

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 857**

Introduced by Larson, 40.

Read first time January 06, 2012

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources; to amend section 81-15,167,  
2 Reissue Revised Statutes of Nebraska, and sections 61-218  
3 and 81-15,174, Revised Statutes Supplement, 2011; to  
4 provide for repayment of certain grants from the Nebraska  
5 Environmental Trust Fund as prescribed; to provide for  
6 distribution of such repayments; to harmonize provisions;  
7 and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 61-218, Revised Statutes Supplement,  
2   2011, is amended to read:

3           61-218 (1) The Water Resources Cash Fund is created. The  
4   fund shall be administered by the Department of Natural Resources.  
5   Any money in the fund available for investment shall be invested by  
6   the state investment officer pursuant to the Nebraska Capital  
7   Expansion Act and the Nebraska State Funds Investment Act.

8           (2) The State Treasurer shall credit to the fund such  
9   money as is (a) transferred to the fund by the Legislature, (b) paid  
10   to the state as fees, deposits, payments, and repayments relating to  
11   the fund, both principal and interest, (c) donated as gifts,  
12   bequests, or other contributions to such fund from public or private  
13   entities, (d) made available by any department or agency of the  
14   United States if so directed by such department or agency, ~~and~~ (e)  
15   allocated pursuant to section 81-15,175, and (f) remitted pursuant to  
16   section 4 of this act.

17           (3) The fund shall be expended by the department (a) to  
18   aid management actions taken to reduce consumptive uses of water or  
19   to enhance streamflows or ground water recharge in river basins,  
20   subbasins, or reaches which are deemed by the department  
21   overappropriated pursuant to section 46-713 or fully appropriated  
22   pursuant to section 46-714 or are bound by an interstate compact or  
23   decree or a formal state contract or agreement, (b) for purposes of  
24   projects or proposals described in the grant application as set forth  
25   in subdivision (2)(h) of section 81-15,175, and (c) to the extent

1 funds are not expended pursuant to subdivisions (a) and (b) of this  
2 subsection, the department may conduct a statewide assessment of  
3 short-term and long-term water management activities and funding  
4 needs to meet statutory requirements in sections 46-713 to 46-718 and  
5 46-739 and any requirements of an interstate compact or decree or  
6 formal state contract or agreement. The fund shall not be used to pay  
7 for administrative expenses or any salaries for the department or any  
8 political subdivision.

9 (4) It is the intent of the Legislature that three  
10 million three hundred thousand dollars be transferred each fiscal  
11 year from the General Fund to the Water Resources Cash Fund for  
12 FY2011-12 through FY2018-19.

13 (5)(a) Expenditures from the Water Resources Cash Fund  
14 may be made to natural resources districts eligible under subsection  
15 (3) of this section for activities to either achieve a sustainable  
16 balance of consumptive water uses or assure compliance with an  
17 interstate compact or decree or a formal state contract or agreement  
18 and shall require a match of local funding in an amount equal to or  
19 greater than forty percent of the total cost of carrying out the  
20 eligible activity. The department shall, no later than August 1 of  
21 each year, beginning in 2007, determine the amount of funding that  
22 will be made available to natural resources districts from the Water  
23 Resources Cash Fund and notify natural resources districts of this  
24 determination. The department shall adopt and promulgate rules and  
25 regulations governing application for and use of the Water Resources

1 Cash Fund by natural resources districts. Such rules and regulations  
2 shall, at a minimum, include the following components:

3 (i) Require an explanation of how the planned activity  
4 will achieve a sustainable balance of consumptive water uses or will  
5 assure compliance with an interstate compact or decree or a formal  
6 state contract or agreement as required by section 46-715 and the  
7 controls, rules, and regulations designed to carry out the activity;  
8 and

9 (ii) A schedule of implementation of the activity or its  
10 components, including the local match as set forth in subdivision (5)  
11 (a) of this section.

12 (b) Any natural resources district that fails to  
13 implement and enforce its controls, rules, and regulations as  
14 required by section 46-715 shall not be eligible for funding from the  
15 Water Resources Cash Fund until it is determined by the department  
16 that compliance with the provisions required by section 46-715 has  
17 been established.

18 (6) The Department of Natural Resources shall submit an  
19 annual report to the Legislature no later than October 1 of each  
20 year, beginning in the year 2007, that shall detail the use of the  
21 Water Resources Cash Fund in the previous year. The report shall  
22 provide:

23 (a) Details regarding the use and cost of activities  
24 carried out by the department; and

25 (b) Details regarding the use and cost of activities

1 carried out by each natural resources district that received funds  
2 from the Water Resources Cash Fund.

3 (7)(a) Prior to the application deadline for fiscal year  
4 2011-12, the Department of Natural Resources shall apply for a grant  
5 of nine million nine hundred thousand dollars from the Nebraska  
6 Environmental Trust Fund, to be paid out in three annual installments  
7 of three million three hundred thousand dollars. The purposes listed  
8 in the grant application shall be consistent with the uses of the  
9 Water Resources Cash Fund provided in this section and shall be used  
10 to aid management actions taken to reduce consumptive uses of water,  
11 to enhance streamflows, to recharge ground water, or to support  
12 wildlife habitat in any river basin determined to be fully  
13 appropriated pursuant to section 46-714 or designated as  
14 overappropriated pursuant to section 46-713.

15 (b) If the application is granted, funds received from  
16 such grant shall be remitted to the State Treasurer for credit to the  
17 Water Resources Cash Fund for the purpose of supporting the projects  
18 set forth in the grant application. The department shall include in  
19 its grant application documentation that the Legislature has  
20 authorized a transfer of three million three hundred thousand dollars  
21 from the General Fund into the Water Resources Cash Fund for each of  
22 fiscal years 2011-12 and 2012-13 and has stated its intent to  
23 transfer three million three hundred thousand dollars to the Water  
24 Resources Cash Fund for fiscal year 2013-14.

25 (c) It is the intent of the Legislature that the

1 department apply for an additional three-year grant that would begin  
2 in fiscal year 2014-15 if the criteria established in subsection (4)  
3 of section 81-15,175 are achieved.

4 (8) The department shall establish a subaccount within  
5 the Water Resources Cash Fund for the accounting of all money  
6 received as a grant from the Nebraska Environmental Trust Fund as the  
7 result of an application made pursuant to subsection (7) of this  
8 section. At the end of each calendar month, the department shall  
9 calculate the amount of interest earnings accruing to the subaccount  
10 and shall notify the State Treasurer who shall then transfer a like  
11 amount from the Water Resources Cash Fund to the Nebraska  
12 Environmental Trust Fund.

13 Sec. 2. Section 81-15,167, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 81-15,167 Sections 81-15,167 to 81-15,176 and section 4  
16 of this act shall be known and may be cited as the Nebraska  
17 Environmental Trust Act.

18 Sec. 3. Section 81-15,174, Revised Statutes Supplement,  
19 2011, is amended to read:

20 81-15,174 The Nebraska Environmental Trust Fund is  
21 created. The fund shall be maintained in the state accounting system  
22 as a cash fund. Except as otherwise provided in this section, the  
23 fund shall be used to carry out the purposes of the Nebraska  
24 Environmental Trust Act, including the payment of administrative  
25 costs. Money in the fund shall include proceeds credited pursuant to

1 section 9-812, ~~and~~ proceeds designated by the board pursuant to  
2 section 81-15,173, and repayments under section 4 of this act. Any  
3 money in the fund available for investment shall be invested by the  
4 state investment officer pursuant to the Nebraska Capital Expansion  
5 Act and the Nebraska State Funds Investment Act.

6           Sec. 4. Any person receiving a grant from the Nebraska  
7 Environmental Trust Fund who purchases real property with funds from  
8 such grant and subsequently sells or otherwise transfers an ownership  
9 interest in such real property shall repay to the board the amount of  
10 the grant used to purchase the real property. The repayment shall be  
11 remitted to the State Treasurer for credit to the Water Resources  
12 Cash Fund.

13           Sec. 5. Original section 81-15,167, Reissue Revised  
14 Statutes of Nebraska, and sections 61-218 and 81-15,174, Revised  
15 Statutes Supplement, 2011, are repealed.