

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 512

Introduced by Stinner, 48; Schilz, 47.

Read first time January 21, 2015

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the Nebraska Oil and Gas Conservation
2 Commission; to amend sections 57-901, 57-903, 57-905, 57-911,
3 57-913, 57-914, 57-915, 57-916, 57-916.01, 57-917, 57-918, 57-919,
4 57-920, 57-921, 57-922, and 81-1531.01, Reissue Revised Statutes of
5 Nebraska; to provide powers and duties to the commission regarding
6 the monitoring and regulation of the disposal in Nebraska of out-of-
7 state produced wastewater; to define terms; to charge an assessment;
8 to create a fund; to provide funds for road damage and new road
9 infrastructure; to harmonize provisions; and to repeal the original
10 sections.

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

1 Section 1. Section 57-901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 57-901 It is hereby declared to be in the public interest to foster,
4 to encourage and to promote the development, production and utilization
5 of natural resources of oil and gas in the state in such a manner as will
6 prevent waste; to authorize and to provide for the operation and
7 development of oil and gas properties in such a manner that the greatest
8 ultimate recovery of oil and gas be had; and that the correlative rights
9 of all owners be fully protected; and to encourage and to authorize
10 cycling, recycling, pressure maintenance and secondary recovery
11 operations in order that the greatest possible economic recovery of oil
12 and gas be obtained within the state to the end that the landowners, the
13 royalty owners, the producers and the general public realize and enjoy
14 the greatest possible good from these vital irreplaceable natural
15 resources.

16 It is the intent and purpose of sections 57-901 to 57-922 and
17 sections 4 and 5 of this act 57-921 to permit each and every oil and gas
18 pool in Nebraska to be produced up to its maximum efficient rate of
19 production, subject to the prohibition of waste as herein defined and
20 subject further to the enforcement and protection of the correlative
21 rights of the owners of a common source of oil or gas so that each common
22 owner may obtain his just and equitable share of production therefrom.

23 Sec. 2. Section 57-903, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 57-903 As used in sections 57-901 to 57-922 and sections 4 and 5 of
26 this act 57-921, unless the context otherwise requires:

27 (1)(a) Waste, as applied to oil, includes shall include underground
28 waste, inefficient, excessive, or improper use, or dissipation of
29 reservoir energy, including gas energy and water drive, surface waste,
30 open pit storage, and waste incident to the production of oil in excess
31 of the producer's aboveground storage facilities and lease and

1 contractual requirements, but excludes excluding storage, other than open
2 pit storage, reasonably necessary for building up or maintaining crude
3 stocks and products thereof for consumption, use, and sale; (b) waste, as
4 applied to gas includes shall include (i) the escape, blowing, or
5 releasing, directly or indirectly, into the open air of gas from wells
6 productive of gas only, or gas from wells producing oil or both oil and
7 gas and (ii) the production of gas in quantities or in such manner as
8 will unreasonably reduce reservoir pressure or unreasonably diminish the
9 quantity of oil or gas that might ultimately be produced, but excluding
10 gas that is reasonably necessary in the drilling, completing, testing,
11 and producing of wells and gas unavoidably produced with oil if it is not
12 economically feasible for the producer to save or use such gas; and (c)
13 waste also means shall also mean the abuse of the correlative rights of
14 any owner in a pool due to nonuniform, disproportionate, unratable, or
15 excessive withdrawals of oil or gas therefrom causing reasonably
16 avoidable drainage between tracts of land or resulting in one or more
17 owners in such pool producing more than his or her just and equitable
18 share of the oil or gas from such pool;

19 (2) Commission means shall mean the Nebraska Oil and Gas
20 Conservation Commission;

21 (3) Person means shall mean any natural person, corporation,
22 association, partnership, limited liability company, receiver, trustee,
23 executor, administrator, guardian, fiduciary, or other representative of
24 any kind and any department, agency, or instrumentality of the state or
25 of any governmental subdivision thereof;

26 (4) Oil means shall mean crude petroleum oil and other hydrocarbons
27 regardless of gravity which are produced at the wellhead in liquid form
28 and the liquid hydrocarbons known as distillate or condensate recovered
29 or extracted from gas other than gas produced in association with oil and
30 commonly known as casing-head gas;

31 (5) Gas means shall mean all natural gas and all other fluid

1 hydrocarbons not defined as oil;

2 (6) Pool means shall mean an underground reservoir containing a
3 common accumulation of oil or gas or both, each zone of the structure
4 which is completely separated from any other zone in the same structure
5 is a pool as that term is used in sections 57-901 to 57-922 and sections
6 4 and 5 of this act 57-921;

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

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

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

17 (10) Correlative rights means shall mean the opportunity afforded to
18 the owner of each property in a pool to produce, so far as it is
19 reasonably practicable to do so without waste, his or her just and
20 equitable share of the oil or gas, or both, in the pool;—and

21 (11) Barrel means forty-two gallons;

22 (12) Wastewater means the salt water substance generated as waste
23 from oil and gas wells; and

24 (13 11) The word and includes shall include the word or, and the
25 word or includes shall include the word and.

26 Sec. 3. Section 57-905, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 57-905 (1) The commission shall have jurisdiction and authority over
29 all persons and property, public and private, necessary to enforce
30 effectively the provisions of sections 57-901 to 57-922 and sections
31 4 and 5 of this act 57-921.

1 (2) The commission shall have authority, and it is its duty, to make
2 such investigations as it deems proper to determine whether waste exists
3 or is imminent or whether other facts exist which justify action by the
4 commission.

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

1 with sections 57-901 to 57-922 and sections 4 and 5 of this act ~~57-921~~,
2 or any rule, regulation, or order of the commission, may be held
3 confidential for a period of not more than twelve months.

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

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

15 (6) The commission shall have authority to classify wells as oil or
16 gas wells for purposes material to the interpretation or enforcement of
17 the provisions of sections 57-901 to 57-922 and sections 4 and 5 of this
18 act ~~57-921~~.

19 (7) The commission shall have authority to monitor and regulate the
20 disposal of wastewater generated from oil and gas well production,
21 including wastewater generated from oil and gas well production in other
22 states, that is injected into commercial salt water injection wells in
23 Nebraska.

24 (8) The commission shall have authority to promulgate and to
25 enforce rules, regulations, and orders to effectuate the purposes and the
26 intent of sections 57-901 to 57-922 and sections 4 and 5 of this act
27 ~~57-921~~.

28 (9) The commission, with the approval of the Governor, shall have
29 authority to establish and maintain its principal office and its books,
30 papers, and records at such place in the state as it shall determine. The
31 commission shall not have authority to purchase its principal office

1 quarters.

2 (10 9) The commission shall have authority to require that all wells
3 drilled for oil and gas shall be adequately logged with mechanical-
4 electrical logging devices, and to require the filing of logs.

5 (11 10) The commission shall have the authority to regulate the
6 drilling and plugging of seismic and stratigraphic tests in oil and gas
7 exploration holes.

8 (12 11) The commission shall have the authority to act as the state
9 jurisdictional agency pursuant to the Natural Gas Policy Act, Public Law
10 95-621, 92 Stat. 3350.

11 (13 12) The commission shall have the authority to have one or more
12 examiners, who are employees of the commission, conduct any of its
13 hearings, investigations, and examinations authorized by sections 57-901
14 to 57-922 and sections 4 and 5 of this act ~~57-921~~. Such examiner may
15 exercise the commission's powers including, but not limited to, the
16 taking of evidence and testimony under oath, resolving questions of fact
17 and questions of law, and the entering of an order. Such order shall be
18 entered in the commission's order journal. Any person having an interest
19 in property affected by an order issued by an examiner and who is
20 dissatisfied with such order may appeal to the commission by filing a
21 petition on appeal to the commission within fifteen days of the entering
22 of the examiner's order. Such person shall provide notice to all
23 interested persons by personal service or registered or certified United
24 States mail with return receipt, requiring such parties to answer within
25 fifteen days from the date of service. Upon appeal, the commission shall
26 hear the case de novo on the record and shall not be bound by any
27 conclusions of the examiner. The commission shall hold a hearing on the
28 appeal within forty-five days of the filing of an appeal to the
29 commission and issue its order within fifteen days after the hearing. The
30 commission shall review all orders issued by an examiner that are not
31 appealed and issue an order concerning the examiner's order within sixty

1 days after the examiner's order. The commission shall adopt, amend, or
2 reject the examiner's order. Any order of an examiner which is not
3 appealed to the commission and which the commission adopts shall not be
4 appealable to the district court unless the commission adopts an order
5 before the end of the time for appeal to the commission.

6 Sec. 4. (1) An oil and gas regulatory cost recovery and road
7 expense assessment is imposed on commercial wells used for the purpose of
8 disposing of wastewater produced in the process of out-of-state oil and
9 gas extraction. The purpose of the assessment is to offset the costs of
10 monitoring and regulating oil and gas wastewater disposal, to offset the
11 costs of damage to roads used for transporting the wastewater, and to
12 provide additional transportation infrastructure funding necessary for
13 the design and construction of additional roads and bridges.

14 (2) Except for wastewater produced by the extraction of oil and gas
15 from wells in Nebraska, where taxes are already paid on the severance of
16 oil and gas, an assessment of twenty cents per barrel of wastewater
17 disposed in Nebraska in a commercial salt water injection well is
18 assessed.

19 (3) The owner of a commercial salt water injection well shall
20 collect the assessment for each such well and remit the assessment
21 annually on or before April 15 for the preceding calendar year according
22 to rules and regulations adopted and promulgated by the Nebraska Oil and
23 Gas Conservation Commission. The owner shall retain three percent of the
24 assessment collected and remit the balance to the State Treasurer. The
25 State Treasurer shall credit fifty percent of the assessment to the Oil
26 and Gas Regulatory Cost Recovery Cash Fund and fifty percent to the
27 Highway Trust Fund.

28 Sec. 5. The Oil and Gas Regulatory Cost Recovery Cash Fund is
29 created. The fund shall consist of money credited pursuant to section 4
30 of this act and any other money credited by the Legislature. The purpose
31 of the fund is to recover the costs of monitoring and regulating oil and

1 gas wastewater disposal in this state. Any money in the fund available
2 for investment shall be invested by the state investment officer pursuant
3 to the Nebraska Capital Expansion Act and the Nebraska State Funds
4 Investment Act.

5 Sec. 6. Section 57-911, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 57-911 (1) The commission shall prescribe rules and regulations
8 governing the practice and procedure before the commission.

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

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

18 (4) Any notice required by the provisions of sections 57-901 to
19 57-922 and sections 4 and 5 of this act 57-921, except in proceedings
20 involving a direct complaint by the commission, shall be given at the
21 election of the commission either by personal service, registered or
22 certified mail, or one publication in a newspaper of general circulation
23 in the county where the land affected, or some part thereof, is situated.
24 The notice shall be issued in the name of the state, shall be signed by a
25 member of the commission or its secretary, and shall specify the style
26 and number of the proceedings, the time and place of the hearing, and the
27 purpose of the proceeding. Should the commission notice be by personal
28 service, such service may be made by any officer authorized to serve
29 summons, or by any agent of the commission, in the same manner and extent
30 as is provided by law for the service of summons in civil actions in the
31 district courts of this state. Proof of the service by such agent shall

1 be by his or her affidavit and proof of service by an officer shall be in
2 the form required by law with respect to service of process in civil
3 actions. In all cases where a complaint is made by the commission or the
4 Director of the Nebraska Oil and Gas Conservation Commission that any
5 part of any provision of sections 57-901 to 57-922 and sections 4 and 5
6 of this act 57-921, or any rule, regulation, or order of the commission
7 is being violated, notice of the hearing to be held on such complaint
8 shall be served on the interested parties in the same manner as is
9 provided in the code of civil procedure for the service of process in
10 civil actions in the district courts of this state. In addition to
11 notices required by this section, the commission may provide for further
12 notice of hearing in such proceedings as it may deem necessary in order
13 to notify all interested persons of the pendency of such proceedings and
14 the time and place of hearing and to afford such persons an opportunity
15 to appear and be heard.

16 (5) All rules, regulations, and orders issued by the commission
17 shall be in writing, shall be entered in full and indexed in books to be
18 kept by the commission for that purpose, shall be public records open for
19 inspection at all times during reasonable office hours, and shall be
20 filed as provided by the Administrative Procedure Act. A copy of any
21 rule, regulation, or order certified by any member of the commission, or
22 its secretary, under its seal, shall be received in evidence in all
23 courts of this state with the same effect as the original.

24 (6) The commission may act upon its own motion or upon the petition
25 of any interested person. On the filing of a petition concerning any
26 matter within the jurisdiction of the commission, the commission shall
27 promptly fix a date for a hearing thereon, and shall cause notice of the
28 hearing to be given. The hearing shall be held without undue delay after
29 the filing of the petition. The commission shall enter its order within
30 thirty days after the hearing.

31 (7) A petition filed with the commission for a public hearing shall

1 be accompanied by a filing fee of two hundred fifty dollars.

2 Sec. 7. Section 57-913, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 57-913 Any person having an interest in property affected by and who
5 is dissatisfied with any rule, regulation, or order made or issued under
6 sections 57-901 to 57-922 and sections 4 and 5 of this act 57-921 may
7 appeal the rule, regulation, or order, and the appeal shall be in
8 accordance with the Administrative Procedure Act.

9 Sec. 8. Section 57-914, Reissue Revised Statutes of Nebraska, is
10 amended to read:

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

24 (2) Any suit, action, or other proceedings based upon a violation of
25 any of the provisions of sections 57-901 to 57-922 and sections 4 and 5
26 of this act 57-921 shall be commenced within one year from the date of
27 the violation complained of.

28 Sec. 9. Section 57-915, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 57-915 (1) Any person who violates any provision of sections 57-901
31 to 57-922 and sections 4 and 5 of this act 57-921, or any rule,

1 regulation, or order of the commission shall be guilty of a Class II
2 misdemeanor. Each day that such violation continues shall constitute a
3 separate offense.

4 (2) If any person, for the purpose of evading the provisions of
5 sections 57-901 to 57-922 and sections 4 and 5 of this act 57-921, or any
6 rule, regulation, or order of the commission, shall make or cause to be
7 made any false entry or statement in a report required by the provisions
8 of sections 57-901 to 57-922 and sections 4 and 5 of this act 57-921, or
9 by any such rule, regulation, or order, or shall make or cause to be made
10 any false entry in any record, account, or memorandum required by the
11 provisions of sections 57-901 to 57-922 and sections 4 and 5 of this act
12 57-921, or by any such rule, regulation, or order, or shall remove from
13 this state or destroy, mutilate, alter, or falsify any such record,
14 account, or memorandum, such person shall be guilty of a Class II
15 misdemeanor.

16 (3) Any person knowingly aiding or abetting any other person in the
17 violation of any provision of sections 57-901 to 57-922 and sections 4
18 and 5 of this act 57-921, or any rule, regulation, or order of the
19 commission shall be subject to the same penalty as that prescribed by the
20 provisions of sections 57-901 to 57-922 and sections 4 and 5 of this act
21 57-921 for the violation by such other person.

22 (4) The penalties provided in this section shall be recoverable by
23 suit filed by the Attorney General in the name and on behalf of the
24 commission, in the district court of the county in which the defendant
25 resides, or in which any defendant resides, if there be more than one
26 defendant, or in the district court of any county in which the violation
27 occurred. The payment of any such penalty shall not operate to relieve a
28 person on whom the penalty is imposed from liability to any other person
29 for damages arising out of such violation.

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

1 57-916 (1) Whenever it appears that any person is violating or
2 threatening to violate any provision of sections 57-901 to 57-922 and
3 sections 4 and 5 of this act 57-921, or any rule, regulation, or order of
4 the commission, the commission shall bring suit against such person in
5 the district court of any county where the violation occurs or is
6 threatened, to restrain such person from continuing such violation or
7 from carrying out the threat of violation. Upon the filing of any such
8 suit, summons issued to such person may be directed to the sheriff of any
9 county in this state for service by such sheriff or his deputies. In any
10 such suit, the court shall have jurisdiction and authority to issue,
11 without bond or other undertaking, such prohibitory and mandatory
12 injunctions as the facts may warrant.

13 (2) If the commission shall fail to bring suit to enjoin a violation
14 or threatened violation of any provision of sections 57-901 to 57-922 and
15 sections 4 and 5 of this act 57-921, or any rule, regulation, or order of
16 the commission, within ten days after receipt of written request to do so
17 by any person who is or will be adversely affected by such violation, the
18 person making such request may bring suit in his own behalf to restrain
19 such violation or threatened violation in any court in which the
20 commission might have brought suit. The commission shall be made a party
21 defendant in such suit in addition to the person violating or threatening
22 to violate a provision of sections 57-901 to 57-922 and sections 4 and 5
23 of this act 57-921, or a rule, regulation, or order of the commission,
24 and the action shall proceed and injunctive relief may be granted in the
25 same manner as if suit had been brought by the commission, however, ;
26 ~~Provided, that in such event~~ the person bringing such suit shall be
27 required to give bond in accordance with the rules of civil procedure in
28 the district courts.

29 Sec. 11. Section 57-916.01, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 57-916.01 (1) In addition to the penalties prescribed in section

1 57-915, any person who violates any provision of sections 57-901 to
2 57-922 and sections 4 and 5 of this act 57-921, any rule, regulation, or
3 order of the commission, or any term, condition, or limitation of any
4 permit issued pursuant to such sections, rule, regulation, or order may
5 be subject to a civil penalty imposed by the commission of not to exceed
6 one thousand dollars. No civil penalty shall be imposed until written
7 notice is sent pursuant to subsection (2) of this section and a period of
8 ten days has elapsed in which the person may come into compliance if
9 possible. If any violation is a continuing one, each day a violation
10 continues after such ten-day period shall constitute a separate violation
11 for the purpose of computing the applicable civil penalty. The commission
12 may compromise, mitigate, or remit such penalties.

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

1 Sec. 12. Section 57-917, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 57-917 To enable the commission to carry out its duties and powers
4 under the laws of this state with respect to conservation of oil and gas
5 and to enforce sections 57-901 to 57-922 and sections 4 and 5 of this act
6 57-921 and the rules and regulations so prescribed, the commission shall
7 employ one chief administrator who shall not be a member of the
8 commission and who shall be known as the Director of the Nebraska Oil and
9 Gas Conservation Commission, and as such he or she shall be charged with
10 the duty of administering and enforcing the provisions of sections 57-901
11 to 57-922 and sections 4 and 5 of this act 57-921 and all rules,
12 regulations, and orders promulgated by the commission, subject to the
13 direction of the commission. The director shall be a qualified petroleum
14 engineer with not less than three years' actual field experience in the
15 drilling and operation of oil and gas wells. Such director shall hold
16 office at the pleasure of the commission and receive a salary to be fixed
17 by the commission. The director, with the concurrence of the commission,
18 shall have the authority, and it shall be his or her duty, to employ
19 assistants and other employees necessary to carry out the provisions of
20 sections 57-901 to 57-922 and sections 4 and 5 of this act 57-921. The
21 director shall be ex officio secretary of the Nebraska Oil and Gas
22 Conservation Commission and shall keep all minutes and records of the
23 commission. The director shall, as secretary, be bonded or insured as
24 required by section 11-201. The premium shall be paid by the State of
25 Nebraska. The director and other employees of the commission performing
26 duties authorized by sections 57-901 to 57-922 and sections 4 and 5 of
27 this act 57-921 shall be paid their necessary traveling and living
28 expenses when traveling on official business at such rates and within
29 such limits as may be fixed by the commission, subject to existing laws.

30 Sec. 13. Section 57-918, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 57-918 The Attorney General shall be the attorney for the Nebraska
2 Oil and Gas Conservation Commission, except ; Provided, that in cases of
3 emergency or in other special cases the commission may, with the consent
4 of the Attorney General retain additional legal counsel, and for such
5 purpose may use any funds available under the provisions of sections
6 57-901 to 57-922 and sections 4 and 5 of this act 57-921. Any member of
7 the commission, or the secretary thereof, shall have the power to
8 administer oaths to any witness in any hearing, investigation, or
9 proceeding contemplated by sections 57-901 to 57-922 and sections 4 and 5
10 of this act 57-921 or by any other law of this state relating to the
11 conservation of oil and gas.

12 Sec. 14. Section 57-919, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 57-919 (1) All money collected by the Tax Commissioner or the
15 commission or as civil penalties under sections 57-901 to 57-922 and
16 sections 4 and 5 of this act 57-921 shall be remitted to the State
17 Treasurer for credit to a special fund to be known as the Oil and Gas
18 Conservation Fund. Expenses incident to the administration of such
19 sections shall be paid out of the fund. Transfers may be made from the
20 fund to the General Fund at the direction of the Legislature. Any money
21 in the Oil and Gas Conservation Fund available for investment shall be
22 invested by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act.

24 (2) There is hereby levied and assessed on the value at the well of
25 all oil and gas produced, saved, and sold or transported from the
26 premises in Nebraska where produced a charge not to exceed fifteen mills
27 on the dollar. The commission shall by order fix the amount of such
28 charge in the first instance and may, from time to time, reduce or
29 increase the amount thereof as in its judgment the expenses chargeable
30 against the Oil and Gas Conservation Fund may require, except that the
31 amounts fixed by the commission shall not exceed the limit prescribed in

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

1 notwithstanding, except that there shall be exempted from the charge
2 levied and assessed in this section the following: (a) The interest of
3 the United States of America and the interest of the State of Nebraska
4 and the political subdivisions thereof in any oil or gas or in the
5 proceeds thereof; (b) the interest of any Indian or Indian tribe in any
6 oil or gas or in the proceeds thereof produced from land subject to the
7 supervision of the United States; and (c) oil and gas used in producing
8 operations or for repressuring or recycling purposes. All money so
9 collected shall be remitted to the State Treasurer for credit to the Oil
10 and Gas Conservation Fund and shall be used exclusively to pay the costs
11 and expenses incurred in connection with the administration and
12 enforcement of sections 57-901 to 57-922 and sections 4 and 5 of this act
13 57-921.

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

16 57-920 The State of Nebraska being a sovereign state and not
17 disposed to jeopardize or surrender any of its sovereign rights, sections
18 57-901 to 57-922 and sections 4 and 5 of this act ~~57-921~~ shall apply to
19 all lands in the State of Nebraska lawfully subject to its police powers.
20 Sections 57-901 to 57-922 and sections 4 and 5 of this act ; ~~Provided,~~ it
21 shall apply to lands of the United States or to lands subject to the
22 jurisdiction of the United States only to the extent that control and
23 supervision of conservation of oil and gas by the United States on its
24 lands shall fail to effect the intent and purposes of sections 57-901 to
25 57-922 and sections 4 and 5 of this act ~~57-921~~ and otherwise shall apply
26 to such lands to such extent as an officer of the United States having
27 jurisdiction, or his or her duly authorized representative, shall approve
28 any of the provisions of sections 57-901 to 57-922 and sections 4 and 5
29 of this act ~~57-921~~ or the order or orders of the commission which affects
30 such lands. Sections 57-901 to 57-922 and sections 4 and 5 of this act ;
31 ~~and provided further, the same~~ shall apply to any lands committed to a

1 unit agreement approved by the Secretary of the Interior of the United
2 States, or his or her duly authorized representative, except that the
3 commission may, under such unit agreements, suspend the application of
4 the provisions of sections 57-901 to 57-922 and sections 4 and 5 of this
5 act 57-921 or any part of sections 57-901 to 57-922 and sections 4 and 5
6 of this act 57-921 so long as the conservation of oil and gas and the
7 prevention of waste, as provided in sections 57-901 to 57-922 and
8 sections 4 and 5 of this act 57-921, is accomplished thereby but such
9 suspension shall not relieve any operator from making such reports as are
10 necessary or advised to be fully informed as to operations under such
11 agreement and as the commission may require under the provisions of
12 sections 57-901 to 57-922 and sections 4 and 5 of this act 57-921.

13 Sec. 16. Section 57-921, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 57-921 Notwithstanding anything ~~heretofore~~ contained in sections
16 57-901 to 57-922 and sections 4 and 5 of this act 57-921, the Nebraska
17 Oil and Gas Conservation Commission shall have no authority to establish,
18 fix or in any way control the price or value of oil, gas, other
19 hydrocarbon substances or any of the products or component parts thereof.

20 Sec. 17. Section 57-922, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 57-922 There is hereby created in the state treasury a special fund
23 to be known as the Oil and Gas Conservation Trust Fund. All sums of money
24 received by the Nebraska Oil and Gas Conservation Commission, in a manner
25 other than as provided in sections 57-901 to 57-922 and sections 4 and 5
26 of this act, except as provided in sections 4 and 5 of this act 57-921,
27 shall be paid into the state treasury and the State Treasurer shall
28 deposit the money in the Oil and Gas Conservation Trust Fund. The State
29 Treasurer shall disburse the money in the trust fund as directed by
30 resolution of the Nebraska Oil and Gas Conservation Commission. All
31 disbursements for the fund shall be made upon warrants drawn by the

1 Director of Administrative Services.

2 Sec. 18. Section 81-1531.01, Reissue Revised Statutes of Nebraska,
3 is amended to read:

4 81-1531.01 Nothing in the Environmental Protection Act shall be
5 construed to apply to any wells or holes covered by sections 57-901 to
6 57-922 and sections 4 and 5 of this act.

7 Sec. 19. Original sections 57-901, 57-903, 57-905, 57-911, 57-913,
8 57-914, 57-915, 57-916, 57-916.01, 57-917, 57-918, 57-919, 57-920,
9 57-921, 57-922, and 81-1531.01, Reissue Revised Statutes of Nebraska, are
10 repealed.