considered commercial if the gross income derived from
4 an activity for two or more of the taxable years in the period of seven
5 consecutive taxable years which ends with the taxable year exceeds the
6 deductions attributable to such activity or, if the operation has been in
7 existence for less than seven years, if the activity is engaged in for
8 the purpose of generating a profit;

9 (6) Qualified employee leasing company means a company which places
10 all employees of a client-lessee on its payroll and leases such employees
11 to the client-lessee on an ongoing basis for a fee and, by written
12 agreement between the employee leasing company and a client-lessee,
13 grants to the client-lessee input into the hiring and firing of the
14 employees leased to the client-lessee;

15 (7) Related taxpayers includes any corporations that are part of a
16 unitary business under the Nebraska Revenue Act of 1967 but are not part
17 of the same corporate taxpayer, any business entities that are not
18 corporations but which would be a part of the unitary business if they
19 were corporations, and any business entities if at least fifty percent of
20 such entities are owned by the same persons or related taxpayers and
21 family members as defined in the ownership attribution rules of the
22 Internal Revenue Code of 1986, as amended;

23 (8) Taxpayer means a corporate taxpayer or other person subject to
24 either an income tax imposed by the Nebraska Revenue Act of 1967 or a
25 franchise tax under Chapter 77, article 38, or a partnership, limited
26 liability company, subchapter S corporation, cooperative, including a
27 cooperative exempt under section 521 of the Internal Revenue Code of
28 1986, as amended, limited cooperative association, or joint venture that
29 is or would otherwise be a member of the same unitary group if
30 incorporated, which is, or whose partners, members, or owners
31 representing an ownership interest of at least ninety percent of the

1 control of such entity are, subject to or exempt from such taxes, and any
2 other partnership, limited liability company, subchapter S corporation,
3 cooperative, including a cooperative exempt under section 521 of the
4 Internal Revenue Code of 1986, as amended, limited cooperative
5 association, or joint venture when the partners, members, or owners
6 representing an ownership interest of at least ninety percent of the
7 control of such entity are subject to or exempt from such taxes; and

8 (9) Year means the taxable year of the taxpayer.

9 Sec. 102. Section 77-27,236, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 77-27,236 (1) A taxpayer who makes an investment after January 1,
12 2008, and prior to January 1, 2015, in a biodiesel facility shall receive
13 a nonrefundable income tax credit as provided in this section.

14 (2) The credit provided in subsection (1) of this section shall be
15 equal to thirty percent of the amount invested by the taxpayer in a
16 biodiesel facility. The credit shall be taken over at least four taxable
17 years subject to the following conditions:

18 (a) No more than ten percent of the credit provided for in
19 subsection (1) of this section shall be taken in each of the first two
20 taxable years the biodiesel facility produces B100 and no more than fifty
21 percent of the credit provided for in subsection (1) of this section
22 shall be taken in the third taxable year the biodiesel facility produces
23 B100. The credit allowed under subsection (1) of this section shall not
24 exceed fifty percent of the taxpayer's liability in any tax year;

25 (b) Any amount of credit not allowed because of the limitations in
26 this section may be carried forward for up to fifteen taxable years after
27 the taxable year in which the investment was made. The aggregate maximum
28 income tax credit a taxpayer may obtain is two hundred fifty thousand
29 dollars;

30 (c) The investment shall be at risk in the biodiesel facility. The
31 investment shall be in the form of a purchase of an ownership interest or

1 the right to receive payment of dividends from the biodiesel facility and
2 shall remain in the business for at least three years. The Tax
3 Commissioner may recapture any credits used if the investment does not
4 remain invested for the three-year period. An investment placed in escrow
5 does not qualify under this subdivision;

6 (d) The entire amount of the investment shall be expended by the
7 biodiesel facility for plant, equipment, research and development,
8 marketing and sales activity, or working capital;

9 (e) A partnership, a subchapter S corporation, a limited liability
10 company that for tax purposes is treated like a partnership, a
11 cooperative, including a cooperative exempt under section 521 of the
12 Internal Revenue Code of 1986, as amended, or any other pass-through
13 entity that invests in a biodiesel facility shall be considered to be the
14 taxpayer for purposes of the credit limitations. Except for the
15 limitation under subdivision (2)(a) of this section, the amount of the
16 credit allowed to a pass-through entity shall be determined at the
17 partnership, corporate, cooperative, or other organizational level. The
18 amount of the credit determined at the partnership, corporate,
19 cooperative, or other organizational level shall be allowed to the
20 partners, members, or other owners in proportion to their respective
21 ownership interests in the pass-through entity;

22 (f) The credit shall be taken only if (i) the biodiesel facility
23 produces B100, (ii) the biodiesel facility in which the investment was
24 made produces at a rate of at least seventy percent of its rated capacity
25 continuously for at least one week during the first taxable year the
26 credit is taken and produces at a rate of at least seventy percent of its
27 rated capacity over a six-month period during each of the next two
28 taxable years the credit is taken, (iii) all processing takes place at
29 the biodiesel facility in which the investment was made and which is
30 located in Nebraska, and (iv) at least fifty-one percent of the ownership
31 interest of the biodiesel facility is held by Nebraska resident

1 individuals or Nebraska entities; and

2 (g) The biodiesel facility shall provide the Department of Revenue
3 written evidence substantiating that the biodiesel facility has received
4 the requisite authority from the Department of Environment and Energy
5 ~~Environmental Quality~~ and from the United States Department of Justice,
6 Bureau of Alcohol, Tobacco, Firearms and Explosives. The biodiesel
7 facility shall annually provide an analysis to the Department of Revenue
8 of samples of the product collected according to procedures specified by
9 the department. The analysis shall be prepared by an independent
10 laboratory meeting standards of the International Organization for
11 Standardization. Prior to collecting the samples, the biodiesel facility
12 shall notify the department which may observe the sampling procedures
13 utilized by the biodiesel facility to obtain the samples to be submitted
14 for independent analysis.

15 (3) Any biodiesel facility for which credits are granted shall,
16 whenever possible, employ workers who are residents of the State of
17 Nebraska.

18 (4) Trade secrets, academic and scientific research work, and other
19 proprietary or commercial information which may be filed with the Tax
20 Commissioner shall not be considered to be public records as defined in
21 section 84-712.01 if the release of such trade secrets, work, or
22 information would give advantage to business competitors and serve no
23 public purpose. Any person seeking release of the trade secrets, work, or
24 information as a public record shall demonstrate to the satisfaction of
25 the department that the release would not violate this section.

26 (5) For purposes of this section:

27 (a) Biodiesel facility means a plant or facility related to the
28 processing, marketing, or distribution of biodiesel; and

29 (b) B100 means pure biodiesel containing mono-alkyl esters of long
30 chain fatty acids derived from vegetable oils or animal fats, designated
31 as B100, and meeting the American Society for Testing and Materials

1 standard, ASTM D6751.

2 Sec. 103. Section 81-2,294, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:

4 81-2,294 (1) The Director of Agriculture shall appoint a committee
5 of experts, not to exceed ten persons, to advise the Department of
6 Agriculture on the development of the assessment matrix described in
7 subsection (2) of this section. Experts shall include representation from
8 county board members, county zoning administrators, livestock production
9 agriculture, the University of Nebraska, and other experts as may be
10 determined by the director. The committee shall review the matrix
11 annually and recommend to the department changes as needed.

12 (2) The Department of Agriculture shall, in consultation with the
13 committee created under subsection (1) of this section, develop an
14 assessment matrix which may be used by county officials to determine
15 whether to approve or disapprove a conditional use permit or special
16 exception application. The matrix shall be developed within one year
17 after August 30, 2015. In the development of the assessment matrix, the
18 department shall:

19 (a) Consider matrices already developed by the counties and other
20 states;

21 (b) Design the matrix to produce quantifiable results based on the
22 scoring of objective criteria according to an established value scale.
23 Each criterion shall be assigned points corresponding to the value scale.
24 The matrix shall consider risks and factors mitigating risks if the
25 livestock operation were constructed according to the application;

26 (c) Assure the matrix is a practical tool for use by persons when
27 completing permit applications and by county officials when scoring
28 conditional use permit or special exception applications. To every extent
29 feasible, the matrix shall include criteria that may be readily scored
30 according to ascertainable data and upon which reasonable persons
31 familiar with the location of a proposed construction site would not

1 ordinarily disagree; and

2 (d) Provide for definite point selections for all criteria included
3 in the matrix and provide for a minimum threshold total score required to
4 receive approval by county officials.

5 (3) The Department of Agriculture may develop criteria in the matrix
6 which include factors referencing the following:

7 (a) Size of operation;

8 (b) Type of operation;

9 (c) Whether the operation has received or is in the process of
10 applying for a permit from the Department of Environment and Energy
11 ~~Environmental Quality~~, if required by law;

12 (d) Environmental practices adopted by the operation operator which
13 may exceed those required by the Department of Environment and Energy
14 ~~Environmental Quality~~;

15 (e) Odor control practices;

16 (f) Consideration of proximity of a livestock operation to
17 neighboring residences, public use areas, and critical public areas;

18 (g) Community support and communication with neighbors and other
19 community members;

20 (h) Manure storage and land application sites and practices;

21 (i) Traffic;

22 (j) Economic impact to the community; and

23 (k) Landscape and aesthetic appearance.

24 (4) In developing the matrix, the Department of Agriculture shall
25 consider whether the proposed criteria are:

26 (a) Protective of public health or safety;

27 (b) Practical and workable;

28 (c) Cost effective;

29 (d) Objective;

30 (e) Based on available scientific information that has been
31 subjected to peer review;

1 (f) Designed to promote the growth and viability of animal
2 agriculture in this state;

3 (g) Designed to balance the economic viability of farm operations
4 with protecting natural resources and other community interests; and

5 (h) Usable by county officials.

6 Sec. 104. Section 81-1108.55, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 81-1108.55 All purchases, leases, or contracts which by law are
9 required to be based on competitive bids pursuant to section 81-1108.16
10 shall be made to the lowest responsible bidder, taking into consideration
11 the best interests of the state, the quality or performance of the
12 property proposed to be supplied, its conformity with specifications, the
13 purposes for which required, and the times of delivery. In determining
14 the lowest responsible bidder, in addition to price, the following
15 elements shall be given consideration:

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

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

20 (3) Whether the bidder can perform the contract within the time
21 specified;

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

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

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

27 (7) The performance of the property, taking into consideration any
28 commonly accepted tests and standards of product usability and user
29 requirements;

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

1 (9) The information furnished by each bidder, when deemed applicable
2 by the State Building Administrator, concerning life-cycle costs between
3 alternatives for all classes of equipment, evidence of expected life,
4 repair and maintenance costs, and energy consumption on a per-year basis;
5 and

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

8 Reports regarding procurements made pursuant to this section shall
9 be provided to the Department of Environment and Energy State Energy
10 ~~Office~~. Such reports shall be in the form and contain such information as
11 the Department of Environment and Energy State Energy Office may require.

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

15 Sec. 105. Section 81-1316, Revised Statutes Cumulative Supplement,
16 2018, is amended to read:

17 81-1316 (1) All agencies and personnel of state government shall be
18 covered by sections 81-1301 to 81-1319 and shall be considered subject to
19 the State Personnel System, except the following:

- 20 (a) All personnel of the office of the Governor;
- 21 (b) All personnel of the office of the Lieutenant Governor;
- 22 (c) All personnel of the office of the Secretary of State;
- 23 (d) All personnel of the office of the State Treasurer;
- 24 (e) All personnel of the office of the Attorney General;
- 25 (f) All personnel of the office of the Auditor of Public Accounts;
- 26 (g) All personnel of the Legislature;
- 27 (h) All personnel of the court systems;
- 28 (i) All personnel of the Board of Educational Lands and Funds;
- 29 (j) All personnel of the Public Service Commission;
- 30 (k) All personnel of the Nebraska Brand Committee;
- 31 (l) All personnel of the Commission of Industrial Relations;

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

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

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

5 (p) All personnel of the Coordinating Commission for Postsecondary
6 Education;

7 (q) All personnel of the Governor's Policy Research Office, ~~but not~~
8 ~~to include personnel within the State Energy Office;~~

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

10 (s) All agency heads;

11 (t)(i) The Director of Behavioral Health of the Division of
12 Behavioral Health; (ii) the Director of Children and Family Services of
13 the Division of Children and Family Services; (iii) the Director of
14 Developmental Disabilities of the Division of Developmental Disabilities;
15 (iv) the Director of Medicaid and Long-Term Care of the Division of
16 Medicaid and Long-Term Care; and (v) the Director of Public Health of the
17 Division of Public Health;

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

25 (v) The chief executive officers of all facilities operated by the
26 Department of Correctional Services and the medical director for the
27 department appointed pursuant to section 83-4,156;

28 (w) All personnel employed as pharmacists, physicians,
29 psychiatrists, or psychologists by the Department of Correctional
30 Services;

31 (x) All personnel employed as pharmacists, physicians,

1 psychiatrists, psychologists, service area administrators, or facility
2 operating officers of the Department of Health and Human Services or the
3 Department of Veterans' Affairs;

4 (y) Deputies and examiners of the Department of Banking and Finance
5 and the Department of Insurance as set forth in sections 8-105 and
6 44-119, except for those deputies and examiners who remain in the State
7 Personnel System; and

8 (z) All personnel of the Tax Equalization and Review Commission.

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

| 12 | Number of Agency | Number of Noncovered |
|----|------------------|----------------------|
| 13 | Employees | Positions |
| 14 | less than 25 | 0 |
| 15 | 25 to 100 | 1 |
| 16 | 101 to 250 | 2 |
| 17 | 251 to 500 | 3 |
| 18 | 501 to 1000 | 4 |
| 19 | 1001 to 2000 | 5 |
| 20 | 2001 to 3000 | 8 |
| 21 | 3001 to 4000 | 11 |
| 22 | 4001 to 5000 | 40 |
| 23 | over 5000 | 50 |

24 The purpose of having such noncovered positions shall be to allow
25 agency heads the opportunity to recruit, hire, and supervise critical,
26 confidential, or policymaking personnel without restrictions from
27 selection procedures, compensation rules, career protections, and
28 grievance privileges. Persons holding the noncovered positions shall
29 serve at the pleasure of the agency head and shall be paid salaries set
30 by the agency head. An agency with over five thousand employees shall
31 provide notice in writing to the Health and Human Services Committee of

1 the Legislature when forty noncovered positions have been filled by the
2 agency head pursuant to this subsection.

3 (3) No changes to this section or to the number of noncovered
4 positions within an agency shall affect the status of personnel employed
5 on the date the changes become operative without their prior written
6 agreement. A state employee's career protections or coverage by personnel
7 rules and regulations shall not be revoked by redesignation of the
8 employee's position as a noncovered position without the prior written
9 agreement of such employee.

10 Sec. 106. Section 81-1502, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-1502 For purposes of the Environmental Protection Act, unless the
13 context otherwise requires:

14 (1) Air contaminant or air contamination shall mean the presence in
15 the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other
16 gaseous fluid, or particulate substance differing in composition from or
17 exceeding in concentration the natural components of the atmosphere;

18 (2) Air pollution shall mean the presence in the outdoor atmosphere
19 of one or more air contaminants or combinations thereof in such
20 quantities and of such duration as are or may tend to be injurious to
21 human, plant, or animal life, property, or the conduct of business;

22 (3) Chairperson shall mean the chairperson of the Environmental
23 Quality Council and council shall mean the Environmental Quality Council;

24 (4) Complaint shall mean any charge, however informal, to or by the
25 council, that any person or agency, private or public, is polluting the
26 air, land, or water or is violating the Environmental Protection Act or
27 any rule or regulation of the department in respect thereof;

28 (5) Control and controlling shall include prohibition and
29 prohibiting as related to air, land, or water pollution;

30 (6) Department shall mean the Department of Environment and Energy
31 ~~Environmental Quality~~, which department is hereby created;

1 (7) Director shall mean the Director of Environment and Energy
2 ~~Environmental Quality~~, which position is hereby established;

3 (8) Disposal system shall mean a system for disposing of wastes,
4 including hazardous wastes, either by surface or underground methods, and
5 includes sewerage systems and treatment works, disposal wells and fields,
6 and other systems;

7 (9) Emissions shall mean releases or discharges into the outdoor
8 atmosphere of any air contaminant or combination thereof;

9 (10) Person shall mean any: Individual; partnership; limited
10 liability company; association; public or private corporation; trustee;
11 receiver; assignee; agent; municipality or other governmental
12 subdivision; public agency; other legal entity; or any officer or
13 governing or managing body of any public or private corporation,
14 municipality, governmental subdivision, public agency, or other legal
15 entity;

16 (11) Rule or regulation shall mean any rule or regulation of the
17 department;

18 (12) Sewerage system shall mean pipelines, conduits, pumping
19 stations, force mains, and all other constructions, devices,
20 appurtenances, and facilities used for collecting or conducting wastes to
21 an ultimate point for treatment or disposal;

22 (13) Treatment works shall mean any plant or other works used for
23 the purpose of treating, stabilizing, or holding wastes;

24 (14) Wastes shall mean sewage, industrial waste, and all other
25 liquid, gaseous, solid, radioactive, or other substances which may
26 pollute or tend to pollute any air, land, or waters of the state;

27 (15) Refuse shall mean putrescible and nonputrescible solid wastes,
28 except body wastes, and includes garbage, rubbish, ashes, incinerator
29 ash, incinerator residue, street cleanings, and solid market and
30 industrial wastes;

31 (16) Garbage shall mean rejected food wastes, including waste

1 accumulation of animal, fruit, or vegetable matter used or intended for
2 food or that attend the preparation, use, cooking, dealing in, or storing
3 of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by
4 rendering plants;

5 (17) Rubbish shall mean nonputrescible solid wastes, excluding
6 ashes, consisting of both combustible and noncombustible wastes, such as
7 paper, cardboard, tin cans, yard clippings, wood, glass, bedding,
8 crockery, or litter of any kind that will be a detriment to the public
9 health and safety;

10 (18) Junk shall mean old scrap, copper, brass, iron, steel, rope,
11 rags, batteries, paper, trash, rubber debris, waste, dismantled or
12 wrecked automobiles, or parts thereof, and other old or scrap ferrous or
13 nonferrous material;

14 (19) Land pollution shall mean the presence upon or within the land
15 resources of the state of one or more contaminants or combinations of
16 contaminants, including, but not limited to, refuse, garbage, rubbish, or
17 junk, in such quantities and of such quality as will or are likely to (a)
18 create a nuisance, (b) be harmful, detrimental, or injurious to public
19 health, safety, or welfare, (c) be injurious to plant and animal life and
20 property, or (d) be detrimental to the economic and social development,
21 the scenic beauty, or the enjoyment of the natural attractions of the
22 state;

23 (20) Water pollution shall mean the manmade or man-induced
24 alteration of the chemical, physical, biological, or radiological
25 integrity of water;

26 (21) Waters of the state shall mean all waters within the
27 jurisdiction of this state, including all streams, lakes, ponds,
28 impounding reservoirs, marshes, wetlands, watercourses, waterways, wells,
29 springs, irrigation systems, drainage systems, and all other bodies or
30 accumulations of water, surface or underground, natural or artificial,
31 public or private, situated wholly or partly within or bordering upon the

1 state;

2 (22) Point source shall mean any discernible confined and discrete
3 conveyance, including, but not limited to, any pipe, ditch, channel,
4 tunnel, conduit, well, discrete fissure, container, rolling stock, or
5 vessel or other floating craft from which pollutants are or may be
6 discharged;

7 (23) Effluent limitation shall mean any restriction, including a
8 schedule of compliance, established by the council on quantities, rates,
9 and concentrations of chemical, physical, biological, and other
10 constituents which are discharged from point sources into waters of the
11 state;

12 (24) Schedule of compliance shall mean a schedule of remedial
13 measures including an enforceable sequence of actions or operations
14 leading to compliance with an effluent limitation, other limitation,
15 prohibition, or standard;

16 (25) Hazardous waste shall mean a solid waste, or combination of
17 solid wastes, which because of its quantity, concentration, or physical,
18 chemical, or infectious characteristics may (a) cause or significantly
19 contribute to an increase in mortality or an increase in serious
20 irreversible, or incapacitating reversible, illness or (b) pose a
21 substantial present or potential hazard to human or animal health or the
22 environment when improperly treated, stored, transported, disposed of, or
23 otherwise managed;

24 (26) Solid waste shall mean any garbage, refuse, or sludge from a
25 waste treatment plant, water supply treatment plant, or air pollution
26 control facility and other discarded material, including solid, liquid,
27 semisolid, or contained gaseous material resulting from industrial,
28 commercial, and mining operations and from community activities. Solid
29 waste shall not include slag, a product that is a result of the steel
30 manufacturing process and is managed as an item of value in a controlled
31 manner and not as a discarded material; solid or dissolved materials in

1 irrigation return flows or industrial discharges which are point sources
2 subject to permits under section 402 of the Clean Water Act, as amended,
3 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material
4 as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011
5 et seq.;

6 (27) Storage, when used in connection with hazardous waste, shall
7 mean the containment of hazardous waste, either on a temporary basis or
8 for a period of years, in such manner as not to constitute disposal of
9 such hazardous waste;

10 (28) Manifest shall mean the form used for identifying the quantity,
11 composition, origin, routing, and destination of hazardous waste during
12 its transportation from the point of generation to the point of disposal,
13 treatment, or storage;

14 (29) Processing shall mean to treat, detoxify, neutralize,
15 incinerate, biodegrade, or otherwise process a hazardous waste to remove
16 such waste's harmful properties or characteristics for disposal in
17 accordance with regulations established by the council;

18 (30) Well shall mean a bored, drilled, or driven shaft or a dug
19 hole, the depth of which is greater than the largest surface dimension of
20 such shaft or hole;

21 (31) Injection well shall mean a well into which fluids are
22 injected;

23 (32) Fluid shall mean a material or substance which flows or moves
24 whether in a semisolid, liquid, sludge, gas, or other form or state;

25 (33) Mineral production well shall mean a well drilled to promote
26 extraction of mineral resources or energy, including, but not limited to,
27 a well designed for (a) mining of sulfur by the Frasch process, (b)
28 solution mining of sodium chloride, potash, phosphate, copper, uranium,
29 or any other mineral which can be mined by this process, (c) in situ
30 combustion of coal, tar sands, oil shale, or any other fossil fuel, or
31 (d) recovery of geothermal energy for the production of electric power.

1 Mineral production well shall not include any well designed for
2 conventional oil or gas production, for use of fluids to promote enhanced
3 recovery of oil or natural gas, or for injection of hydrocarbons for
4 storage purposes;

5 (34) Mineral exploration hole shall mean a hole bored, drilled,
6 driven, or dug in the act of exploring for a mineral other than oil and
7 gas;

8 (35) Solution mining shall mean the use of an injection well and
9 fluids to promote the extraction of mineral resources;

10 (36) Uranium shall mean tri-uranium oct-oxide;

11 (37) Solid waste management facility shall mean a facility as
12 defined in section 13-2010; and

13 (38) Livestock waste control facility shall have the same meaning as
14 in section 54-2417.

15 Sec. 107. Section 81-1503, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-1503 (1) ~~(1)(a)~~ The Environmental Quality Council is hereby
18 created.

19 ~~(b) Until April 28, 2005, the council shall consist of sixteen~~
20 ~~members to be appointed by the Governor with the advice and consent of~~
21 ~~the Legislature as follows:~~

22 ~~(i) One representative of the food products manufacturing industry;~~

23 ~~(ii) One representative of conservation;~~

24 ~~(iii) One representative of the agricultural processing industry;~~

25 ~~(iv) One representative of the automotive or petroleum industry;~~

26 ~~(v) One representative of the chemical industry;~~

27 ~~(vi) One representative of heavy industry;~~

28 ~~(vii) One representative of the power generating industry;~~

29 ~~(viii) One representative of agriculture actively engaged in crop~~
30 ~~production;~~

31 ~~(ix) One representative of labor;~~

1 ~~(x) One professional engineer experienced in control of air and~~
2 ~~water pollution and solid wastes;~~

3 ~~(xi) One physician knowledgeable in the health aspects of air,~~
4 ~~water, and land pollution;~~

5 ~~(xii) One representative from county government;~~

6 ~~(xiii) Two representatives from municipal government, one of whom~~
7 ~~shall represent cities other than those of the primary or metropolitan~~
8 ~~class;~~

9 ~~(xiv) One representative of the livestock industry; and~~

10 ~~(xv) One representative of the public at large.~~

11 The ~~(c) On and after April 28, 2005,~~ the council shall consist of
12 seventeen members to be appointed by the Governor with the advice and
13 consent of the Legislature as follows:

14 (a) ~~(i)~~ One representative of the food products manufacturing
15 industry;

16 (b) ~~(ii)~~ One representative of conservation;

17 (c) ~~(iii)~~ One representative of the agricultural processing
18 industry;

19 (d) ~~(iv)~~ One representative of the automotive or petroleum industry;

20 (e) ~~(v)~~ One representative of the chemical industry;

21 (f) ~~(vi)~~ One representative of heavy industry;

22 (g) ~~(vii)~~ One representative of the power generating industry;

23 (h) ~~(viii)~~ One representative of agriculture actively engaged in
24 crop production;

25 (i) ~~(ix)~~ One representative of labor;

26 (j) ~~(x)~~ One professional engineer experienced in control of air and
27 water pollution and solid wastes;

28 (k) ~~(xi)~~ One physician knowledgeable in the health aspects of air,
29 water, and land pollution;

30 (l) ~~(xii)~~ One representative from county government;

31 (m) ~~(xiii)~~ Two representatives from municipal government, one of

1 whom shall represent cities other than those of the primary or
2 metropolitan class;

3 (n) ~~(xiv)~~ One representative of the livestock industry;

4 (o) ~~(xv)~~ One representative of minority populations; and

5 (p) ~~(xvi)~~ One biologist.

6 ~~(d)(i) Except as otherwise provided in this subdivision, members of~~
7 ~~the council serving on April 28, 2005, shall continue to serve on the~~
8 ~~council as representatives of the entity they were appointed to represent~~
9 ~~until their current terms of office expire and their successors are~~
10 ~~appointed and confirmed. The member representing the public at large~~
11 ~~shall serve until the member representing minority populations is~~
12 ~~appointed.~~

13 ~~(ii) The Governor shall appoint members pursuant to subdivisions (1)~~
14 ~~(c)(xv) and (1)(c)(xvi) of this section within ninety days after April~~
15 ~~28, 2005.~~

16 (2) Members shall serve for terms of four years. All appointments
17 shall be subject to confirmation by the Legislature when initially made.
18 As the term of an appointee to the council expires, the succeeding
19 appointee shall be a representative of the same segment of the public as
20 the previous appointee. In the case of appointees to vacancies occurring
21 from unexpired terms, each successor shall serve out the term of his or
22 her predecessor. Members whose terms have expired shall continue to serve
23 until their successors have been appointed. All members shall be citizens
24 and residents of the State of Nebraska.

25 (3) Members may be removed by the Governor for inefficiency, neglect
26 of duty, or misconduct in office but only after delivering to the member
27 a copy of the charges and affording him or her an opportunity to be
28 publicly heard in person or by counsel, in his or her own defense, upon
29 not less than ten days' notice. Such hearing shall be held before the
30 Governor. When a member is removed, the Governor shall file, in the
31 office of the Secretary of State, a complete statement of all charges

1 made against such member and the findings thereon, together with a
2 complete record of the proceedings.

3 (4) The council shall elect from its members a chairperson and a
4 vice-chairperson, who shall hold office at the pleasure of the council.
5 The vice-chairperson shall serve as chairperson in case of the absence or
6 disability of the chairperson. The director shall serve as secretary of
7 the council and shall keep all records of meetings of and actions taken
8 by the council. He or she shall be promptly advised as to such actions by
9 the chairperson.

10 (5) The members of the council, while engaged in the performance of
11 their official duties, shall receive a per diem of forty dollars while so
12 serving, including travel time. In addition, members of the council shall
13 receive reimbursement for actual and necessary expenses as provided in
14 sections 81-1174 to 81-1177.

15 (6) The council shall hold at least two regular meetings each year,
16 at a time and place fixed by the council and shall keep a record of its
17 proceedings which shall be open to the public for inspection. Special
18 meetings may be called by the chairperson. Such special meetings must be
19 called by him or her upon receipt of a written request signed by two or
20 more members of the council. Written notice of the time and place of all
21 meetings shall be mailed in advance to the office of each member of the
22 council by the secretary. A majority of the members of the council shall
23 constitute a quorum.

24 (7) The council shall submit to the Governor a list of names from
25 which he or she shall appoint the Director of Environment and Energy
26 ~~Environmental Quality~~ who shall be experienced in air, water, and land
27 pollution control and who may be otherwise an employee of state
28 government. The director shall be responsible for administration of the
29 department and all standards, rules, and regulations adopted pursuant to
30 Chapter 81, article 15, the Integrated Solid Waste Management Act, and
31 the Livestock Waste Management Act. All such standards, rules, and

1 regulations shall be adopted by the council after consideration of the
2 recommendations of the director. All grants to political subdivisions
3 under the control of the department shall be made by the director in
4 accordance with priorities established by the council, unless otherwise
5 directed by statute. A majority of the members of the council shall
6 constitute a quorum for the transaction of business. The affirmative vote
7 of a majority of all members of the council shall be necessary for the
8 adoption of standards, rules, and regulations.

9 (8) Before the director enters upon the duties of his or her office,
10 he or she shall take and subscribe to the constitutional oath of office
11 and shall, in addition thereto, swear and affirm that he or she holds no
12 other public office nor any position under any political committee or
13 party, that he or she has not during the two years immediately prior to
14 his or her appointment received a significant portion of his or her
15 income directly or indirectly from permitholders or applicants for a
16 permit under the Environmental Protection Act, and that he or she will
17 not receive such income during his or her term as director, except that
18 such requirements regarding income prior to the term of office shall not
19 apply to employees of any agency of the State of Nebraska or any
20 political subdivision which may be a permitholder under the Environmental
21 Protection Act. Such oath and affirmation shall be filed with the
22 Secretary of State.

23 Sec. 108. Section 81-1504, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 81-1504 The department shall have and may exercise the following
26 powers and duties:

27 (1) To exercise exclusive general supervision of the administration
28 and enforcement of the Environmental Protection Act, the Integrated Solid
29 Waste Management Act, the Livestock Waste Management Act, and all rules
30 and regulations and orders adopted and promulgated under such acts;

31 (2) To develop comprehensive programs for the prevention, control,

1 and abatement of new or existing pollution of the air, waters, and land
2 of the state;

3 (3) To advise and consult, cooperate, and contract with other
4 agencies of the state, the federal government, and other states, with
5 interstate agencies, and with affected groups, political subdivisions,
6 and industries in furtherance of the purposes of the acts;

7 (4) To act as the state water pollution, air pollution, and solid
8 waste pollution control agency for all purposes of the Clean Water Act,
9 as amended, 33 U.S.C. 1251 et seq., the Clean Air Act, as amended, 42
10 U.S.C. 7401 et seq., the Resource Conservation and Recovery Act, as
11 amended, 42 U.S.C. 6901 et seq., and any other federal legislation
12 pertaining to loans or grants for environmental protection and from other
13 sources, public or private, for carrying out any of its functions, which
14 loans and grants shall not be expended for other than the purposes for
15 which provided;

16 (5) To encourage, participate in, or conduct studies,
17 investigations, research, and demonstrations relating to air, land, and
18 water pollution and causes and effects, prevention, control, and
19 abatement of such pollution as it may deem advisable and necessary for
20 the discharge of its duties under the Environmental Protection Act, the
21 Integrated Solid Waste Management Act, and the Livestock Waste Management
22 Act, using its own staff or private research organizations under
23 contract;

24 (6) To collect and disseminate information and conduct educational
25 and training programs relating to air, water, and land pollution and the
26 prevention, control, and abatement of such pollution;

27 (7) To issue, modify, or revoke orders (a) prohibiting or abating
28 discharges of wastes into the air, waters, or land of the state and (b)
29 requiring the construction of new disposal systems or any parts thereof
30 or the modification, extension, or adoption of other remedial measures to
31 prevent, control, or abate pollution;

1 (8) To administer state grants to political subdivisions for solid
2 waste disposal facilities and for the construction of sewage treatment
3 works and facilities to dispose of water treatment plant wastes;

4 (9) To (a) hold such hearings and give notice thereof, (b) issue
5 such subpoenas requiring the attendance of such witnesses and the
6 production of such evidence, (c) administer such oaths, and (d) take such
7 testimony as the director deems necessary, and any of these powers may be
8 exercised on behalf of the director by a hearing officer designated by
9 the director;

10 (10) To require submission of plans, specifications, and other data
11 relative to, and to inspect construction of, disposal systems or any part
12 thereof prior to issuance of such permits or approvals as are required by
13 the Environmental Protection Act, the Integrated Solid Waste Management
14 Act, and the Livestock Waste Management Act;

15 (11) To issue, continue in effect, revoke, modify, or deny permits,
16 under such conditions as the director may prescribe and consistent with
17 the standards, rules, and regulations adopted by the council, (a) to
18 prevent, control, or abate pollution, (b) for the discharge of wastes
19 into the air, land, or waters of the state, and (c) for the installation,
20 modification, or operation of disposal systems or any parts thereof;

21 (12) To require proper maintenance and operation of disposal
22 systems;

23 (13) To exercise all incidental powers necessary to carry out the
24 purposes of the Environmental Protection Act, the Integrated Solid Waste
25 Management Act, and the Livestock Waste Management Act;

26 (14) To establish bureaus, divisions, or sections for the control of
27 air pollution, water pollution, mining and land quality, and solid wastes
28 which shall be administered by full-time salaried bureau, division, or
29 section chiefs and to delegate and assign to each such bureau, division,
30 or section and its officers and employees the duties and powers granted
31 to the department for the enforcement of Chapter 81, article 15, the

1 Integrated Solid Waste Management Act, the Livestock Waste Management
2 Act, and the standards, rules, and regulations adopted pursuant thereto;

3 (15)(a) To require access to existing and available records relating
4 to (i) emissions or discharges which cause or contribute to air, land, or
5 water pollution or (ii) the monitoring of such emissions or discharges;
6 and

7 (b) To require, for purposes of developing or assisting the
8 development of any regulation or enforcing any of the provisions of the
9 Environmental Protection Act which pertain to hazardous waste, any person
10 who generates, stores, treats, transports, disposes of, or otherwise
11 handles or has handled hazardous waste, upon request of any officer,
12 employee, or representative of the department, to furnish information
13 relating to such waste and any permit involved. Such person shall have
14 access at all reasonable times to a copy of all results relating to such
15 waste;

16 (16) To obtain such scientific, technical, administrative, and
17 operational services including laboratory facilities, by contract or
18 otherwise, as the director deems necessary;

19 (17) To encourage voluntary cooperation by persons and affected
20 groups to achieve the purposes of the Environmental Protection Act, the
21 Integrated Solid Waste Management Act, and the Livestock Waste Management
22 Act;

23 (18) To encourage local units of government to handle air, land, and
24 water pollution problems within their respective jurisdictions and on a
25 cooperative basis and to provide technical and consultative assistance
26 therefor;

27 (19) To consult with any person proposing to construct, install, or
28 otherwise acquire an air, land, or water contaminant source or a device
29 or system for control of such source, upon request of such person,
30 concerning the efficacy of such device or system or concerning the air,
31 land, or water pollution problem which may be related to the source,

1 device, or system. Nothing in any such consultation shall be construed to
2 relieve any person from compliance with the Environmental Protection Act,
3 the Integrated Solid Waste Management Act, the Livestock Waste Management
4 Act, rules and regulations in force pursuant to the acts, or any other
5 provision of law;

6 (20) To require all persons engaged or desiring to engage in
7 operations which result or which may result in air, water, or land
8 pollution to secure a permit prior to installation or operation or
9 continued operation;

10 (21) To enter and inspect, during reasonable hours, any building or
11 place, except a building designed for and used exclusively for a private
12 residence;

13 (22) To receive or initiate complaints of air, water, or land
14 pollution, hold hearings in connection with air, water, or land
15 pollution, and institute legal proceedings in the name of the state for
16 the control or prevention of air, water, or land pollution, and for the
17 recovery of penalties, in accordance with the Environmental Protection
18 Act, the Integrated Solid Waste Management Act, and the Livestock Waste
19 Management Act;

20 (23) To delegate, by contract with governmental subdivisions which
21 have adopted local air, water, or land pollution control programs
22 approved by the council, the enforcement of state-adopted air, water, or
23 land pollution control regulations within a specified region surrounding
24 the jurisdictional area of the governmental subdivisions. Prosecutions
25 commenced under such contracts shall be conducted by the Attorney General
26 or county attorneys as provided in the Environmental Protection Act, the
27 Integrated Solid Waste Management Act, and the Livestock Waste Management
28 Act;

29 (24) To conduct tests and take samples of air, water, or land
30 contaminants, fuel, process materials, or any other substance which
31 affects or may affect discharges or emissions of air, water, or land

1 contaminants from any source, giving the owner or operator a receipt for
2 the sample obtained;

3 (25) To develop and enforce compliance schedules, under such
4 conditions as the director may prescribe and consistent with the
5 standards, rules, and regulations adopted by the council, to prevent,
6 control, or abate pollution;

7 (26) To employ the Governor's Keep Nebraska Beautiful Committee for
8 such special occasions and projects as the department may decide.
9 Reimbursement of the committee shall be made from state and appropriate
10 federal matching funds for each assignment of work by the department as
11 provided in sections 81-1174 to 81-1177;

12 (27) To provide, to the extent determined by the council to be
13 necessary and practicable, for areawide, selective, and periodic
14 inspection and testing of motor vehicles to secure compliance with
15 applicable exhaust emission standards for a fee not to exceed five
16 dollars to offset the cost of inspection;

17 (28) To enforce, when it is not feasible to prescribe or enforce any
18 emission standard for control of air pollutants, the use of a design,
19 equipment, a work practice, an operational standard, or a combination
20 thereof, adequate to protect the public health from such pollutant or
21 pollutants with an ample margin of safety;

22 (29) To establish the position of public advocate to be located
23 within the department to assist and educate the public on departmental
24 programs and to carry out all duties of the ombudsman as provided in the
25 Clean Air Act, as amended, 42 U.S.C. 7661f;

26 (30) Under such conditions as it may prescribe for the review,
27 recommendations, and written approval of the director, to require the
28 submission of such plans, specifications, and other information as it
29 deems necessary to carry out the Environmental Protection Act, the
30 Integrated Solid Waste Management Act, and the Livestock Waste Management
31 Act or to carry out the rules and regulations adopted pursuant to the

1 acts. When deemed necessary by the director, the plans and specifications
2 shall be prepared and submitted by a professional engineer licensed to
3 practice in Nebraska;

4 (31) To carry out the provisions of the Petroleum Products and
5 Hazardous Substances Storage and Handling Act;

6 (32) To consider the risk to human health and safety and to the
7 environment in evaluating and approving plans for remedial action;~~and~~

8 (33) To evaluate permits proposed to be issued to any political
9 subdivision under the National Pollutant Discharge Elimination System
10 created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., as
11 provided in section 81-1517; -

12 (34) To exercise such powers and duties as may be delegated by the
13 federal government to administer an individual and general permit program
14 for the discharge of dredged or fill material consistent with section 404
15 of the Clean Water Act, as amended, 33 U.S.C. 1344;

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

18 (36) To undertake a continuing assessment of the trends in the
19 availability, consumption, and development of all forms of energy;

20 (37) To collect and analyze data relating to present and future
21 demands and resources for all sources of energy and to specify energy
22 needs for the state;

23 (38) To recommend to the Governor and the Legislature energy
24 policies and conservation measures for the state and to carry out such
25 measures as are adopted;

26 (39) To provide for public dissemination of appropriate information
27 on energy, energy sources, and energy conservation;

28 (40) To accept, expend, or disburse funds, public or private, made
29 available to it for research studies, demonstration projects, or other
30 activities which are related either to energy conservation and efficiency
31 or development;

1 (41) To study the impact and relationship of state energy policies
2 to national and regional energy policies and engage in such activities as
3 will reasonably insure that the State of Nebraska and its residents
4 receive an equitable share of energy supplies, including the
5 administration of any federally mandated or state-mandated energy
6 allocation programs;

7 (42) To actively seek the advice of the residents of Nebraska
8 regarding energy policies and programs;

9 (43) To prepare emergency allocation plans suggesting to the
10 Governor actions to be taken in the event of serious shortages of energy;

11 (44) To design and maintain a state program for conservation of
12 energy and energy efficiency;

13 (45) To provide technical assistance regarding energy to local
14 subdivisions of government;

15 (46) To provide technical assistance to private persons desiring
16 information on energy conservation and efficiency techniques and the use
17 of renewable energy technologies;

18 (47) To develop a strategic state energy plan pursuant to section
19 81-1604;

20 (48) To develop and disseminate transparent and objective energy
21 information and analysis while utilizing existing energy planning
22 resources of relevant stakeholder entities;

23 (49) To actively seek to maximize federal and other nonstate funding
24 and support to the state for energy planning;

25 (50) To monitor energy transmission capacity planning and policy
26 affecting the state and the regulatory approval process for the
27 development of energy infrastructure and make recommendations to the
28 Governor and electronically to the Legislature as necessary to facilitate
29 energy infrastructure planning and development;

30 (51) To implement rules and regulations adopted and promulgated by
31 the director pursuant to the Administrative Procedure Act to carry out

1 subdivisions (35) through (58) of this section;

2 (52) To make all contracts pursuant to subdivisions (35) through
3 (58) of this section and do all things to cooperate with the federal
4 government, and to qualify for, accept, expend, and dispense public or
5 private funds intended for the implementation of subdivisions (35)
6 through (58) of this section;

7 (53) To contract for services, if such work or services cannot be
8 satisfactorily performed by employees of the department or by any other
9 part of state government;

10 (54) To enter into such agreements as are necessary to carry out
11 energy research and development with other states;

12 (55) To carry out the duties and responsibilities relating to energy
13 as may be requested or required of the state by the federal government;

14 (56) To cooperate and participate with the approval of the Governor
15 in the activities of organizations of states relating to the
16 availability, conservation, development, and distribution of energy;

17 (57) To engage in such activities as will seek to insure that the
18 State of Nebraska and its residents receive an equitable share of energy
19 supplies at a fair price; and

20 (58) To form advisory committees of residents of Nebraska to advise
21 the director on programs and policies relating to energy and to assist in
22 implementing such programs. Such committees shall be of a temporary
23 nature, and no member shall receive any compensation for serving on any
24 such committee but, with the approval of the Governor, members shall
25 receive reimbursement for actual and necessary expenses as provided in
26 sections 81-1174 to 81-1177. The minutes of meetings of and actions taken
27 by each committee shall be kept and a record shall be maintained of the
28 name, address, and occupation or vocation of every individual serving on
29 any committee. The department shall maintain such minutes and records and
30 shall make them available for public inspection during regular office
31 hours.

1 Sec. 109. Section 81-1504.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-1504.01 The department ~~Department of Environmental Quality~~ shall
4 provide the following information to the Governor and to the Clerk of the
5 Legislature by December 1 of each year:

6 (1) A report by type of service or aid provided by the use and
7 distribution of federal funds received by the department. The report
8 shall also include user fees, permit fees, license fees, and application
9 fees authorized by the federal Environmental Protection Agency as
10 follows:

11 (a) Actual expenditure of each grant or authorized fees for the most
12 recently completed state fiscal year, including state matching funds;

13 (b) Current budget and planned use and distribution of each grant
14 and authorized fees for the current state fiscal year, including state
15 matching funds;

16 (c) A summary of the projected funding level of each grant and
17 authorized fees and the impact of federal mandates and regulations upon
18 the future use of each grant and authorized fees; and

19 (d) Program summaries including statistical summaries when
20 applicable for the most recently completed state fiscal year and program
21 activity goals for the current state fiscal year;

22 (2) A summary of regulations of the federal Environmental Protection
23 Agency which the department is required to implement and which do not
24 include federal funding assistance and the possible financial impact to
25 the state and political subdivisions;

26 (3) A report by type of service or aid provided by the use and
27 distribution of state general and cash funds, including user fees, permit
28 fees, license fees, and application fees, to carry out activities that
29 are not funded by federal grants as follows:

30 (a) Actual expenditure of state funds, by agency sections, for the
31 most recently completed state fiscal year, including a breakdown of

1 expenditures by personal services, operations, travel, capital outlay,
2 and consulting and contractual services;

3 (b) Current budget and planned use and distribution of state funds,
4 by agency sections, for the current state fiscal year, including a
5 breakdown of expenditures for personal services, operations, travel,
6 capital outlay, and consulting and contractual services;

7 (c) A summary of projected program funding needs based upon the
8 statutory requirements and public demand for services and the
9 department's assessment of anticipated needs statewide; and

10 (d) Program summaries including statistical summaries when
11 applicable for the most recently completed state fiscal year and program
12 activity goals for the current state fiscal year;

13 (4) A report regarding staff turnover by job class and the
14 department's assessment of its ability to hire and retain qualified staff
15 considering the state's personnel pay plan;

16 (5) A report listing the method used by each new or existing
17 licensee, permittee, or other person who is required by the department to
18 establish proof of financial responsibility; and

19 (6) A report for the previous state fiscal year relating to the
20 purpose of the Nebraska Litter Reduction and Recycling Act and of funds
21 credited to the Nebraska Litter Reduction and Recycling Fund.

22 The reports and summaries submitted to the Clerk of the Legislature
23 shall be submitted electronically.

24 Sec. 110. Section 81-1505, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

26 81-1505 (1) In order to carry out the purposes of the Environmental
27 Protection Act, the Integrated Solid Waste Management Act, and the
28 Livestock Waste Management Act, the council shall adopt and promulgate
29 rules and regulations which shall set standards of air, water, and land
30 quality to be applicable to the air, waters, and land of this state or
31 portions thereof. Such standards of quality shall be such as to protect

1 the public health and welfare. The council shall classify air, water, and
2 land contaminant sources according to levels and types of discharges,
3 emissions, and other characteristics which relate to air, water, and land
4 pollution and may require reporting for any such class or classes. Such
5 classifications and standards made pursuant to this section may be made
6 for application to the state as a whole or to any designated area of the
7 state and shall be made with special reference to effects on health,
8 economic and social factors, and physical effects on property. Such
9 standards and classifications may be amended as determined necessary by
10 the council.

11 (2) In adopting the classifications of waters and water quality
12 standards, the primary purpose for such classifications and standards
13 shall be to protect the public health and welfare and the council shall
14 give consideration to:

15 (a) The size, depth, surface area, or underground area covered, the
16 volume, direction, and rate of flow, stream gradient, and temperature of
17 the water;

18 (b) The character of the area affected by such classification or
19 standards, its peculiar suitability for particular purposes, conserving
20 the value of the area, and encouraging the most appropriate use of lands
21 within such area for domestic, agricultural, industrial, recreational,
22 and aquatic life purposes;

23 (c) The uses which have been made, are being made, or are likely to
24 be made, of such waters for agricultural, transportation, domestic, and
25 industrial consumption, for fishing and aquatic culture, for the disposal
26 of sewage, industrial waste, and other wastes, or other uses within this
27 state and, at the discretion of the council, any such uses in another
28 state on interstate waters flowing through or originating in this state;

29 (d) The extent of present pollution or contamination of such waters
30 which has already occurred or resulted from past discharges therein; and

31 (e) Procedures pursuant to section 401 of the Clean Water Act, as

1 amended, 33 U.S.C. 1251 et seq., for certification by the department of
2 activities requiring a federal license or permit which may result in a
3 discharge.

4 (3) In adopting effluent limitations or prohibitions, the council
5 shall give consideration to the type, class, or category of discharges
6 and the quantities, rates, and concentrations of chemical, physical,
7 biological, and other constituents which are discharged from point
8 sources into navigable or other waters of the state, including schedules
9 of compliance, best practicable control technology, and best available
10 control technology.

11 (4) In adopting standards of performance, the council shall give
12 consideration to the discharge of pollutants which reflect the greatest
13 degree of effluent reduction which the council determines to be
14 achievable through application of the best available demonstrated control
15 technology, processes, operating methods, or other alternatives,
16 including, when practicable, a standard permitting no discharge of
17 pollutants.

18 (5) In adopting toxic pollutant standards and limitations, the
19 council shall give consideration to the combinations of pollutants, the
20 toxicity of the pollutant, its persistence, degradability, the usual or
21 potential presence of the affected organisms in any waters, the
22 importance of the affected organisms, and the nature and extent of the
23 effect of the toxic pollutant on such organisms.

24 (6) In adopting pretreatment standards, the council shall give
25 consideration to the prohibitions or limitations to noncompatible
26 pollutants, prohibitions against the passage through a publicly owned
27 treatment works of pollutants which would cause interference with or
28 obstruction to the operation of publicly owned treatment works, damage to
29 such works, and the prevention of the discharge of pollutants therefrom
30 which are inadequately treated.

31 (7) In adopting treatment standards, the council shall give

1 consideration to providing for processes to which wastewater shall be
2 subjected in a publicly owned wastewater treatment works in order to make
3 such wastewater suitable for subsequent use.

4 (8) In adopting regulations pertaining to the disposal of domestic
5 and industrial liquid wastes, the council shall give consideration to the
6 minimum amount of biochemical oxygen demand, suspended solids, or
7 equivalent in the case of industrial wastewaters, which must be removed
8 from the wastewaters and the degree of disinfection necessary to meet
9 water quality standards with respect to construction, installation,
10 change of, alterations in, or additions to any wastewater treatment works
11 or disposal systems, including issuance of permits and proper
12 abandonment, and requirements necessary for proper operation and
13 maintenance thereof.

14 (9)(a) The council shall adopt and promulgate rules and regulations
15 for controlling mineral exploration holes and mineral production and
16 injection wells. The rules and regulations shall include standards for
17 the construction, operation, and abandonment of such holes and wells. The
18 standards shall protect the public health and welfare and air, land,
19 water, and subsurface resources so as to control, minimize, and eliminate
20 hazards to humans, animals, and the environment. Consideration shall be
21 given to:

22 (i) Area conditions such as suitability of location, geologic
23 formations, topography, industry, agriculture, population density,
24 wildlife, fish and other aquatic life, sites of archaeological and
25 historical importance, mineral, land, and water resources, and the
26 existing economic activities of the area including, but not limited to,
27 agriculture, recreation, tourism, and industry;

28 (ii) A site-specific evaluation of the geologic and hydrologic
29 suitability of the site and the injection, disposal, and production
30 zones;

31 (iii) The quality of the existing ground water, the effects of

1 exemption of the aquifer from any existing water quality standards, and
2 requirements for restoration of the aquifer;

3 (iv) Standards for design and use of production facilities, which
4 shall include, but not be limited to, all wells, pumping equipment,
5 surface structures, and associated land required for operation of
6 injection or production wells; and

7 (v) Conditions required for closure, abandonment, or restoration of
8 mineral exploration holes, injection and production wells, and production
9 facilities in order to protect the public health and welfare and air,
10 land, water, and subsurface resources.

11 (b) The council shall establish fees for regulated activities and
12 facilities and for permits for such activities and facilities. The fees
13 shall be sufficient but shall not exceed the amount necessary to pay the
14 department for the direct and indirect costs of evaluating, processing,
15 and monitoring during and after operation of regulated facilities or
16 performance of regulated activities.

17 (c) With respect to mineral production wells, the council shall
18 adopt and promulgate rules and regulations which require restoration of
19 air, land, water, and subsurface resources and require mineral production
20 well permit applications to include a restoration plan for the air, land,
21 water, and subsurface resources affected. Such rules and regulations may
22 provide for issuance of a research and development permit which
23 authorizes construction and operation of a pilot plant by the permittee
24 for the purpose of demonstrating the permittee's ability to inject and
25 restore in a manner which meets the standards required by this subsection
26 and the rules and regulations.

27 The rules and regulations adopted and promulgated may also provide
28 for issuance of a commercial permit after a finding by the department
29 that the injection and restoration procedures authorized by the research
30 and development permit have been successful in demonstrating the
31 applicant's ability to inject and restore in a manner which meets the

1 standards required by this subsection and the rules and regulations.

2 (d) For the purpose of this subsection, unless the context otherwise
3 requires, restoration shall mean the employment, during and after an
4 activity, of procedures reasonably designed to control, minimize, and
5 eliminate hazards to humans, animals, and the environment, to protect the
6 public health and welfare and air, land, water, and subsurface resources,
7 and to return each resource to a quality of use consistent with the uses
8 for which the resource was suitable prior to the activity.

9 (10) In adopting livestock waste control regulations, the council
10 shall consider the discharge of livestock wastes into the waters of the
11 state or onto land not owned by the livestock operator, conditions under
12 which permits for such operations may be issued, including design,
13 location, and proper management of such facilities, protection of ground
14 water from such operations, and revocation, modification, or suspension
15 of such permits for cause and all requirements of the Livestock Waste
16 Management Act.

17 (11) In adopting regulations for the issuance of permits under the
18 National Pollutant Discharge Elimination System created by the Clean
19 Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider
20 when such permits shall be required and exemptions, application and
21 filing requirements, terms and conditions affecting such permits, notice
22 and public participation, duration and review of such permits, the
23 evaluation provided for under section 81-1517, and monitoring, recording,
24 and reporting under the system.

25 (12) The council shall adopt and promulgate rules and regulations
26 for air pollution control which shall include:

27 (a) A construction permit program which requires the owner or
28 operator of an air contaminant source to obtain a permit prior to
29 construction. Application fees shall be according to section 81-1505.06;

30 (b) An operating permit program consistent with requirements of the
31 Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and an operating

1 permit program for minor sources of air pollution, which programs shall
2 require permits for both new and existing sources;

3 (c) Provisions for operating permits to be issued after public
4 notice, to be terminated, modified, or revoked for cause, and to be
5 modified to incorporate new requirements;

6 (d) Provisions for applications to be on forms provided by the
7 department and to contain information necessary to make a determination
8 on the appropriateness of issuance or denial. The department shall make a
9 completeness determination in a timely fashion and after such
10 determination shall act on the application within time limits set by the
11 council. Applications for operating permits shall include provisions for
12 certification of compliance by the applicant;

13 (e) Requirements for operating permits which may include such
14 conditions as necessary to protect public health and welfare, including,
15 but not limited to (i) monitoring and reporting requirements on all
16 sources subject to the permit, (ii) payment of annual fees sufficient to
17 pay the reasonable direct and indirect costs of developing and
18 administering the air quality permit program, (iii) retention of records,
19 (iv) compliance with all air quality standards, (v) a permit term of no
20 more than five years from date of issuance, (vi) any applicable schedule
21 of compliance leading to compliance with air quality regulations, (vii)
22 site access to the department for inspection of the facility and records,
23 (viii) emission limits or control technology requirements, (ix) periodic
24 compliance certification, and (x) other conditions necessary to carry out
25 the purposes of the Environmental Protection Act. For purposes of this
26 subsection, control technology shall mean a design, equipment, a work
27 practice, an operational standard which may include a requirement for
28 operator training or certification, or any combination thereof;

29 (f) Classification of air quality control regions;

30 (g) Standards for air quality that may be established based upon
31 protection of public health and welfare, emission limitations established

1 by the United States Environmental Protection Agency, and maximum
2 achievable control technology standards for sources of toxic air
3 pollutants. For purposes of this subdivision, maximum achievable control
4 technology standards shall mean an emission limit or control technology
5 standard which requires the maximum degree of emission reduction that the
6 council, taking into consideration the cost of achieving such emission
7 reduction, any health and environmental impacts not related to air
8 quality, and energy requirements, determines is achievable for new or
9 existing sources in the category or subcategory to which the standard
10 applies through application of measures, processes, methods, systems, or
11 techniques, including, but not limited to, measures which accomplish one
12 or a combination of the following:

13 (i) Reduce the volume of or eliminate emissions of the pollutants
14 through process changes, substitution of materials, or other
15 modifications;

16 (ii) Enclose systems or processes to eliminate emissions; or

17 (iii) Collect, capture, or treat the pollutants when released from a
18 process, stack, storage, or fugitive emission point;

19 (h) Restrictions on open burning and fugitive emissions;

20 (i) Provisions for issuance of general operating permits, after
21 public notice, for sources with similar operating conditions and for
22 revoking such general authority to specific permittees;

23 (j) Provisions for implementation of any emissions trading programs
24 as defined by the department. Such programs shall be consistent with the
25 Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and administered
26 through the operating permit program;

27 (k) A provision that operating permits will not be issued if the
28 Environmental Protection Agency objects in a timely manner;

29 (l) Provisions for periodic reporting of emissions;

30 (m) Limitations on emissions from process operations, fuel-burning
31 equipment, and incinerator emissions and such other restrictions on

1 emissions as are necessary to protect the public health and welfare;

2 (n) Time schedules for compliance;

3 (o) Requirements for owner or operator testing and monitoring of
4 emissions;

5 (p) Control technology requirements when it is not feasible to
6 prescribe or enforce an emission standard; and

7 (q) Procedures and definitions necessary to carry out payment of the
8 annual emission fee set in section 81-1505.04.

9 (13)(a) In adopting regulations for hazardous waste management, the
10 council shall give consideration to generation of hazardous wastes,
11 labeling practices, containers used, treatment, storage, collection,
12 transportation including a manifest system, processing, resource
13 recovery, and disposal of hazardous wastes. It shall consider the
14 permitting, licensing, design and construction, and development and
15 operational plans for hazardous waste treatment, storage, and disposal
16 facilities, and conditions for licensing or permitting of hazardous waste
17 treatment, storage, and disposal areas. It shall consider modification,
18 suspension, or revocation of such licenses and permits, including
19 requirements for waste analysis, site improvements, fire prevention,
20 safety, security, restricted access, and covering and handling of
21 hazardous liquids and materials. Licenses and permits for hazardous
22 waste, treatment, storage, and disposal facilities shall not be issued
23 until certification by the State Fire Marshal as to fire prevention and
24 fire safety has been received by the department. The council shall
25 further consider the need at treatment, storage, or disposal facilities
26 for required equipment, communications and alarms, personnel training,
27 and contingency plans for any emergencies that might arise and for a
28 coordinator during such emergencies.

29 In addition the council shall give consideration to (i) ground water
30 monitoring, (ii) use and management of containers and tanks, (iii)
31 surface impoundments, (iv) waste piles, (v) land treatment, (vi)

1 incinerators, (vii) chemical or biological treatment, (viii) landfills
2 including the surveying thereof, and (ix) special requirements for
3 ignitable, reactive, or incompatible wastes.

4 In considering closure and postclosure of hazardous waste treatment,
5 storage, or disposal facilities, the council shall consider regulations
6 that would result in the owner or operator closing his or her facility so
7 as to minimize the need for future maintenance, and to control, minimize,
8 or eliminate, to the extent necessary to protect humans, animals, and the
9 environment, postclosure escape of hazardous waste, hazardous waste
10 constituents, and leachate to the ground water or surface waters, and to
11 control, minimize, or eliminate, to the extent necessary to protect
12 humans, animals, and the environment, waste decomposition to the
13 atmosphere. In considering corrective action for hazardous waste
14 treatment, storage, or disposal facilities, the council shall consider
15 regulations that would require the owner or operator, or any previous
16 owner or operator with actual knowledge of the presence of hazardous
17 waste at the facility, to undertake corrective action or such other
18 response measures necessary to protect human health or the environment
19 for all releases of hazardous waste or hazardous constituents from any
20 treatment, storage, or disposal facility or any solid waste management
21 unit at such facility regardless of the time at which waste was placed in
22 such unit.

23 Such regulations adopted pursuant to this subsection shall in all
24 respects comply with the Environmental Protection Act and the Resource
25 Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

26 (b) In adopting regulations for hazardous waste management, the
27 council shall consider, in addition to criteria in subdivision (a) of
28 this subsection, establishing criteria for (i) identifying hazardous
29 waste including extraction procedures, toxicity, persistence, and
30 degradability in nature, potential for accumulation in tissue,
31 flammability or ignitability, corrosiveness, reactivity, and generation

1 of pressure through decomposition, heat, or other means, and other
2 hazardous characteristics, (ii) listing all materials it deems hazardous
3 and which should be subject to regulation, and (iii) locating treatment,
4 storage, or disposal facilities for such wastes. In adopting criteria for
5 flammability and ignitability of wastes pursuant to subdivision (b)(i) of
6 this subsection, no regulation shall be adopted without the approval of
7 the State Fire Marshal.

8 (c) In adopting regulations for hazardous waste management, the
9 council shall establish a schedule of fees to be paid to the director by
10 licensees or permittees operating hazardous waste processing facilities
11 or disposal areas on the basis of a monetary value per cubic foot or per
12 pound of the hazardous wastes, sufficient but not exceeding the amount
13 necessary to reimburse the department for the costs of monitoring such
14 facilities or areas during and after operation of such facilities or
15 areas. The licensees may assess a cost against persons using the
16 facilities or areas. The director shall remit any money collected from
17 fees paid to him or her to the State Treasurer who shall credit the
18 entire amount thereof to the General Fund.

19 (d) In adopting regulations for solid waste disposal, the council
20 shall consider storage, collection, transportation, processing, resource
21 recovery, and disposal of solid waste, developmental and operational
22 plans for solid waste disposal areas, conditions for permitting of solid
23 waste disposal areas, modification, suspension, or revocation of such
24 permits, regulations of operations of disposal areas, including site
25 improvements, fire prevention, ground water protection, safety and
26 restricted access, handling of liquid and hazardous materials, insect and
27 rodent control, salvage operations, and the methods of disposing of
28 accumulations of junk outside of solid waste disposal areas. Such
29 regulations shall in all respects comply with the Environmental
30 Protection Act, the Integrated Solid Waste Management Act, and the
31 Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et

1 seq.

2 (14) In adopting regulations governing discharges or emissions of
3 oil and other hazardous materials into the waters, in the air, or upon
4 the land of the state, the council shall consider the requirements of the
5 Integrated Solid Waste Management Act, methods for prevention of such
6 discharges or emissions, and the responsibility of the discharger or
7 emitter for cleanup, toxicity, degradability, and dispersal
8 characteristics of the substance.

9 (15) In adopting regulations governing composting and composting
10 sites, the council shall give consideration to:

11 (a) Approval of a proposed site by the local governing body,
12 including the zoning authority, if any, prior to issuance of a permit by
13 the department;

14 (b) Issuance of permits by the department for such composting
15 operations, with conditions if necessary;

16 (c) Submission of construction and operational plans by the
17 applicant for a permit to the department, with approval of such plans
18 before issuance of such permit;

19 (d) A term of up to ten years for such permits;

20 (e) Renewal of permits if the operation has been in substantial
21 compliance with composting regulations adopted pursuant to this
22 subsection, permit conditions, and operational plans;

23 (f) Review by the department of materials to be composted, including
24 chemical analysis when found by the department to be necessary;

25 (g) Inspections of such compost sites by the department. Operations
26 out of compliance with composting regulations, permit conditions, or
27 operational plans shall be given a reasonable time for voluntary
28 compliance, and failure to do so within the specified time shall result
29 in a hearing after notice is given, at which time the owner or operator
30 shall appear and show cause why his or her permit should not be revoked;

31 (h) Special permits of the department for demonstration projects not

1 to exceed six months;

2 (i) Exemptions from permits of the department; and

3 (j) The Integrated Solid Waste Management Act.

4 (16) Any person operating or responsible for the operation of air,
5 water, or land contaminant sources of any class for which the rules and
6 regulations of the council require reporting shall make reports
7 containing information as may be required by the department concerning
8 quality and quantity of discharges and emissions, location, size, and
9 height of contaminant outlets, processes employed, fuels used, and the
10 nature and time periods or duration of discharges and emissions, and such
11 other information as is relevant to air, water, or land pollution and is
12 available.

13 (17) Prior to adopting, amending, or repealing standards and
14 classifications of air, water, and land quality and rules and regulations
15 under the Integrated Solid Waste Management Act or the Livestock Waste
16 Management Act, the council shall, after due notice, conduct public
17 hearings thereon. Notice of public hearings shall specify the waters or
18 the area of the state for which standards of air, water, or land are
19 sought to be adopted, amended, or repealed and the time, date, and place
20 of such hearing. Such hearing shall be held in the general area to be
21 affected by such standards. Such notice shall be given in accordance with
22 the Administrative Procedure Act.

23 (18) Standards of quality of the air, water, or land of the state
24 and rules and regulations adopted under the Integrated Solid Waste
25 Management Act or the Livestock Waste Management Act or any amendment or
26 repeal of such standards or rules and regulations shall become effective
27 upon adoption by the council and filing in the office of the Secretary of
28 State. In adopting standards of air, water, and land quality or making
29 any amendment thereof, the council shall specify a reasonable time for
30 persons discharging wastes into the air, water, or land of the state to
31 comply with such standards and upon the expiration of any such period of

1 time may revoke or modify any permit previously issued which authorizes
2 the discharge of wastes into the air, water, or land of this state which
3 results in reducing the quality of such air, water, or land below the
4 standards established therefor by the council.

5 (19) All standards of quality of air, water, or land and all rules
6 and regulations adopted pursuant to law by the council prior to May 29,
7 1981, and applicable to specified air, water, or land are hereby approved
8 and adopted as standards of quality of and rules and regulations for such
9 air, water, or land.

10 (20) In addition to such standards as are heretofore authorized, the
11 council shall adopt and promulgate rules and regulations to set standards
12 of performance, effluent standards, pretreatment standards, treatment
13 standards, toxic pollutant standards and limitations, effluent
14 limitations, effluent prohibitions, and quantitative limitations or
15 concentrations which shall in all respects conform with and meet the
16 requirements of the National Pollutant Discharge Elimination System in
17 the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

18 (21)(a) The council shall adopt and promulgate rules and regulations
19 requiring all new or renewal permit or license applicants regulated under
20 the Environmental Protection Act, the Integrated Solid Waste Management
21 Act, or the Livestock Waste Management Act to establish proof of
22 financial responsibility by providing funds in the event of abandonment,
23 default, or other inability of the permittee or licensee to meet the
24 requirements of its permit or license or other conditions imposed by the
25 department pursuant to the acts. The council may exempt classes of
26 permittees or licensees from the requirements of this subdivision when a
27 finding is made that such exemption will not result in a significant risk
28 to the public health and welfare.

29 (b) Proof of financial responsibility shall include any of the
30 following made payable to or held in trust for the benefit of the state
31 and approved by the department:

1 (i) A surety bond executed by the applicant and a corporate surety
2 licensed to do business in this state;

3 (ii) A deposit of cash, negotiable bonds of the United States or the
4 state, negotiable certificates of deposit, or an irrevocable letter of
5 credit of any bank or other savings institution organized or transacting
6 business in the United States in an amount or which has a market value
7 equal to or greater than the amount of the bonds required for the bonded
8 area under the same terms and conditions upon which surety bonds are
9 deposited;

10 (iii) An established escrow account; or

11 (iv) A bond of the applicant without separate surety upon a
12 satisfactory demonstration to the director that such applicant has the
13 financial means sufficient to self-bond pursuant to bonding requirements
14 adopted by the council consistent with the purposes of this subdivision.

15 (c) The director shall determine the amount of the bond, deposit, or
16 escrow account which shall be reasonable and sufficient so the department
17 may, if the permittee or licensee is unable or unwilling to do so and in
18 the event of forfeiture of the bond or other financial responsibility
19 methods, arrange to rectify any improper management technique committed
20 during the term of the permit or license and assure the performance of
21 duties and responsibilities required by the permit or license pursuant to
22 law, rules, and regulations.

23 (d) In determining the amount of the bond or other method of
24 financial responsibility, the director shall consider the requirements of
25 the permit or license or any conditions specified by the department, the
26 probable difficulty of completing the requirements of such permit,
27 license, or conditions due to such factors as topography, geology of the
28 site, and hydrology, and the prior history of environmental activities of
29 the applicant.

30 This subsection shall apply to hazardous waste treatment, storage,
31 or disposal facilities which have received interim status.

1 (22)(a) ~~(22)~~ The council shall adopt and promulgate rules and
2 regulations no more stringent than the provisions of section 1453 et seq.
3 of the federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-13 et
4 seq., for public water system source water assessment programs.

5 (b) The council may adopt and promulgate rules and regulations to
6 implement a source water petition program no more stringent than section
7 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42
8 U.S.C. 300j-14 et seq.

9 (23) The council may adopt and promulgate rules and regulations for
10 the issuance of permits relating to the discharge of dredged or fill
11 material into the waters of the United States under section 404 of the
12 Clean Water Act, as amended, 33 U.S.C. 1251 et seq., giving consideration
13 to (a) when such permits are required and exemptions, application, and
14 filing requirements, (b) terms and conditions affecting such permits,
15 notice and public participation, and duration, (c) review of such
16 permits, (d) monitoring, recording, and reporting requirements, and (e)
17 such other requirements not inconsistent with the Clean Water Act, as
18 amended, 33 U.S.C. 1251 et seq.

19 Sec. 111. Section 81-1505.01, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 81-1505.01 There is hereby created the ~~Department of Environmental~~
22 ~~Quality~~ Cash Fund which shall be used to pay the expenses of the
23 department. The department shall remit all fees collected pursuant to
24 subsection (9) of section 81-1505 and section 81-1521.09 to the State
25 Treasurer for credit to the fund. Any fee collected pursuant to section
26 81-1521.09 shall be used to pay the expenses related to the notice of
27 intent for which the fee was paid. Any money in the fund available for
28 investment shall be invested by the state investment officer pursuant to
29 the Nebraska Capital Expansion Act and the Nebraska State Funds
30 Investment Act. The State Treasurer shall transfer any money in the
31 Department of Environmental Quality Cash Fund to the Environmental Cash

1 Fund on the operative date of this act.

2 Sec. 112. Section 81-1506, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1506 (1) It shall be unlawful for any person:

5 (a) To cause pollution of any air, waters, or land of the state or
6 to place or cause to be placed any wastes in a location where they are
7 likely to cause pollution of any air, waters, or land of the state; or

8 (b) To discharge or emit any wastes into any air, waters, or land of
9 the state which reduce the quality of such air, waters, or land below the
10 air, water, or land quality standards established therefor by the
11 council. Any such action is hereby declared to be a public nuisance. An
12 animal feeding operation is not a nuisance if:

13 (i) Reasonable techniques are employed to keep dust, noise, insects,
14 and odor at a minimum;

15 (ii) It is in compliance with applicable regulations adopted by the
16 council and zoning regulations of the local governing body having
17 jurisdiction; and

18 (iii) The action is brought by or on behalf of a person whose date
19 of lawful possession of the land claimed to be affected by an animal
20 feeding operation is subsequent to the issuance of an appropriate permit
21 by the department for such operation or is subsequent to the operation of
22 the feedlot and an onsite inspection by the department is made, before or
23 after filing of the suit, and the inspection reveals that no permit is
24 required for such operation.

25 (2) It shall be unlawful for any person to:

26 (a) Discharge any pollutant into waters of the state without
27 obtaining a permit as required by the National Pollutant Discharge
28 Elimination System created by the Clean Water Act, as amended, 33 U.S.C.
29 1251 et seq., and by rules and regulations adopted and promulgated
30 pursuant to section 81-1505;

31 (b) Construct, install, modify, or operate any disposal system or

1 part thereof or any extension or addition thereto without obtaining
2 necessary permits from the department;

3 (c) Increase in volume or strength any waste in excess of permitted
4 discharges specified under any existing permit;

5 (d) Construct, install, or operate any industrial, commercial, or
6 other facility or extend, modify, or add to any such facility if the
7 operation would cause an increase in the discharge or emission of wastes
8 into the air, waters, or land of the state or would otherwise cause an
9 alteration of the physical, chemical, or biological properties of any
10 air, waters, or land of the state in a manner that is not lawfully
11 authorized;~~or~~

12 (e) Construct or use any new outlet for the discharge or emission of
13 any wastes into the air, waters, or land of the state without the
14 necessary permit;or -

15 (f) Discharge any dredged or fill material into waters of the United
16 States without obtaining a permit as required by section 404 of the Clean
17 Water Act, as amended, 33 U.S.C. 1344, and by rules and regulations
18 adopted and promulgated pursuant to section 81-1505.

19 (3) It shall be unlawful for any person to:

20 (a) Construct or operate a solid waste management facility without
21 first obtaining a permit required under the Environmental Protection Act
22 or under the Integrated Solid Waste Management Act and the rules and
23 regulations adopted and promulgated by the council pursuant to the acts;

24 (b) Violate any term or condition of a solid waste management
25 facility permit;

26 (c) Violate any rule or regulation adopted and promulgated by the
27 council pursuant to the Environmental Protection Act or the Integrated
28 Solid Waste Management Act; or

29 (d) After October 1, 1993, dispose of any solid waste at any
30 location other than a solid waste management facility holding a current
31 permit issued by the department pursuant to the Integrated Solid Waste

1 Management Act.

2 (4) It shall be unlawful to:

3 (a) Construct or operate an air pollution source without first
4 obtaining a permit required under the Environmental Protection Act and
5 the rules and regulations adopted and promulgated by the council pursuant
6 to subsection (12) of section 81-1505;

7 (b) Violate any term or condition of an air pollution permit or any
8 emission limit set in the permit; or

9 (c) Violate any emission limit or air quality standard established
10 by the council.

11 (5) It shall be unlawful for any person to:

12 (a) Construct or operate an animal feeding operation without first
13 obtaining a permit if required under the Livestock Waste Management Act
14 or under the Environmental Protection Act and the rules and regulations
15 adopted and promulgated by the council pursuant to such acts;

16 (b) Violate any provision of the Livestock Waste Management Act;

17 (c) Violate any term or condition of an animal feeding operation
18 permit; or

19 (d) Violate any rule or regulation adopted and promulgated by the
20 council pursuant to the Environmental Protection Act or the Livestock
21 Waste Management Act.

22 (6) Nothing in this section shall be construed to authorize the
23 department to specify the type, design, method of installation, or type
24 of construction of any equipment of manufacturing processes.

25 Sec. 113. Section 81-1537, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-1537 Department shall mean the Department of Environment and
28 Energy ~~Environmental Quality~~.

29 Sec. 114. Section 81-1540, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-1540 Director shall mean the Director of Environment and Energy

1 ~~Environmental Quality.~~

2 Sec. 115. Section 81-1561, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1561 (1) The Tax Commissioner shall deduct and withhold from the
5 litter fee collected a fee sufficient to reimburse himself or herself for
6 the cost of collecting and administering the litter fee and shall deposit
7 such collection fee in the Litter Fee Collection Fund which is hereby
8 created. The Litter Fee Collection Fund shall be appropriated to the
9 Department of Revenue. Any money in the Litter Fee Collection Fund
10 available for investment shall be invested by the state investment
11 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
12 State Funds Investment Act.

13 (2) The Tax Commissioner shall remit the balance of the litter fee
14 collections to the Department of Environment and Energy ~~Environmental~~
15 ~~Quality~~. The department shall allocate and distribute funds from the
16 Nebraska Litter Reduction and Recycling Fund in percentage amounts to be
17 determined by the council on an annual basis, after a public hearing on a
18 date to be determined by the council, for the following activities:

19 (a) Programs of public education, motivation, and participation
20 aimed at creating an ethic conducive to the reduction of litter,
21 establishing an attitude against littering and a desire for a clean
22 environment, and securing greater awareness of and compliance with
23 antilitter laws. Such programs shall include:

24 (i) The distribution of informative materials to elementary and
25 secondary schools;

26 (ii) The purchase and erection of roadside signs;

27 (iii) The organization and operation of cleanup drives conducted by
28 local agencies and organizations using volunteer help;

29 (iv) Grants to state and local government units and agencies and
30 private organizations for developing and conducting antilitter programs;

31 and

1 (v) Any other public information method selected by the department,
2 including the use of media;

3 (b) Cleanup of public highways, waterways, recreation lands, urban
4 areas, and public places within the state, including, but not limited to:

5 (i) Grants to cities and counties for payment of personnel employed
6 in the pickup of litter;

7 (ii) Grants for programs aimed at increasing the use of youth and
8 unemployed persons in seasonal and part-time litter pickup programs and
9 to establish work release and other programs to carry out the purposes of
10 the Nebraska Litter Reduction and Recycling Act;

11 (iii) Grants to public and private agencies and persons to conduct
12 surveys of amounts and composition of litter and rates of littering; and

13 (iv) Grants to public and private agencies and persons for research
14 and development in the fields of litter reduction, removal, and disposal,
15 including the evaluation of behavioral science techniques in litter
16 control and the development of new equipment, and to implement such
17 research and development when appropriate; and

18 (c) New or improved community recycling and source separation
19 programs, including, but not limited to:

20 (i) Expansion of existing and creation of new community recycling
21 centers;

22 (ii) Expansion of existing and creation of new source separation
23 programs;

24 (iii) Research and evaluation of markets for the materials and
25 products recovered in source separation and recycling programs; and

26 (iv) Providing advice and assistance on matters relating to
27 recycling and source separation, including information and consultation
28 on available technology, operating procedures, organizational
29 arrangements, markets for materials and products recovered in recycling
30 and source separation, transportation alternatives, and publicity
31 techniques.

1 Sec. 116. Section 81-15,118, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-15,118 The Legislature finds that the number of leaking
4 underground storage tanks throughout the state is increasing and that
5 there exists a serious threat to the health and safety of citizens
6 because substances contained in leaking storage tanks are often potential
7 ground water contaminants and major fire and explosive hazards.

8 For the reasons stated in this section, the Legislature deems it
9 necessary to provide a program of storage tank registration and
10 inspection as a preventative measure and a comprehensive leak cleanup
11 program as a responsive measure. Primary responsibility for the Petroleum
12 Products and Hazardous Substances Storage and Handling Act shall be with
13 the Department of Environment and Energy ~~Environmental Quality~~. However,
14 preventative measures described in such act shall also be carried out by
15 the State Fire Marshal. The State Fire Marshal's actions shall be
16 pursuant to an interagency agreement with the department.

17 Sec. 117. Section 81-15,120, Reissue Revised Statutes of Nebraska,
18 is amended to read:

19 81-15,120 Any farm or residential tank or tank used for storing
20 heating oil as defined in subdivisions (10)(a) and (b) of section
21 81-15,119 shall be registered with the State Fire Marshal. The
22 registration shall be accompanied by a one-time fee of five dollars and
23 shall be valid until the State Fire Marshal is notified that a tank so
24 registered has been permanently closed. Such registration shall specify
25 the ownership of, location of, and substance stored in the tank to be
26 registered. The State Fire Marshal shall remit the fee to the State
27 Treasurer for credit to the Petroleum Products and Hazardous Substances
28 Storage and Handling Fund which is hereby created as a cash fund. The
29 fund shall also consist of any money appropriated to the fund by the
30 state. The fund shall be administered by the Department of Environment
31 and Energy ~~Environmental Quality~~ to carry out the purposes of the

1 Petroleum Products and Hazardous Substances Storage and Handling Act,
2 including the provision of matching funds required by Public Law 99-499
3 for actions otherwise authorized by the act. Any money in such fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
6 State Funds Investment Act.

7 Sec. 118. Section 81-15,123, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-15,123 The State Fire Marshal shall adopt and promulgate rules
10 and regulations governing release, detection, prevention, and correction
11 procedures applicable to all owners and operators as shall be necessary
12 to protect human health, public safety, and the environment. Such rules
13 and regulations may distinguish between types, classes, and ages of
14 tanks. In making such distinctions, the State Fire Marshal shall
15 consider, but not be limited to, location of the tanks, soil and climate
16 conditions, uses of the tanks, history of maintenance, age of the tanks,
17 current industry-recommended practices, national consensus codes,
18 hydrogeology, depth to the ground water, size of the tanks, quantity of
19 regulated substances periodically deposited in or dispensed from the
20 tanks, the technical capability of the owners and operators, and the
21 compatibility of the regulated substance and the materials of which the
22 tank is fabricated. Before adoption, such rules and regulations shall be
23 reviewed and approved by the Director of Environment and Energy
24 ~~Environmental Quality~~ who shall determine whether the proposed rules and
25 regulations are adequate to protect the environment. Rules and
26 regulations adopted and promulgated pursuant to this section shall
27 include, but not be limited to:

- 28 (1) Proper procedures and specifications for the construction,
29 design, installation, replacement, or repair of tanks;
30 (2) A permit and registration system for all tanks;
31 (3) A program to establish an inspection system for all tanks. Such

1 program shall provide for periodic safety inspections and spot checks of
2 monitoring systems by the State Fire Marshal. A fee schedule may also be
3 developed for the inspection of new tank and piping installations and
4 tank closures in the manner prescribed in section 81-505.01. Such
5 inspection fees shall be remitted by the State Fire Marshal to the State
6 Treasurer for credit to the Underground Storage Tank Fund. No fee shall
7 be charged for the periodic safety inspections and spot checks of
8 monitoring systems by the State Fire Marshal;

9 (4) A monitoring system for all tanks which includes, but is not
10 limited to, the following:

11 (a) An inventory-control procedure for any tank used to hold
12 petroleum products or hazardous substances for resale;

13 (b) An inventory-control procedure for any tank used solely for
14 consumptive onsite purposes and not for resale. Such control procedure
15 shall determine the method of inventory measurement giving consideration
16 to the economic burden created by the procedure. The frequency of
17 inventory measurement for such category of tank shall include at least
18 one measurement every thirty days;

19 (c) Provisions for the prompt reporting of any release of a
20 regulated substance; and

21 (d) A procedure for the proper method of monitoring tanks;

22 (5) A procedure for notifying the State Fire Marshal of temporarily
23 or permanently abandoned tanks;

24 (6) A procedure for removing or making safe any abandoned tanks,
25 except that the State Fire Marshal may dispense with such procedure in
26 special circumstances;

27 (7) Financial responsibility requirements, taking into account the
28 financial responsibility requirements established pursuant to 42 U.S.C.
29 6991b(d);

30 (8) Requirements for maintaining a leak-detection system, an
31 inventory-control system, and a tank-testing or comparable system or

1 method designed to identify releases in a manner consistent with the
2 protection of human health, public safety, and the environment;

3 (9) Requirements for maintaining records of any monitoring or leak-
4 detection system, inventory-control system, or tank-testing or comparable
5 system;

6 (10) Provisions to establish a system for licensing tank
7 installation and removal contractors;

8 (11) Provisions to prohibit delivery to, deposit into, or the
9 acceptance of a regulated substance into, an underground storage tank at
10 a facility which has been identified by the State Fire Marshal to be
11 ineligible for such delivery, deposit, or acceptance; and

12 (12) Effective August 8, 2009, requirements for training and
13 certification of operators.

14 Nothing in this section shall be construed to require a
15 subcontractor working under the direction of a licensed installation or
16 removal contractor to be licensed.

17 Sec. 119. Section 81-15,124, Reissue Revised Statutes of Nebraska,
18 is amended to read:

19 81-15,124 Any reported or suspected release of a regulated substance
20 from any tank shall be investigated consistent with principles of risk-
21 based corrective action by the State Fire Marshal and the Department of
22 Environment and Energy ~~Environmental Quality~~. In the event that the State
23 Fire Marshal or the department finds an adverse effect caused by a
24 release of a regulated substance from a tank:

25 (1) The State Fire Marshal shall (a) determine the immediate danger
26 presented by the release, (b) take all steps necessary to assure
27 immediate public safety, and (c) assist the department in determining the
28 source of the release and taking all steps necessary to ensure that the
29 release is halted;

30 (2) By order of the department, the owner or operator of the tank
31 causing the release shall, after securing the source of the release,

1 develop a plan for remedial action to be approved by the department. The
2 department shall inform the owner or operator of its approval or
3 disapproval of a plan for remedial action within one hundred twenty days
4 after receipt of a remedial action plan which contains all required
5 information. If after one hundred twenty days the department fails to
6 either deny, approve, or amend the remedial action plan submitted, the
7 proposed plan shall be deemed approved; and

8 (3) The approved remedial action plan shall then be carried out by
9 the owner or operator of the tank causing the release. All expenses
10 incurred during the remedial action shall be paid by the owner or
11 operator subject to reimbursement pursuant to the Petroleum Release
12 Remedial Action Act.

13 If it is determined that the source of the release is unknown or
14 that the owner or operator of the facility causing the release is unknown
15 or unavailable, a remedial action plan shall be developed by or under the
16 direction of the department. Such remedial action plan shall be developed
17 and carried out by the department with money from the Petroleum Products
18 and Hazardous Substances Storage and Handling Fund if funds are
19 available. If at a later date the owner or operator of the facility which
20 caused the release is determined, he or she shall be responsible for
21 remedial action costs incurred on his or her behalf subject to
22 reimbursement pursuant to the Petroleum Release Remedial Action Act. Any
23 money received from such person shall be deposited in the Petroleum
24 Products and Hazardous Substances Storage and Handling Fund.

25 Sec. 120. Section 81-15,124.01, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-15,124.01 (1) The Environmental Quality Council shall adopt and
28 promulgate rules and regulations consistent with principles of risk-based
29 corrective action governing all phases of remedial action to be taken by
30 owners, operators, and other persons in response to a release or
31 suspected release of a regulated substance from a tank. Such rules and

1 regulations shall include:

2 (a) Provisions governing remedial action to be taken by owners and
3 operators pursuant to section 81-15,124;

4 (b) Provisions by which the Department of Environment and Energy
5 ~~Environmental Quality~~ may determine the cleanup levels to be achieved
6 through soil or water remediation and the applicable limitations for air
7 emissions at the petroleum release site or occurring by reason of such
8 remediation; and

9 (c) Such other provisions necessary to carry out the Petroleum
10 Products and Hazardous Substances Storage and Handling Act.

11 (2) In developing rules and regulations, the Environmental Quality
12 Council shall take into account risk-based corrective action assessment
13 principles which identify the risks presented to the public health and
14 safety or the environment by each release in a manner that will protect
15 the public health and safety and the environment using, to the extent
16 appropriate, a tiered approach consistent with the American Society for
17 Testing of Materials guidance for risk-based corrective action applicable
18 to petroleum release sites.

19 Sec. 121. Section 81-15,124.02, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-15,124.02 If necessary in the course of an investigation or
22 inspection or during the remedial action and if the owner of property or
23 the owner's agent has specifically denied the Department of Environment
24 and Energy ~~Environmental Quality~~ access to the property for such
25 purposes, the department may order the owner or owner's agent to grant
26 access to property for the performance of reasonable steps, including
27 drilling, to determine the source and extent of contamination or for
28 remediation. Access shall be by the department or by a person conducting
29 an investigation, inspection, or remedial action at the direction of the
30 department. All actions taken on the property shall be performed in the
31 least obtrusive manner possible to allow the investigation, inspection,

1 or remedial action to proceed. Upon completion of any such actions, the
2 property shall be restored as nearly as possible to its original
3 condition.

4 Sec. 122. Section 81-15,124.04, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-15,124.04 The Department of Environment and Energy ~~Environmental~~
7 ~~Quality~~ shall provide briefing on the use by the department of risk-based
8 corrective action. The briefing shall be directed toward comprehension
9 and knowledge of the use by the department of risk-based corrective
10 action, and a fee may be charged for attending the briefing which shall
11 be remitted to the State Treasurer for credit to the Petroleum Release
12 Remedial Action Cash Fund. The department may contract for providing such
13 briefing and shall maintain and make available to the public a list of
14 attendees.

15 Sec. 123. Section 81-15,124.05, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-15,124.05 (1) If a remedial action plan submitted by a
18 responsible person as defined in section 66-1514 is approved or deemed to
19 be approved by the Department of Environment and Energy ~~Environmental~~
20 ~~Quality~~ pursuant to subdivision (2) of section 81-15,124 and has been
21 carried out, the department may issue to the responsible person a
22 certificate of completion stating that no further remedial action needs
23 to be taken at the site relating to any contamination for which remedial
24 action has already been taken in accordance with the approved remedial
25 action plan. The department shall condition the certificate of completion
26 upon compliance with any monitoring, institutional, or technological
27 controls that may be necessary and which were relied upon by the
28 responsible person to demonstrate compliance with the remedial action
29 plan. Any certificate of completion issued pursuant to this section shall
30 be in a form which can be filed for record in the real estate records of
31 the county in which the remedial action took place. The responsible

1 person shall file the certificate of completion and notify the department
2 within ten days after issuance as to the date and location of the real
3 estate filing. If the department issues a certificate of completion to a
4 responsible person under this section, a covenant not to sue shall arise
5 by operation of law subject to subsection (2) of this section. The
6 covenant not to sue releases the responsible person from liability to the
7 state and from liability to perform additional environmental assessment,
8 remedial activity, or response action with regard to the release of a
9 petroleum product for which the responsible person has complied with the
10 requirements of this subsection. The covenant not to sue shall be voided
11 if the responsible person fails to conduct additional remedial action as
12 required under subsection (2) of this section, if a certificate of
13 completion is revoked by the department under subsection (3) of this
14 section, or if the responsible person fails to comply with the
15 monitoring, institutional, or technological controls, if any, upon which
16 the certificate of completion is conditioned.

17 (2) A certificate of completion issued by the department under
18 subsection (1) of this section shall require the responsible person to
19 conduct additional remedial action in the event that any monitoring
20 conducted at or near the real property or other circumstances indicate
21 that (a) contamination is reoccurring, (b) additional contamination is
22 present for which remedial action was not taken according to the remedial
23 action plan, or (c) contamination from the site presents a threat to
24 human health or the environment and was not addressed in the remedial
25 action plan.

26 (3) A certificate of completion shall be revoked if the department
27 demonstrates by a preponderance of the evidence that any approval
28 provided under this section was obtained by fraud or material
29 misrepresentation, knowing failure to disclose material information, or
30 false certification to the department. The department shall file a copy
31 of the notice of revocation of any certificate of completion in the real

1 estate records of the county in which the remedial action took place
2 within ten days after such revocation.

3 (4) If a responsible person transfers property to an affiliate in
4 order for that affiliate to obtain a benefit to which the transferor
5 would not otherwise be eligible under this section or to avoid an
6 obligation under this section, the affiliate shall be subject to the same
7 obligations and obtain the same level of benefits as those available to
8 the transferor under this section.

9 (5)(a) A covenant not to sue arising under subsection (1) of this
10 section, unless voided pursuant to such subsection, shall bar suit
11 against any person who acquires title to property to which a certificate
12 of completion applies for all claims of the state or any other person in
13 connection with petroleum products which were the subject of an approved
14 remedial action plan and (b) a person who purchased a site before May 31,
15 2001, is released, upon the issuance of a certificate of completion under
16 this section or upon the issuance of a no further action letter on or
17 after May 31, 2001, pursuant to section 81-15,186, from all liability to
18 the state for cleanup of contamination that was released at the site
19 covered by the certificate of completion or the no further action letter
20 before the purchase date, except as provided in subsection (4) of this
21 section, for releases or consequences that the person contributed to or
22 caused, for failure by such person to comply with the monitoring,
23 institutional, or technological controls, if any, upon which the
24 certificate of completion is conditioned, or in the event the certificate
25 of completion is revoked by the department under subsection (3) of this
26 section.

27 (6) Any person entitled to the protections of the covenant not to
28 sue or eligible to be released from liability pursuant to the issuance of
29 a certificate of completion or a no further action letter under
30 subsection (5) of this section who is ordered by the department to take
31 remedial action shall be eligible for reimbursement as a responsible

1 person pursuant to section 66-1525 and shall not be required to pay the
2 first cost or percent of the remaining cost as provided in subsection (1)
3 of section 66-1523 unless such person contributed to or caused the
4 release or failed to comply with the monitoring, institutional, or
5 technological controls, if any, imposed under subsection (1) of this
6 section.

7 Sec. 124. Section 81-15,125, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-15,125 Any person violating the Petroleum Products and Hazardous
10 Substances Storage and Handling Act or the rules, regulations, or orders
11 of the State Fire Marshal or the Department of Environment and Energy
12 ~~Environmental Quality~~ adopted and promulgated or issued pursuant to such
13 act shall be subject to a civil fine of not more than five thousand
14 dollars for each offense and, in the case of a continuing violation, each
15 day of violation shall constitute a separate offense. In assessing the
16 amount of the fine, the court shall consider the size of the operation
17 and the degree and extent of the pollution.

18 Sec. 125. Section 81-15,126, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 81-15,126 The Department of Environment and Energy ~~Environmental~~
21 ~~Quality~~ or the State Fire Marshal may apply to the district court of the
22 county where the violation is occurring or about to occur for a
23 restraining order, a temporary or permanent injunction, or a mandatory
24 injunction against any person violating or threatening to violate the
25 Petroleum Products and Hazardous Substances Storage and Handling Act or
26 the rules, regulations, or orders adopted and promulgated under the act.
27 The court shall have jurisdiction to grant relief upon good cause shown.
28 Relief may be granted notwithstanding the existence of any other remedy
29 at law and shall be granted without bond.

30 Sec. 126. Section 81-15,127, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 81-15,127 (1) Any person who deposits regulated substances in a tank
2 shall reasonably notify the owner or operator of such tank of the owner's
3 or operator's registration requirements pursuant to the Petroleum
4 Products and Hazardous Substances Storage and Handling Act.

5 (2) The Department of Environment and Energy ~~Environmental Quality~~
6 shall design and make available a printed notice of registration for
7 owners of tanks to any person who deposits regulated substances in a
8 tank.

9 Sec. 127. Section 81-15,129, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 81-15,129 As used in the Wastewater Treatment Operator Certification
12 Act, unless the context otherwise requires:

13 (1) Certificate shall mean a certificate of competency issued by the
14 director or his or her duly authorized representative certifying that the
15 operator has met the requirements for the specified operator
16 classification of the certification program;

17 (2) Council shall mean the Environmental Quality Council;

18 (3) Department shall mean the Department of Environment and Energy
19 ~~Environmental Quality~~;

20 (4) Director shall mean the Director of Environment and Energy
21 ~~Environmental Quality~~;

22 (5) Nationally recognized association of certification authorities
23 shall mean an organization or organizations selected by the director
24 which (a) serve as an information center for certification activities,
25 (b) recommend minimum standards and guidelines for classification of
26 wastewater treatment facilities and certification of operators, (c)
27 facilitate reciprocity between state programs, (d) assist authorities in
28 establishing new certification programs and updating existing ones, and
29 (e) provide testing services;

30 (6) Operator shall mean any person who regularly makes
31 recommendations or is responsible for process control decisions at a

1 wastewater treatment facility. Operator shall not include a person whose
2 duties are limited solely to laboratory testing or maintenance or who
3 exercises general or indirect supervision only;

4 (7) Voluntarily certified operator shall mean an operator who holds
5 a certificate of competency described in section 81-15,133; and

6 (8) Wastewater treatment facility shall mean the structures,
7 equipment, and processes required to collect, transport, and treat
8 domestic or industrial wastes and to dispose of the effluent and sludge.

9 Sec. 128. Section 81-15,149, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 81-15,149 As used in the Wastewater Treatment Facilities
12 Construction Assistance Act, unless the context otherwise requires:

13 (1) Clean Water Act means the federal Clean Water Act, as amended,
14 33 U.S.C. 1251 et seq.;

15 (2) Construction means any of the following: Preliminary planning to
16 determine the feasibility of wastewater treatment works or nonpoint
17 source control systems; engineering, architectural, legal, fiscal, or
18 economic investigations or studies; surveys, designs, plans, working
19 drawings, specifications, procedures, or other necessary preliminary
20 actions; erection, building, acquisition, alteration, remodeling,
21 improvement, or extension of wastewater treatment works or nonpoint
22 source control systems; or the inspection or supervision of any of the
23 foregoing items;

24 (3) Council means the Environmental Quality Council;

25 (4) County means any county authorized to construct a sewerage
26 disposal system and plant or plants pursuant to the County Industrial
27 Sewer Construction Act;

28 (5) Department means the Department of Environment and Energy
29 ~~Environmental Quality~~;

30 (6) Director means the Director of Environment and Energy
31 ~~Environmental Quality~~;

1 (7) Eligible financial institution means a bank that agrees to
2 participate in the linked deposit program and which is chartered to
3 conduct banking in this state pursuant to the Nebraska Banking Act, is
4 chartered to conduct banking by another state and authorized to do
5 business in this state, or is a national bank authorized to do business
6 in this state;

7 (8) Fund means the Wastewater Treatment Facilities Construction Loan
8 Fund;

9 (9) Linked deposit program means the Wastewater Treatment Facilities
10 Construction Assistance Act Linked Deposit Program established in
11 accordance with section 81-15,151.03;

12 (10) Municipality means any city, town, village, district,
13 association, or other public body created by or pursuant to state law and
14 having jurisdiction over disposal of sewage, industrial wastes, or other
15 wastes;

16 (11) Nonpoint source control systems means projects which establish
17 the use of methods, measures, or practices to control the pollution of
18 surface waters and ground water that occurs as pollutants are transported
19 by water from diffuse or scattered sources. Such projects include, but
20 are not limited to, structural and nonstructural controls and operation
21 and maintenance procedures applied before, during, and after pollution-
22 producing activities. Sources of nonpoint source pollution may include,
23 but are not limited to, agricultural, forestry, and urban lands,
24 transportation corridors, stream channels, mining and construction
25 activities, animal feeding operations, septic tank systems, underground
26 storage tanks, landfills, and atmospheric deposition;

27 (12) Operate and maintain means all necessary activities including
28 the normal replacement of equipment or appurtenances to assure the
29 dependable and economical function of a wastewater treatment works or
30 nonpoint source control systems in accordance with its intended purpose;
31 and

1 (13) Wastewater treatment works means the structures, equipment,
2 processes, and land required to collect, transport, and treat domestic or
3 industrial wastes and to dispose of the effluent and sludges.

4 Sec. 129. Section 81-15,159, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 81-15,159 (1) The Legislature hereby finds and declares that:

7 (a) Some landfills operating with or without a permit in Nebraska
8 exhibit numerous operational and management practices which are
9 inconsistent with proper landfill management and permit requirements, and
10 the owners and operators of such landfills should be encouraged to
11 cooperate and work with the Department of Environment and Energy
12 ~~Environmental Quality~~ to ensure that the air, land, and water of this
13 state are not polluted;

14 (b) Some landfills in Nebraska are reaching capacity and the siting
15 of a new location can be a financially expensive and socially disruptive
16 process, and because of this situation all Nebraska citizens and
17 businesses are encouraged to implement waste reduction measures that will
18 result in a reduction of waste entering landfills by at least twenty-five
19 percent;

20 (c) Recycling and waste reduction are necessary components of any
21 well-managed waste management system and can extend the lifespan of a
22 landfill and provide alternative waste management options; and

23 (d) The state can encourage recycling by the example of its own
24 purchase and use of recycled and recyclable materials. The state can also
25 encourage recycling and waste reduction by the creation of funding grants
26 which support existing and future waste management systems.

27 (2) It is the intent of the Legislature that the state, as a major
28 consumer and an example for others, should assist resource recovery by
29 making a concerted effort to use recyclable and recycled products and
30 encourage other levels of government and the private sector to follow its
31 example. When purchasing products, materials, or supplies for use by the

1 State of Nebraska, the Department of Administrative Services, the
2 University of Nebraska, and any other state agency making such purchases
3 shall give preference to and purchase products, materials, and supplies
4 which are manufactured or produced from recycled material or which can be
5 readily reused or recycled after their normal use. Preference shall also
6 be given to the purchase of corn-based biodegradable plastics and road
7 deicers, depending on the availability and suitability of such products.
8 Such preference shall not operate when it would result in the purchase of
9 products, materials, or supplies which are of inadequate quality or
10 substantially higher cost.

11 Sec. 130. Section 81-15,159.01, Revised Statutes Cumulative
12 Supplement, 2018, is amended to read:

13 81-15,159.01 (1) The Department of Environment and Energy
14 ~~Environmental Quality~~ shall conduct a study to examine the status of
15 solid waste management programs operated by the department and make
16 recommendations to modernize and revise such programs. The study shall
17 include, but not be limited to: (a) whether existing state programs
18 regarding litter and waste reduction and recycling should be amended or
19 merged; (b) a needs assessment of the recycling and composting programs
20 in the state, including the need for infrastructure development operating
21 standards, market development, coordinated public education resulting in
22 behavior change, and incentives to increase recycling and composting; (c)
23 methods to partner with political subdivisions, private industry, and
24 private, nonprofit organizations to most successfully address waste
25 management issues in the state; (d) recommendations regarding existing
26 funding sources and possible new revenue sources at the state and local
27 level to address existing and emerging solid waste management issues; and
28 (e) revisions to existing grant programs to address solid waste
29 management issues in a proactive manner.

30 (2) The Director of Environment and Energy ~~Environmental Quality~~
31 shall establish an advisory committee to advise the department regarding

1 the study described in this section. The members of the advisory
2 committee shall be appointed by the director and shall include no more
3 than nine members. The director shall designate a chairperson of the
4 advisory committee. The members shall receive no compensation for their
5 services.

6 (3) In addition to the advisory committee, the department may hire
7 consultants and special experts to assist in the study described in this
8 section. After completion of the study, the department shall submit a
9 report, including recommendations, to the Executive Board of the
10 Legislative Council and the chairpersons of the Natural Resources
11 Committee, the Urban Affairs Committee, and the Appropriations Committee
12 of the Legislature no later than December 15, 2017. The report shall be
13 submitted electronically.

14 Sec. 131. Section 81-15,159.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-15,159.02 For purposes of the Waste Reduction and Recycling
17 Incentive Act:

18 (1) Council means the Environmental Quality Council;

19 (2) Department means the Department of Environment and Energy
20 ~~Environmental Quality~~;

21 (3) Director means the Director of Environment and Energy
22 ~~Environmental Quality~~;

23 (4) Scrap tire or waste tire means a tire that is no longer suitable
24 for its original intended purpose because of wear, damage, or defect;

25 (5) Tire means any tire made of rubber or other resilient material
26 and normally used on any vehicle;

27 (6) Tire-derived product means the usable product produced from a
28 scrap tire. Tire-derived product does not include crumb rubber or chipped
29 tires not intended for a direct end use and does not include baled tires
30 or tire-derived fuel; and

31 (7) Tire retailer means a person, business, or other entity which

1 engages in the retail sale of tires in any quantity for any use or
2 purpose by the purchaser other than for resale.

3 Sec. 132. Section 81-15,160, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is
6 created. The department shall deduct from the fund amounts sufficient to
7 reimburse itself for its costs of administration of the fund. The fund
8 shall be administered by the department ~~Department of Environmental~~
9 ~~Quality~~. The fund shall consist of proceeds from the fees imposed
10 pursuant to the Waste Reduction and Recycling Incentive Act.

11 (2) The fund may be used for purposes which include, but are not
12 limited to:

13 (a) Technical and financial assistance to political subdivisions for
14 creation of recycling systems and for modification of present recycling
15 systems;

16 (b) Recycling and waste reduction projects, including public
17 education, planning, and technical assistance;

18 (c) Market development for recyclable materials separated by
19 generators, including public education, planning, and technical
20 assistance;

21 (d) Capital assistance for establishing private and public
22 intermediate processing facilities for recyclable materials and
23 facilities using recyclable materials in new products;

24 (e) Programs which develop and implement composting of yard waste
25 and composting with sewage sludge;

26 (f) Technical assistance for waste reduction and waste exchange for
27 waste generators;

28 (g) Programs to assist communities and counties to develop and
29 implement household hazardous waste management programs;

30 (h) Capital assistance for establishing private and public
31 facilities to manufacture combustible waste products and to incinerate

1 combustible waste to generate and recover energy resources, except that
2 no disbursements shall be made under this section for scrap tire
3 processing related to tire-derived fuel; and

4 (i) Grants for reimbursement of costs to cities of the second class,
5 villages, and counties of five thousand or fewer population for the
6 deconstruction of abandoned buildings. Eligible deconstruction costs will
7 be related to the recovery and processing of recyclable or reusable
8 material from the abandoned buildings.

9 (3) Grants up to one million five hundred thousand dollars annually
10 shall be available until June 30, 2024, for new scrap tire projects only,
11 if acceptable scrap tire project applications are received. Eligible
12 categories of disbursement under section 81-15,161 may include, but are
13 not limited to:

14 (a) Reimbursement for the purchase of crumb rubber generated and
15 used in Nebraska, with disbursements not to exceed fifty percent of the
16 cost of the crumb rubber;

17 (b) Reimbursement for the purchase of tire-derived product which
18 utilizes a minimum of twenty-five percent recycled tire content, with
19 disbursements not to exceed twenty-five percent of the product's retail
20 cost;

21 (c) Participation in the capital costs of building, equipment, and
22 other capital improvement needs or startup costs for scrap tire
23 processing or manufacturing of tire-derived product, with disbursements
24 not to exceed fifty percent of such costs or five hundred thousand
25 dollars, whichever is less;

26 (d) Participation in the capital costs of building, equipment, or
27 other startup costs needed to establish collection sites or to collect
28 and transport scrap tires, with disbursements not to exceed fifty percent
29 of such costs;

30 (e) Cost-sharing for the manufacturing of tire-derived product, with
31 disbursements not to exceed twenty dollars per ton or two hundred fifty

1 thousand dollars, whichever is less, to any person annually;

2 (f) Cost-sharing for the processing of scrap tires, with
3 disbursements not to exceed twenty dollars per ton or two hundred fifty
4 thousand dollars, whichever is less, to any person annually;

5 (g) Cost-sharing for the use of scrap tires for civil engineering
6 applications for specified projects, with disbursements not to exceed
7 twenty dollars per ton or two hundred fifty thousand dollars, whichever
8 is less, to any person annually;

9 (h) Disbursement to a political subdivision up to one hundred
10 percent of costs incurred in cleaning up scrap tire collection and
11 disposal sites; and

12 (i) Costs related to the study provided in section 81-15,159.01.

13 The director shall give preference to projects which utilize scrap
14 tires generated and used in Nebraska.

15 (4) Priority for grants made under section 81-15,161 shall be given
16 to grant proposals demonstrating a formal public/private partnership
17 except for grants awarded from fees collected under subsection (6) of
18 section 13-2042.

19 (5) Grants awarded from fees collected under subsection (6) of
20 section 13-2042 may be renewed for up to a five-year grant period. Such
21 applications shall include an updated integrated solid waste management
22 plan pursuant to section 13-2032. Annual disbursements are subject to
23 available funds and the grantee meeting established grant conditions.
24 Priority for such grants shall be given to grant proposals showing
25 regional participation and programs which address the first integrated
26 solid waste management hierarchy as stated in section 13-2018 which shall
27 include toxicity reduction. Disbursements for any one year shall not
28 exceed fifty percent of the total fees collected after rebates under
29 subsection (6) of section 13-2042 during that year.

30 (6) Any person who stores waste tires in violation of section
31 13-2033, which storage is the subject of abatement or cleanup, shall be

1 liable to the State of Nebraska for the reimbursement of expenses of such
2 abatement or cleanup paid by the department ~~Department of Environmental~~
3 ~~Quality~~.

4 (7) The department ~~Department of Environmental Quality~~ may receive
5 gifts, bequests, and any other contributions for deposit in the Waste
6 Reduction and Recycling Incentive Fund. Transfers may be made from the
7 fund to the General Fund at the direction of the Legislature. Any money
8 in the Waste Reduction and Recycling Incentive Fund available for
9 investment shall be invested by the state investment officer pursuant to
10 the Nebraska Capital Expansion Act and the Nebraska State Funds
11 Investment Act.

12 Sec. 133. Section 81-15,166, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 81-15,166 The Department of Environment and Energy ~~Environmental~~
15 ~~Quality~~, with the advice and consent of the Environmental Quality
16 Council, shall contract for the preparation of a comprehensive solid
17 waste management plan. Such plan shall be contracted for and prepared on
18 or before December 15, 1991.

19 It is the intent of the Legislature that in preparation of the plan
20 the state consider the following hierarchy of criteria: (1) Volume
21 reduction at the source; (2) recycling, reuse, and vegetative waste
22 composting; (3) incineration with energy resource recovery; (4)
23 incineration for volume reduction; and (5) land disposal.

24 It is the intent of the Legislature that the plan be used as a guide
25 to assist political subdivisions in the planning and implementation of
26 their individual, joint, or regional solid waste management systems. The
27 comprehensive solid waste management plan shall not supersede or impair
28 plans, agreements, or contracts initiated by political subdivisions prior
29 to December 15, 1991.

30 The Environmental Quality Council shall adopt and promulgate rules
31 and regulations for solid waste management options which comply with

1 Environmental Protection Agency rules and guidelines, including rules and
2 guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste
3 Amendments to Subtitle D of the federal Resource Conservation and
4 Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

5 Sec. 134. Section 81-15,170, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 81-15,170 The Nebraska Environmental Trust Board is hereby created
8 as an entity of the executive branch. The board shall consist of the
9 Director of Environment and Energy ~~Environmental Quality~~, the Director of
10 Natural Resources, the Director of Agriculture, the secretary of the Game
11 and Parks Commission, the chief executive officer of the Department of
12 Health and Human Services or his or her designee, and nine citizens
13 appointed by the Governor with the approval of a majority of the
14 Legislature. The citizen members shall begin serving immediately
15 following notice of nomination and prior to approval by the Legislature.
16 The citizen members shall represent the general public and shall have
17 demonstrated competence, experience, and interest in the environment of
18 the state. Two of the citizen appointees shall also have experience with
19 private financing of public-purpose projects. Three appointees shall be
20 chosen from each of the three congressional districts. The board shall
21 hire an executive director who shall hire and supervise other staff
22 members as may be authorized by the board. The executive director shall
23 serve at the pleasure of the board and be solely responsible to it. The
24 Game and Parks Commission shall provide administrative support,
25 including, but not limited to, payroll and accounting functions, to the
26 board.

27 Sec. 135. Section 81-15,177, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 81-15,177 (1) There is hereby established the Solid Waste Landfill
30 Closure Assistance Fund which shall be a cash fund administered by the
31 Department of Environment and Energy ~~Environmental Quality~~. The fund

1 shall be used:

2 (a) To provide grants for landfill site closing assessment, closure,
3 monitoring, and remediation costs related to landfills existing or
4 already closed on July 15, 1992; and

5 (b) To provide funds to the department for expenses incurred in
6 carrying out its duties under sections 81-15,178 and 81-15,179.

7 Any money in the fund available for investment shall be invested by
8 the state investment officer pursuant to the Nebraska Capital Expansion
9 Act and the Nebraska State Funds Investment Act. ~~Within five days after~~
10 ~~February 23, 2002, the State Treasurer shall transfer the balance of the~~
11 ~~fund to the Low Level Radioactive Waste Cash Fund.~~

12 (2) The Environmental Quality Council shall adopt and promulgate
13 rules and regulations regarding the form and procedure for applications
14 for grants from the fund, procedures for determining claims for payment
15 or reimbursement, procedures for determining the amount and type of costs
16 that are eligible for payment or reimbursement from the fund, procedures
17 for determining priority among applicants, procedures for auditing
18 persons who have received payments from the fund, and other provisions
19 necessary to carry out sections 81-15,178 and 81-15,179.

20 Sec. 136. Section 81-15,178, Reissue Revised Statutes of Nebraska,
21 is amended to read:

22 81-15,178 In order for an applicant to receive funding from the
23 Solid Waste Landfill Closure Assistance Fund, the applicant shall:

24 (1) Agree to use the funds for landfill site closing assessment,
25 closure, monitoring, or remediation costs relating to landfills existing
26 or already closed on July 15, 1992;

27 (2) Provide the Department of Environment and Energy ~~Environmental~~
28 ~~Quality~~ with documentation regarding the landfill closure site,
29 including, when appropriate, information indicating that the applicant
30 holds or can acquire title to all lands or has the necessary easements
31 and rights-of-way for the project and related lands;

1 (3) Provide a plan for the proposed project, including appropriate
2 engineering, economic, and financial feasibility data and other data and
3 information, including estimated costs, as may be required by the
4 department; and

5 (4) Demonstrate the anticipated environmental and ecological
6 benefits resulting from the proposed project.

7 Sec. 137. Section 81-15,179, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-15,179 Upon receipt of an application for funds from the Solid
10 Waste Landfill Closure Assistance Fund, the Department of Environment and
11 Energy Environmental Quality shall evaluate and investigate all aspects
12 of the proposed project and the proposed schedule for completion,
13 determine eligibility and priority of the project for funding, and make
14 appropriate grants from the fund pursuant to rules and regulations
15 adopted and promulgated by the Environmental Quality Council. If the
16 department determines that an application is unsatisfactory or does not
17 contain adequate information, the department shall return the application
18 to the applicant and may make recommendations to the applicant which the
19 department considers necessary to make the plan or the application
20 satisfactory.

21 Sec. 138. Section 81-15,180, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-15,180 The Superfund Cost Share Cash Fund is created. The
24 Department of Environment and Energy Environmental Quality shall remit
25 grants and gifts received by the department for purposes of providing
26 cost share for remediation of superfund sites to the State Treasurer for
27 credit to the fund. The department shall administer the Superfund Cost
28 Share Cash Fund to pay for nonfederal costs, including costs for in-kind
29 services, required as cost share for remediation of superfund sites.
30 Transfers may be made from the fund to the General Fund at the direction
31 of the Legislature. Any money in the Superfund Cost Share Cash Fund

1 available for investment shall be invested by the state investment
2 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
3 State Funds Investment Act.

4 Sec. 139. Section 81-15,183, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 81-15,183 (1) The Remedial Action Plan Monitoring Fund is created.
7 The fund shall be administered by the Department of Environment and
8 Energy Environmental Quality. Revenue from the following sources shall be
9 credited to the fund:

10 (a) Application fees collected under the Remedial Action Plan
11 Monitoring Act;

12 (b) Deposits for costs associated with administration of the act,
13 including review, oversight, and guidance;

14 (c) Gifts, grants, reimbursements, or appropriations from any source
15 intended to be used for purposes of the act; and

16 (d) Investment interest attributable to the fund.

17 (2) The fund shall be used by the department to:

18 (a) Review applications and provide technical review, oversight,
19 guidance, and other activities associated with remedial action plans for
20 land pollution or water pollution;

21 (b) Fund activities performed by the department to address immediate
22 or emergency threats to human health and the environment related to
23 property under the act; and

24 (c) Administer and enforce the act.

25 (3) Any money in the fund available for investment shall be invested
26 by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act.

28 Sec. 140. Section 81-15,184, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,184 (1) Any entity which voluntarily chooses to make
31 application for monitoring of remedial action plans for property where

1 land pollution or water pollution exists shall:

2 (a) Submit an application on a form approved by the Department of
3 Environment and Energy ~~Environmental Quality~~;

4 (b) Provide the department with a nonrefundable application fee of
5 two thousand dollars; and

6 (c) Execute a written agreement to provide reimbursement of all
7 department direct and indirect costs related to technical review,
8 oversight, guidance, and other activities associated with the remedial
9 action plan. As part of the voluntary agreement, the department shall
10 require the applicant to post a deposit of three thousand dollars to be
11 used by the department to cover all costs. The department shall not
12 commence technical review, oversight, guidance, or other activities
13 associated with the remedial action plan until the voluntary agreement is
14 executed and a complete remedial action plan has been submitted. If the
15 costs of the department exceed the initial deposit, an additional amount
16 agreed upon by the department and the applicant may be required prior to
17 proceeding. After the mutual termination of the voluntary agreement, any
18 balance of funds paid under this subdivision shall be refunded.

19 (2) The department shall review and approve or deny all applications
20 and notify the applicant in writing. If the application is denied, the
21 notification shall state the reason for the denial. If the department
22 determines that an application does not contain adequate information, the
23 department shall return the application to the applicant. The applicant
24 has sixty days to resubmit the required information or the application
25 will be deemed denied.

26 (3) Within ninety days of approval of the application and voluntary
27 agreement, the applicant shall provide a complete remedial action plan
28 for the proposed project that conforms to all federal and state
29 environmental standards and substantive requirements, including:

30 (a) Documentation regarding the investigation of land pollution or
31 water pollution including, when appropriate, information indicating that

1 the applicant holds or can acquire title to all lands or has the
2 necessary easements and rights-of-way for the project and related lands;

3 (b) A remedial action work plan which describes the remedial action
4 measures to be taken to address the land or water pollution; and

5 (c) Project monitoring reports, appropriate engineering, scientific,
6 and financial feasibility data, and other data and information as may be
7 required by the department.

8 Sec. 141. Section 81-15,185, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,185 Upon receipt of a voluntary remedial action plan for land
11 pollution or water pollution pursuant to section 81-15,184, the
12 Department of Environment and Energy ~~Environmental Quality~~ shall review
13 and approve or disapprove the plan and notify the applicant in writing.
14 If the plan is disapproved, the notification shall state the reason for
15 the disapproval and provide a reasonable opportunity to resubmit the
16 plan.

17 Sec. 142. Section 81-15,185.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-15,185.01 The Department of Environment and Energy ~~Environmental~~
20 ~~Quality~~ shall issue public notice of its intent to approve a voluntary
21 remedial action plan pursuant to section 81-15,185 in a local newspaper
22 of general circulation in the area affected and make the remedial action
23 plan available to the public. The public shall have thirty days from the
24 date of publication during which any person may submit written comments
25 to the department regarding the proposed remedial action. Such person may
26 also request or petition the Director of Environment and Energy
27 ~~Environmental Quality~~, in writing, for a hearing and state the nature of
28 the issues to be raised. The director shall hold a public hearing if the
29 comments, request, or petition raise legal, policy, or discretionary
30 questions of general application and significant public interest exists.

31 Sec. 143. Section 81-15,185.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-15,185.02 (1) The applicant may unilaterally terminate a
3 voluntary remedial action plan approved pursuant to section 81-15,185
4 prior to completion of investigative and remedial activities if the
5 applicant leaves the property in no worse condition, from a human health
6 and environment perspective, than when the applicant initiated voluntary
7 remedial action and the applicant reimburses the Department of
8 Environment and Energy ~~Environmental Quality~~ for all outstanding costs.

9 (2) The department may terminate a voluntary remedial action plan if
10 the applicant:

11 (a) Violates any terms or conditions of the plan or fails to fulfill
12 any obligations of the plan, including submission of an acceptable
13 remedial action plan within a reasonable period of time;

14 (b) Fails to address an immediate and significant risk of harm to
15 public health and the environment in a timely and effective manner; or

16 (c) Fails to initiate the plan within six months after approval by
17 the department or to complete the plan within twenty-four months after
18 approval by the department, excluding long-term operation, maintenance,
19 and monitoring, unless the department grants an extension of time.

20 (3) The department shall notify the applicant in writing of the
21 intention to terminate the voluntary remedial action plan and include the
22 reason for the termination and a summary of any unreimbursed costs of the
23 department that are due.

24 Sec. 144. Section 81-15,185.03, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-15,185.03 (1) Within sixty days after completion of a voluntary
27 remedial action plan approved pursuant to section 81-15,185, the
28 applicant shall provide the Department of Environment and Energy
29 ~~Environmental Quality~~ with a final remedial action report and assurance
30 that the plan has been fully implemented. Department approval of a
31 voluntary remedial action plan shall be void upon failure to comply with

1 the approved plan or willful submission of false, inaccurate, or
2 misleading information by the applicant.

3 (2) Voluntary remedial action plans approved under section 81-15,185
4 are not enforceable unless the department can demonstrate that the
5 applicant has failed to fully implement the approved plan. The department
6 may require further action if such action is authorized by other state
7 statutes administered by the department.

8 Sec. 145. Section 81-15,186, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,186 If the requirements of the Remedial Action Plan Monitoring
11 Act are met and the applicant has remitted all applicable fees, the
12 Department of Environment and Energy ~~Environmental Quality~~ may issue to
13 the applicant a letter stating that no further action need be taken at
14 the site related to any contamination for which remedial action has been
15 taken in accordance with the approved remedial action plan. Such letter
16 shall provide that the department may require the person to conduct
17 additional remedial action in the event that any monitoring conducted at
18 or near the real property or other circumstances indicate that (1)
19 contamination is reoccurring, (2) additional contamination is present
20 which was not identified pursuant to section 81-15,184, or (3) additional
21 contamination is present for which remedial action was not taken
22 according to the remedial action plan. As a condition of issuance, the
23 department may require payment of ongoing direct and indirect costs of
24 oversight of any ongoing long-term operation, maintenance, and
25 monitoring.

26 Sec. 146. Section 81-15,196, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 81-15,196 Director means the Director of Environment and Energy
29 ~~Environmental Quality~~.

30 Sec. 147. Section 81-15,210, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 81-15,210 (1) The director of the Nebraska Emergency Management
2 Agency shall serve as the State Administrator of the Nebraska Emergency
3 Planning and Community Right to Know Act. The State Emergency Response
4 Commission is created and shall be a part of the Nebraska Emergency
5 Management Agency for administrative purposes. The membership of the
6 commission shall include the Director of Environment and Energy
7 ~~Environmental Quality~~ or his or her designee, the Director-State Engineer
8 or his or her designee, the Superintendent of Law Enforcement and Public
9 Safety or his or her designee, the State Fire Marshal or his or her
10 designee, the director of the Nebraska Emergency Management Agency or his
11 or her designee, the chief executive officer of the Department of Health
12 and Human Services or his or her designee, two elected officials or
13 employees of municipal or county government, and one citizen member to
14 represent each of the following interest groups: Firefighters, local
15 emergency management, public or community health, environmental
16 protection, labor, school district, small business, agricultural
17 business, chemical industry, highway transportation, and rail
18 transportation. The Governor shall appoint the municipal or county
19 government officials or employees and the citizen members with the
20 approval of the Legislature. The appointments shall be made to represent
21 the three congressional districts as equally as possible.

22 (2) The members appointed by the Governor shall be appointed for
23 terms of four years, except that of the first citizen members appointed,
24 three members shall serve for one-year terms, three members shall serve
25 for two-year terms, and two members shall serve for three-year terms, as
26 designated at the time of appointment.

27 (3) A vacancy on the commission shall exist in the event of the
28 death, disability, or resignation of a member. Any member appointed to
29 fill a vacancy occurring prior to the expiration of the term for which
30 his or her predecessor was appointed shall be appointed by the Governor
31 for the remainder of such term.

1 Sec. 148. Section 81-15,213, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-15,213 (1) The Nebraska Emergency Management Agency shall
4 supervise and coordinate emergency planning and training under section
5 305 of Title III and shall oversee and distribute all funds received
6 under section 305 of Title III and section 81-15,214.

7 (2) The Department of Environment and Energy ~~Environmental Quality~~
8 shall receive emergency notification and facility reports and establish
9 procedures for receiving and processing requests from the public for
10 information as required to be provided under the Nebraska Emergency
11 Planning and Community Right to Know Act. The director or his or her
12 designee shall serve as commission coordinator for information.

13 Sec. 149. Section 81-15,229, Reissue Revised Statutes of Nebraska,
14 is amended to read:

15 81-15,229 (1) Each emergency plan, material safety data sheet, list
16 of chemicals, inventory form, toxic chemical release form, and followup
17 emergency notice shall be made available to the general public,
18 consistent with section 322 of Title III, during normal working hours at
19 the location or locations designated by the Department of Environment and
20 Energy ~~Environmental Quality~~, the commission, or a local emergency
21 planning committee, as appropriate. Upon request by an owner or operator
22 of a facility subject to the requirements of section 81-15,224, the
23 Department of Environment and Energy ~~Environmental Quality~~, the
24 commission, or the appropriate committee shall withhold from disclosure
25 under this section the location of any specific chemical required by
26 section 81-15,225 to be contained in an inventory form as tier II
27 information.

28 (2) Each local emergency planning committee shall annually publish a
29 notice in local newspapers that the emergency plan, material safety data
30 sheets, and inventory forms have been submitted under this section. The
31 notice shall state that followup emergency notices may subsequently be

1 issued. Such notice shall announce that members of the public who wish to
2 review any such plan, sheet, form, or followup notice may do so at the
3 location designated under subsection (1) of this section.

4 Sec. 150. Section 81-15,235, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 81-15,235 The Nebraska Emergency Management Agency shall as
7 necessary adopt and promulgate rules and regulations to carry out its
8 responsibilities under the Nebraska Emergency Planning and Community
9 Right to Know Act. The Environmental Quality Council shall adopt and
10 promulgate rules and regulations necessary for the Department of
11 Environment and Energy ~~Environmental Quality~~ to carry out its
12 responsibilities under the act.

13 Sec. 151. Section 81-15,242, Reissue Revised Statutes of Nebraska,
14 is amended to read:

15 81-15,242 Department means the Department of Environment and Energy
16 ~~Environmental Quality~~.

17 Sec. 152. Section 81-15,243, Reissue Revised Statutes of Nebraska,
18 is amended to read:

19 81-15,243 Director means the Director of Environment and Energy
20 ~~Environmental Quality~~.

21 Sec. 153. Section 81-15,245, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-15,245 The Private Onsite Wastewater Treatment System Advisory
24 Committee is created. The advisory committee shall be composed of the
25 following eleven members:

26 (1) Seven members appointed by the director as follows:

27 (a) Five private onsite wastewater treatment system professionals;
28 and

29 (b) Two registered environmental health specialists or officials
30 representing local public health departments which have established
31 programs for regulating private onsite wastewater treatment systems;

1 (2) The chief executive officer of the Department of Health and
2 Human Services or his or her designee;

3 (3) The Director of Environment and Energy ~~Environmental Quality~~ or
4 his or her designated representative; and

5 (4) One representative with experience in soils and geology and one
6 representative with experience in biological engineering, both of whom
7 shall be designated by the vice chancellor of the University of Nebraska
8 Institute of Agriculture and Natural Resources.

9 Members shall be reimbursed for their actual and necessary expenses
10 as provided in sections 81-1174 to 81-1177. The department shall provide
11 administrative support for the advisory committee.

12 Sec. 154. Section 81-1604, Revised Statutes Cumulative Supplement,
13 2018, is amended to read:

14 81-1604 (1) The Legislature finds that:

15 (a) Comprehensive planning enables the state to address its energy
16 needs, challenges, and opportunities and enhances the state's ability to
17 prioritize energy-related policies, activities, and programs; and

18 (b) Meeting the state's need for clean, affordable, and reliable
19 energy in the future will require a diverse energy portfolio and a
20 strategic approach, requiring engagement of all energy stakeholders in a
21 comprehensive planning process.

22 (2) The Department of Environment and Energy ~~State Energy Office~~
23 shall develop an integrated and comprehensive strategic state energy plan
24 and review such plan periodically as the department ~~office~~ deems
25 necessary. The department ~~office~~ may organize technical committees of
26 individuals with expertise in energy development for purposes of
27 developing the plan. If the department ~~office~~ forms an advisory committee
28 pursuant to subdivision (58) ~~(8)~~ of section 81-1504 ~~81-1603~~ for purposes
29 of such plan, the chairperson of the Appropriations Committee of the
30 Legislature, the chairperson of the Natural Resources Committee of the
31 Legislature, and three members of the Legislature selected by the

1 Executive Board of the Legislative Council shall be nonvoting, ex officio
2 members of such advisory committee.

3 (3) The strategic state energy plan shall include short-term and
4 long-term objectives that will ensure a secure, reliable, and resilient
5 energy system for the state's residents and businesses; a cost-
6 competitive energy supply and access to affordable energy; the promotion
7 of sustainable economic growth, job creation, and economic development;
8 and a means for the state's energy policy to adapt to changing
9 circumstances.

10 (4) The strategic state energy plan shall include, but not be
11 limited to:

12 (a) A comprehensive analysis of the state's energy profile,
13 including all energy resources, end-use sectors, and supply and demand
14 projections;

15 (b) An analysis of other state energy plans and regional energy
16 activities which identifies opportunities for streamlining and
17 partnerships; and

18 (c) An identification of goals and recommendations related to:

19 (i) The diversification of the state's energy portfolio in a way
20 that balances the lowest practicable environmental cost with maximum
21 economic benefits;

22 (ii) The encouragement of state and local government coordination
23 and public-private partnerships for future economic and investment
24 decisions;

25 (iii) The incorporation of new technologies and opportunities for
26 energy diversification that will maximize Nebraska resources and support
27 local economic development;

28 (iv) The interstate and intrastate promotion and marketing of the
29 state's renewable energy resources;

30 (v) A consistent method of working with and marketing to energy-
31 related businesses and developers;

1 (vi) The advancement of transportation technologies, alternative
2 fuels, and infrastructure;

3 (vii) The development and enhancement of oil, natural gas, and
4 electricity production and distribution;

5 (viii) The development of a communications process between energy
6 utilities and the department ~~State Energy Office~~ for responding to and
7 preparing for regulations having a statewide impact; and

8 (ix) The development of a mechanism to measure the plan's progress.

9 Sec. 155. Section 81-1606, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 81-1606 The Department of Environment and Energy ~~Director of the~~
12 ~~State Energy Office~~ shall develop and maintain a program of collection,
13 compilation, and analysis of energy statistics and information. Existing
14 information reporting requests, maintained at the state and federal
15 levels, shall be utilized whenever possible in any data collection
16 required regarding state energy policy pursuant to this section,
17 subdivisions (35) through (58) of section 81-1504, or section 81-1604 or
18 ~~under the provisions of sections 81-1601 to 81-1607.~~ A central state
19 repository of energy data shall be developed and coordinated with other
20 governmental data-collection and record-keeping programs. The department
21 ~~director~~ shall, on at least an annual basis, with monthly compilations,
22 submit to the Governor and the Clerk of the Legislature a report
23 identifying state energy consumption by fuel type and by use to the
24 extent that such information is available. The report submitted to the
25 Clerk of the Legislature shall be submitted electronically. Nothing in
26 this section shall be construed as permitting or authorizing the
27 revealing of confidential information. For purposes of this section
28 confidential information shall mean any process, formula, pattern,
29 decision, or compilation of information which is used, directly or
30 indirectly, in the business of the producer, refiner, distributor,
31 transporter, or vendor, and which gives such producer, refiner,

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

3 Sec. 156. Section 81-1607, Reissue Revised Statutes of Nebraska, is
4 amended to read:

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

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

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

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

20 (c) The status of the ~~office's~~ ongoing studies of the Department of
21 Environment and Energy pursuant to subdivisions (35) through (58) of
22 section 81-1504;

23 (d) Recommendations to the Governor and the Legislature for
24 administrative and legislative actions to accomplish the purposes of this
25 section and section sections 70-625, 70-704, 81-161, 81-1602, 81-1606,
26 and 81-1607; and

27 (e) The use of funds disbursed during the previous year under
28 sections 81-1635 to 81-1641. The use of such funds shall be reported each
29 year until the funds are completely disbursed and all contractual
30 obligations have expired or otherwise terminated.

31 Sec. 157. Section 81-1607.01, Revised Statutes Cumulative

1 Supplement, 2018, is amended to read:

2 81-1607.01 The State Energy Office Cash Fund is hereby created. The
3 fund shall consist of funds received pursuant to section 57-705. The fund
4 shall be used for the administration of subdivisions (35) through (58) of
5 section 81-1504 and sections 81-1604 ~~81-1601~~ to 81-1607, for energy
6 conservation activities, and for providing technical assistance to
7 communities in the area of natural gas other than assistance regarding
8 ownership of regulated utilities, except that transfers may be made from
9 the fund to the General Fund at the direction of the Legislature. Any
10 money in the State Energy Office Cash Fund available for investment shall
11 be invested by the state investment officer pursuant to the Nebraska
12 Capital Expansion Act and the Nebraska State Funds Investment Act. The
13 State Treasurer shall transfer any money in the State Energy Office Cash
14 Fund to the State Energy Cash Fund on the operative date of this act.

15 Sec. 158. Section 81-1609, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-1609 As used in sections 81-1608 to 81-1626, unless the context
18 otherwise requires:

19 (1) Department means the Department of Environment and Energy Office
20 ~~means the State Energy Office;~~

21 (2) Contractor means the person or entity responsible for the
22 overall construction of any building or the installation of any component
23 which affects the energy efficiency of the building;

24 (3) Architect or engineer means any person licensed as an architect
25 or professional engineer under the Engineers and Architects Regulation
26 Act;

27 (4) Building means any new structure, renovated building, or
28 addition which is used or intended for supporting or sheltering any use
29 or occupancy, but not including any structure which has a consumption of
30 traditional energy sources for all purposes not exceeding the energy
31 equivalent of three and four-tenths British Thermal Units per hour or one

1 watt per square foot;

2 (5) Residential building means a building three stories or less that
3 is used primarily as one or more dwelling units;

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

9 (7) Addition means an extension or increase in the height,
10 conditioned floor area, or conditioned volume of a building or structure;

11 (8) Floor area means the total area of the floor or floors of a
12 building, expressed in square feet, which is within the exterior faces of
13 the shell of the structure which is heated or cooled;

14 (9) Nebraska Energy Code means the 2009 International Energy
15 Conservation Code;

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

18 (11) Equivalent or equivalent code means standards that meet or
19 exceed the requirements of the Nebraska Energy Code.

20 Sec. 159. Section 81-1611, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-1611 The Legislature hereby adopts the 2009 International Energy
23 Conservation Code as the Nebraska Energy Code. The Director of
24 Environment and Energy ~~State Energy Office~~ may adopt regulations
25 specifying alternative standards for building systems, techniques,
26 equipment designs, or building materials that shall be deemed equivalent
27 to the Nebraska Energy Code. Regulations specifying alternative standards
28 may be deemed equivalent to the Nebraska Energy Code and may be approved
29 for general or limited use if the use of such alternative standards would
30 not result in energy consumption greater than would result from the
31 strict application of the Nebraska Energy Code.

1 Sec. 160. Section 81-1612, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1612 The Director of Environment and Energy ~~may State Energy~~
4 ~~Office~~ shall adopt and promulgate rules and regulations for
5 implementation and administration of sections 81-1608 to 81-1626. Rules,
6 regulations, or amendments thereto shall be adopted pursuant to the
7 Administrative Procedure Act.

8 Sec. 161. Section 81-1613, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 81-1613 The department ~~State Energy Office~~ shall produce manuals for
11 use by architects, engineers, prime contractors, and owners. Such manuals
12 shall be furnished upon request at a price sufficient to cover the costs
13 of production. Such manuals shall contain, but not be limited to:

- 14 (1) The Nebraska Energy Code;
- 15 (2) Forms, charts, tables, and other data to assist architects,
16 engineers, and prime contractors in meeting the Nebraska Energy Code; and
- 17 (3) Any other information which the department ~~office~~ determines
18 will assist local code officials in enforcing the code.

19 Sec. 162. Section 81-1616, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-1616 For purposes of insuring compliance with section 81-1614:

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

26 (2) A building owner may submit a written request that the
27 department ~~office~~ undertake a determination pursuant to subdivision (1)
28 of this section. Such request shall include a list of reasons why the
29 building owner believes such a determination is necessary.

30 A building owner aggrieved by the ~~office's~~ determination, or refusal
31 to make such determination, under this section may appeal such

1 determination or refusal, and the appeal shall be in accordance with as
2 provided in the Administrative Procedure Act.

3 The department office may charge an amount sufficient to recover the
4 costs of providing such determinations.

5 Sec. 163. Section 81-1617, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 81-1617 The department ~~State Energy Office~~ and any local code
8 authority may conduct inspections and investigations necessary to enforce
9 the Nebraska Energy Code or equivalent code and may, at reasonable hours,
10 enter into any building and upon any premises within its jurisdiction for
11 the purpose of examination to determine compliance with sections 81-1608
12 to 81-1626. Inspections shall be conducted only after permission has been
13 granted by the owner or occupant or after a warrant has been issued
14 pursuant to sections 29-830 to 29-835.

15 Sec. 164. Section 81-1618, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-1618 Any county, city, or village may adopt and enforce a
18 lighting and thermal efficiency ordinance, resolution, code, or standard.
19 Such ordinance, resolution, code, or standard shall be deemed equivalent
20 to the Nebraska Energy Code if it does not result in energy consumption
21 greater than would result from the strict application of the Nebraska
22 Energy Code and is reasonably consistent with the intent of sections
23 81-1608 to 81-1626. Any building or portion thereof subject to the
24 jurisdiction of and inspected by such county, city, or village shall be
25 deemed to comply with sections 81-1608 to 81-1626 if it meets the
26 standards of such ordinance, resolution, code, or standards. Such county,
27 city, or village may by ordinance or resolution prescribe a schedule of
28 fees sufficient to pay the costs incurred pursuant to sections 81-1608 to
29 81-1626.

30 Any county, city, or village which adopts and enforces a lighting
31 and thermal efficiency ordinance, resolution, code, or standard may waive

1 a specific requirement of the Nebraska Energy Code when meeting such
2 requirement is not economically justified. The local code authority shall
3 submit to the department ~~State Energy Office~~ its analysis for determining
4 that a specific requirement is not justified. The department ~~State Energy~~
5 ~~Office~~ shall review such analysis and transmit its findings and
6 conclusions to the local code authority within a reasonable time. The
7 local code authority shall submit to the department ~~State Energy Office~~
8 its explanation as to how the original code or any revised code addresses
9 the issues raised by the department ~~State Energy Office~~. After a local
10 code authority has submitted such explanation, the authority may proceed
11 to enforce its ordinance, resolution, code, or standard.

12 Sec. 165. Section 81-1620, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1620 The department ~~State Energy Office~~ shall establish a
15 training program to provide initial technical assistance to local code
16 officials and residential and commercial builders upon adoption and
17 implementation of a new Nebraska Energy Code. The program shall include
18 the training of local code officials in building technology and local
19 enforcement procedure related to implementation of the Nebraska Energy
20 Code and the development of training programs suitable for presentation
21 by local governments, educational institutions, and other public or
22 private entities. Subsequent requests for training shall be fulfilled at
23 a fee that pays for the department's ~~State Energy Office's~~ costs for such
24 training.

25 Sec. 166. Section 81-1625, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-1625 If the Director of Environment and Energy ~~the State Energy~~
28 ~~Office~~ or the local code authority finds, within two years from the date
29 a building is first occupied, that the building, at the time of
30 construction, did not comply with the Nebraska Energy Code or equivalent
31 code adopted by a county, city, or village in effect at such time, the

1 director or code authority may order the owner or prime contractor to
2 take those actions necessary to bring the building into compliance. This
3 section does not limit the right of the owner to bring civil action
4 against the contractor, architect, or engineer for the cost of bringing
5 the building into compliance.

6 Sec. 167. Section 81-1635, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 81-1635 There is hereby established in the state treasury a fund, to
9 be known as the Nebraska Energy Settlement Fund and referred to in
10 sections 81-1635 to 81-1641 as the fund, to be administered by the
11 Department of Environment and Energy State Energy Office as the
12 representative of the Governor. The fund shall consist of (1) money
13 received by the State of Nebraska after February 15, 1986, from awards or
14 allocations to the State of Nebraska on behalf of consumers of petroleum
15 products as a result of judgments or settlements for overcharges to
16 consumers of petroleum products sold during the period of time in which
17 federal price controls on such products were in effect and (2) any
18 investment interest earned on the fund. The Department of Administrative
19 Services may for accounting purposes create subfunds of the fund to
20 segregate awards or allocations received pursuant to different orders or
21 settlements. Any money in the fund available for investment shall be
22 invested by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act. No money shall
24 be transferred or disbursed from the fund except pursuant to sections
25 81-1635 to 81-1641.

26 Sec. 168. Section 81-1636, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-1636 The Governor or the Department of Environment and Energy
29 State Energy Office as representative of the Governor shall develop a
30 plan for the disbursement of the money credited to the fund for
31 submission to the United States Department of Energy. The plan shall be

1 in accordance with the specifications and guidelines of the applicable
2 federal court order and any applicable federal law or regulations.

3 Sec. 169. Section 81-1637, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-1637 (1) The Governor shall submit electronically a
6 predisbursement plan to the Legislature if in session or the Executive
7 Board of the Legislative Council if the Legislature is not in session.

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

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

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

27 Sec. 170. Section 81-1638, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-1638 (1) The Department of Environment and Energy ~~State Energy~~
30 ~~Office~~ shall, as the representative of and under the direction of the
31 Governor, be the administrative agency for the selection of projects

1 pursuant to section 81-1636, allocation of funds to the projects, and
2 monitoring of the uses of the funds so allocated.

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

10 (3) Any political subdivision of this state may apply for, and shall
11 be eligible to receive, a disbursement for a project pursuant to section
12 81-1636, including a disbursement of loan proceeds.

13 Sec. 171. Section 81-1640, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-1640 The Department of Environment and Energy ~~State Energy Office~~
16 shall conduct a public hearing on the proposed uses of the fund in the
17 manner and to the extent required by specifications and guidelines of the
18 applicable federal court order and any applicable federal law or
19 regulations.

20 Sec. 172. Section 81-1641, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-1641 Sections 81-1635 to 81-1641 shall apply to the disbursement
23 of all funds which are subject to sections 81-1635 to 81-1641 except for
24 funds appropriated by Legislative Bill 432, Ninetieth Legislature, First
25 Session, 1987.

26 Sections 81-1636 and 81-1637 shall not apply to any funds which are
27 the subject of any written agreement or contract entered into ~~by the~~
28 ~~State Energy Office or the Governor~~ prior to April 9, 1987, for the
29 awarding of any funds received by the state from United States v. Exxon
30 Corporation.

31 Sec. 173. Section 81-3449, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 81-3449 The provisions of the Engineers and Architects Regulation
3 Act regulating the practice of architecture do not apply to the following
4 activities:

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

14 (2) The construction, remodeling, alteration, or renovation of a
15 one-story commercial or industrial building or structure of less than
16 five thousand square feet of above grade finished space which does not
17 exceed thirty feet in height unless such building or structure, or the
18 remodeling or repairing thereof, provides for the employment, housing, or
19 assembly of twenty or more persons. Any detached or attached sheds,
20 storage buildings, and garages incidental to the building or structure
21 are not included in the tabulation of finished space. Such exemption may
22 be increased by rule and regulation of the board adopted pursuant to the
23 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
24 limitations set forth by the allowable height and building areas table in
25 the state building code adopted in section 71-6403;

26 (3) The construction, remodeling, alteration, or renovation of farm
27 buildings, including barns, silos, sheds, or housing for farm equipment
28 and machinery, livestock, poultry, or storage, if the structures are
29 designed to be occupied by no more than twenty persons. Such exemption
30 may be increased by rule and regulation of the board adopted pursuant to
31 the Negotiated Rulemaking Act but shall not exceed the Type V, column B,

1 limitations set forth by the allowable height and building areas table in
2 the state building code adopted in section 71-6403;

3 (4) Any public works project with contemplated expenditures for a
4 completed project that do not exceed one hundred thousand dollars. The
5 board shall adjust the dollar amount in this subdivision every fifth
6 year. The first such adjustment after August 27, 2011, shall be effective
7 on July 1, 2014. The adjusted amount shall be equal to the then current
8 amount adjusted by the cumulative percentage change in the Consumer Price
9 Index for All Urban Consumers published by the Federal Bureau of Labor
10 Statistics for the five-year period preceding the adjustment date. The
11 amount shall be rounded to the next highest one-thousand-dollar amount;

12 (5) Any alteration, renovation, or remodeling of a building if the
13 alteration, renovation, or remodeling does not affect architectural or
14 engineering safety features of the building;

15 (6) The teaching, including research and service, of architectural
16 subjects in a college or university offering a degree in architecture
17 accredited by the National Architectural Accrediting Board;

18 (7) The preparation of submissions to architects, building
19 officials, or other regulating authorities by the manufacturer, supplier,
20 or installer of any materials, assemblies, components, or equipment that
21 describe or illustrate the use of such items, the preparation of any
22 details or shop drawings required of the contractor by the terms of the
23 construction documents, or the management of construction contracts by
24 persons customarily engaged in contracting work;

25 (8) The preparation of technical submissions or the administration
26 of construction contracts by employees of a person or organization
27 lawfully engaged in the practice of architecture if such employees are
28 acting under the direct supervision of an architect;

29 (9) A public service provider or an organization who employs a
30 licensee performing professional services for itself;

31 (10) A nonresident who holds the certification issued by the

1 National Council of Architectural Registration Boards offering to render
2 the professional services involved in the practice of architecture. The
3 nonresident shall not perform any of the professional services involved
4 in the practice of architecture until licensed as provided in the
5 Engineers and Architects Regulation Act. The nonresident shall notify the
6 board in writing that (a) he or she holds a National Council of
7 Architectural Registration Boards certificate and is not currently
8 licensed in Nebraska but will be present in Nebraska for the purpose of
9 offering to render architectural services, (b) he or she will deliver a
10 copy of the notice to every potential client to whom the applicant offers
11 to render architectural services, and (c) he or she promises to apply
12 immediately to the board for licensure if selected as the architect for
13 the project;

14 (11) The practice by a qualified member of another legally
15 recognized profession who is otherwise licensed or certified by this
16 state or any political subdivision to perform services consistent with
17 the laws of this state, the training, and the code of ethics of the
18 respective profession, if such qualified member does not represent
19 himself or herself to be practicing architecture and does not represent
20 himself or herself to be an architect;

21 (12) Financial institutions making disbursements of funds in
22 connection with construction projects;

23 (13) Earthmoving and related work associated with soil and water
24 conservation practices performed on farmland or any land owned by a
25 political subdivision that is not subject to a permit from the Department
26 of Natural Resources or for work related to livestock waste facilities
27 that are not subject to a permit by the Department of Environment and
28 Energy Environmental Quality; and

29 (14) The work of employees and agents of a political subdivision or
30 a nonprofit entity organized for the purpose of furnishing electrical
31 service performing, in accordance with other requirements of law, their

1 customary duties in the administration and enforcement of codes, permit
2 programs, and land-use regulations and their customary duties in utility
3 and public works construction, operation, and maintenance.

4 Sec. 174. Section 81-3453, Revised Statutes Cumulative Supplement,
5 2018, is amended to read:

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

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

18 (2) The construction, remodeling, alteration, or renovation of a
19 one-story commercial or industrial building or structure of less than
20 five thousand square feet above grade finished space which does not
21 exceed thirty feet in height unless such building or structure, or the
22 remodeling or repairing thereof, provides for the employment, housing, or
23 assembly of twenty or more persons. Any detached or attached sheds,
24 storage buildings, and garages incidental to the building or structure
25 are not included in the tabulation of finished space. Such exemption may
26 be increased by rule and regulation of the board adopted pursuant to the
27 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
28 limitations set forth by the allowable height and building areas table in
29 the state building code adopted in section 71-6403;

30 (3) The construction, remodeling, alteration, or renovation of farm
31 buildings, including barns, silos, sheds, or housing for farm equipment

1 and machinery, livestock, poultry, or storage and if the structures are
2 designed to be occupied by no more than twenty persons. Such exemption
3 may be increased by rule and regulation of the board adopted pursuant to
4 the Negotiated Rulemaking Act but shall not exceed the Type V, column B,
5 limitations set forth by the allowable height and building areas table in
6 the state building code adopted in section 71-6403;

7 (4) Any public works project with contemplated expenditures for the
8 completed project that do not exceed one hundred thousand dollars. The
9 board shall adjust the dollar amount in this subdivision every fifth
10 year. The first such adjustment after August 27, 2011, shall be effective
11 on July 1, 2014. The adjusted amount shall be equal to the then current
12 amount adjusted by the cumulative percentage change in the Consumer Price
13 Index for All Urban Consumers published by the Federal Bureau of Labor
14 Statistics for the five-year period preceding the adjustment date. The
15 amount shall be rounded to the next highest one-thousand-dollar amount;

16 (5) Any alteration, renovation, or remodeling of a building if the
17 alteration, renovation, or remodeling does not affect architectural or
18 engineering safety features of the building;

19 (6) The teaching, including research and service, of engineering
20 subjects in a college or university offering an ABET-accredited
21 engineering curriculum of four years or more;

22 (7) A public service provider or an organization who employs a
23 licensee performing professional services for itself;

24 (8) The practice by a qualified member of another legally recognized
25 profession who is otherwise licensed or certified by this state or any
26 political subdivision to perform services consistent with the laws of
27 this state, the training, and the code of ethics of such profession, if
28 such qualified member does not represent himself or herself to be
29 practicing engineering and does not represent himself or herself to be a
30 professional engineer;

31 (9) The offer to practice engineering by a person not a resident of

1 and having no established place of business in this state if the person
2 is legally qualified by licensure to practice engineering in his or her
3 own state or country. The person shall make application to the board in
4 writing and after payment of a fee established by the board may be
5 granted a temporary permit for a definite period of time not to exceed
6 one year to do a specific job. No right to practice engineering accrues
7 to such applicant with respect to any other work not set forth in the
8 permit;

9 (10) The work of an employee or a subordinate of a person holding a
10 certificate of licensure under the Engineers and Architects Regulation
11 Act or an employee of a person practicing lawfully under subdivision (9)
12 of this section if the work is done under the direct supervision of a
13 person holding a certificate of licensure or a person practicing lawfully
14 under such subdivision;

15 (11) Those services ordinarily performed by subordinates under
16 direct supervision of a professional engineer or those commonly
17 designated as locomotive, stationary, marine operating engineers, power
18 plant operating engineers, or manufacturers who supervise the operation
19 of or operate machinery or equipment or who supervise construction within
20 their own plant;

21 (12) Financial institutions making disbursements of funds in
22 connection with construction projects;

23 (13) Earthmoving and related work associated with soil and water
24 conservation practices performed on farmland or any land owned by a
25 political subdivision that is not subject to a permit from the Department
26 of Natural Resources or for work related to livestock waste facilities
27 that are not subject to a permit by the Department of Environment and
28 Energy Environmental Quality;

29 (14) The work of employees and agents of a political subdivision or
30 a nonprofit entity organized for the purpose of furnishing electrical
31 service performing, in accordance with other requirements of law, their

1 customary duties in the administration and enforcement of codes, permit
2 programs, and land-use regulations and their customary duties in utility
3 and public works construction, operation, and maintenance;

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

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

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

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

29 Sec. 175. Section 84-166, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 84-166 Pursuant to the proclamation of a vital resource emergency

1 issued as provided in section 84-164, the Governor by executive order
2 may:

3 (1) Regulate the operating hours of vital resource consuming
4 instrumentalities including state government, political subdivisions,
5 private institutions, and business facilities to the extent that the
6 regulation is not hazardous or detrimental to the health, safety, or
7 welfare of the people of this state;

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

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

15 (4) Delegate any administrative authority vested in him or her to
16 the Department of Environment and Energy ~~State Energy Office~~ or any other
17 state agency or its respective director; and

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

21 Sec. 176. Section 84-602.04, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 84-602.04 (1) The State Treasurer shall develop and maintain a
24 single, searchable web site with information on state receipts,
25 expenditures of state funds, and contracts which is accessible by the
26 public at no cost to access as provided in this section. The web site
27 shall be hosted on a server owned and operated by the State of Nebraska
28 or approved by the Chief Information Officer. The naming convention for
29 the web site shall identify the web site as a state government web site.
30 The web site shall not include the treasurer's name, the treasurer's
31 image, the treasurer's seal, or a welcome message.

1 (2)(a) The web site established, developed, and maintained by the
2 State Treasurer pursuant to this section shall provide such information
3 as will document the sources of all state receipts and the expenditure of
4 state funds by all state entities.

5 (b) The State Treasurer shall, in appropriate detail, cause to be
6 published on the web site:

7 (i) The identity, principal location, and amount of state receipts
8 received or expended by the State of Nebraska and all of its state
9 entities;

10 (ii) The funding or expending state entity;

11 (iii) The budget program source;

12 (iv) The amount, date, purpose, and recipient of all expenditures of
13 state funds; and

14 (v) Such other relevant information as will further the intent of
15 enhancing the transparency of state government financial operations to
16 its citizens and taxpayers. The web site shall include data for fiscal
17 year 2008-09 and each fiscal year thereafter, except that for any state
18 entity that becomes subject to this section due to the changes made by
19 Laws 2016, LB851, the web site shall include data for such state entity
20 for fiscal year 2016-17 and each fiscal year thereafter.

21 (3) The data shall be available on the web site no later than thirty
22 days after the end of the preceding fiscal year.

23 (4)(a) The web site described in this section shall include a link
24 to the web site of the Department of Administrative Services. The
25 department's web site shall contain:

26 (i) A data base that includes a copy of each active contract that is
27 a basis for an expenditure of state funds, including any amendment to
28 such contract and any document incorporated by reference in such
29 contract. For purposes of this subdivision, amendment means an agreement
30 to modify a contract which has been reduced to writing and signed by each
31 party to the contract, an agreement to extend the duration of a contract,

1 or an agreement to renew a contract. The data base shall be accessible by
2 the public and searchable by vendor, by state entity, and by dollar
3 amount. All state entities shall provide to the Department of
4 Administrative Services, in electronic form, copies of such contracts for
5 inclusion in the data base beginning with contracts that are active on
6 and after January 1, 2014, except that for any state entity that becomes
7 subject to this section due to the changes made by Laws 2016, LB851, such
8 state entity shall provide copies of such contracts for inclusion in the
9 data base beginning with contracts that are active on and after January
10 1, 2017; and

11 (ii) A data base that includes copies of all expired contracts which
12 were previously included in the data base described in subdivision (4)(a)
13 (i) of this section and which have not been disposed of pursuant to
14 policies and procedures adopted under subdivision (4)(e) of this section.
15 The data base required under this subdivision shall be accessible by the
16 public and searchable by vendor, by state entity, and by dollar amount.

17 (b) The following shall be redacted or withheld from any contract
18 before such contract is included in a data base pursuant to subdivision
19 (4)(a) of this section:

20 (i) The social security number or federal tax identification number
21 of any individual or business;

22 (ii) Protected health information as such term is defined under the
23 federal Health Insurance Portability and Accountability Act of 1996, as
24 such act existed on January 1, 2013;

25 (iii) Any information which may be withheld from the public under
26 section 84-712.05; or

27 (iv) Any information that is confidential under state or federal
28 law, rule, or regulation.

29 (c) The following contracts shall be exempt from the requirements of
30 subdivision (4)(a) of this section:

31 (i) Contracts entered into by the Department of Health and Human

1 Services that are letters of agreement for the purpose of providing
2 specific services to a specifically named individual and his or her
3 family;

4 (ii) Contracts entered into by the University of Nebraska or any of
5 the Nebraska state colleges for the purpose of providing specific
6 services or financial assistance to a specifically named individual and
7 his or her family;

8 (iii) Contracts entered into by the Department of Veterans' Affairs
9 under section 80-401 or 80-403 for the purpose of providing aid to a
10 specifically named veteran and his or her family;

11 (iv) Contracts entered into by the Department of Environment and
12 Energy State Energy Office for the purpose of providing financing from
13 the Dollar and Energy Saving Loan program;

14 (v) Contracts entered into by the State Department of Education
15 under sections 79-11,121 to 79-11,132 for the purpose of providing
16 specific goods, services, or financial assistance on behalf of or to a
17 specifically named individual;

18 (vi) Contracts of employment for employees of any state entity. The
19 exemption provided in this subdivision shall not apply to contracts
20 entered into by any state entity to obtain the services of an independent
21 contractor; and

22 (vii) Contracts entered into by the Nebraska Investment Finance
23 Authority for the purpose of providing a specific service or financial
24 assistance, including, but not limited to, a grant or loan, to a
25 specifically named individual and his or her family.

26 (d) No state entity shall structure a contract to avoid any of the
27 requirements of subdivision (4)(a) of this section.

28 (e) The Department of Administrative Services shall adopt policies
29 and procedures regarding the creation, maintenance, and disposal of
30 records pursuant to section 84-1212.02 for the contracts contained in the
31 data bases required under this section and the process by which state

1 entities provide copies of the contracts required under this section.

2 (5) All state entities shall provide to the State Treasurer, at such
3 times and in such form as designated by the State Treasurer, such
4 information as is necessary to accomplish the purposes of the Taxpayer
5 Transparency Act.

6 (6) Nothing in this section requires the disclosure of information
7 which is considered confidential under state or federal law or is not a
8 public record under section 84-712.05.

9 Sec. 177. Section 86-570, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 86-570 (1) The Geographic Information Systems Council is hereby
12 created and shall consist of:

13 (a) The Chief Information Officer or his or her designee, the chief
14 executive officer or designee of the Department of Health and Human
15 Services, and the director or designee of the Department of Environment
16 and Energy ~~Environmental Quality~~, the Conservation and Survey Division of
17 the University of Nebraska, the Department of Natural Resources, and the
18 Governor's Policy Research Office;

19 (b) The Director-State Engineer or designee;

20 (c) The State Surveyor or designee;

21 (d) The Clerk of the Legislature or designee;

22 (e) The secretary of the Game and Parks Commission or designee;

23 (f) The Property Tax Administrator or designee;

24 (g) One representative of federal agencies appointed by the
25 Governor;

26 (h) One representative of the natural resources districts nominated
27 by the Nebraska Association of Resources Districts and appointed by the
28 Governor;

29 (i) One representative of the public power districts appointed by
30 the Governor;

31 (j) Two representatives of the counties nominated by the Nebraska

1 Association of County Officials and appointed by the Governor;

2 (k) One representative of the municipalities nominated by the League
3 of Nebraska Municipalities and appointed by the Governor;

4 (l) Two members at large appointed by the Governor; and

5 (m) Such other members as nominated by the Nebraska Information
6 Technology Commission and appointed by the Governor.

7 (2) The appointed members shall serve terms as determined by the
8 Nebraska Information Technology Commission.

9 (3) The members shall be reimbursed for their actual and necessary
10 expenses as provided in sections 81-1174 to 81-1177.

11 Sec. 178. Section 88-550, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 88-550 The Department of Environment and Energy ~~Environmental~~
14 ~~Quality~~ and the commission shall, during the course of their regular
15 inspections required by law, inspect warehouses for conditions which are
16 or may be conducive to grain dust explosions. Such conditions shall
17 include, but not be limited to, the presence at the warehouse of
18 excessive grain dust, faulty equipment, or any other condition which
19 could reasonably lead to an explosion if not corrected. The department
20 and commission shall report any such condition to the State Fire Marshal
21 as soon as practicable after each inspection.

22 Sec. 179. This act becomes operative on July 1, 2019.

23 Sec. 180. Original sections 2-15,100, 2-3241, 2-4215, 13-1701,
24 13-2008, 13-2009, 13-2042.01, 37-806, 46-2,109, 46-602, 46-606, 46-704,
25 46-705, 46-706, 46-711, 46-721, 46-722, 46-723, 46-724, 46-725, 46-726,
26 46-728, 46-729, 46-730, 46-731, 46-732, 46-733, 46-743, 46-749, 46-750,
27 46-1102, 46-1108, 46-1109, 46-1217, 46-1301, 46-1502, 46-1642, 54-744.01,
28 54-2417, 54-2421, 54-2429, 57-705, 58-221, 60-6,363, 60-6,364, 60-6,367,
29 60-6,368, 66-203, 66-204, 66-301, 66-302, 66-303, 66-304, 66-489.02,
30 66-1004, 66-1009, 66-1105, 66-1344, 66-1504, 66-1518, 66-1529.02,
31 66-2001, 69-2011, 69-2502, 70-1003, 70-1032, 71-2433, 71-3503, 71-5302,

1 71-5316, 72-804, 72-805, 76-2602, 76-2608, 77-27,150, 77-27,151,
2 77-27,152, 77-27,153, 77-27,154, 77-27,187.01, 77-27,236, 81-1108.55,
3 81-1502, 81-1503, 81-1504.01, 81-1505.01, 81-1506, 81-1537, 81-1540,
4 81-1561, 81-15,118, 81-15,120, 81-15,123, 81-15,124, 81-15,124.01,
5 81-15,124.02, 81-15,124.04, 81-15,124.05, 81-15,125, 81-15,126,
6 81-15,127, 81-15,129, 81-15,159, 81-15,159.02, 81-15,166, 81-15,170,
7 81-15,177, 81-15,178, 81-15,179, 81-15,180, 81-15,183, 81-15,184,
8 81-15,185, 81-15,185.01, 81-15,185.02, 81-15,185.03, 81-15,186,
9 81-15,196, 81-15,210, 81-15,213, 81-15,229, 81-15,235, 81-15,242,
10 81-15,243, 81-15,245, 81-1607, 81-1609, 81-1611, 81-1612, 81-1613,
11 81-1616, 81-1617, 81-1618, 81-1620, 81-1625, 81-1635, 81-1636, 81-1637,
12 81-1638, 81-1640, 81-1641, 84-166, 86-570, and 88-550, Reissue Revised
13 Statutes of Nebraska, and sections 2-969, 2-1501, 2-1507, 2-2626, 2-4604,
14 46-2,139, 46-683.01, 46-707, 46-1224, 46-1304, 49-506, 54-703, 57-1407,
15 57-1502, 57-1503, 81-2,294, 81-1316, 81-1504, 81-1505, 81-15,149,
16 81-15,159.01, 81-15,160, 81-1604, 81-1606, 81-1607.01, 81-3449, 81-3453,
17 and 84-602.04, Revised Statutes Cumulative Supplement, 2018, are
18 repealed.

19 Sec. 181. The following sections are outright repealed: Section
20 69-2505, Reissue Revised Statutes of Nebraska, and sections 81-1601,
21 81-1602, 81-1603, and 81-1605, Revised Statutes Cumulative Supplement,
22 2018.

23 Sec. 182. Since an emergency exists, this act takes effect when
24 passed and approved according to law.