

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 904**

Introduced by Bolz, 29; Brewer, 43.

Read first time January 10, 2020

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the Water Sustainability Fund; to amend  
2 sections 61-222 and 61-223, Reissue Revised Statutes of Nebraska,  
3 sections 2-1506, 2-1508, 2-1512, and 2-1513, Revised Statutes  
4 Cumulative Supplement, 2018, and section 2-1507, Revised Statutes  
5 Supplement, 2019; to provide an additional use of the fund; to  
6 restate intent; to provide and change transfers from the General  
7 Fund; to harmonize provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1506, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 2-1506 (1) The goals of the Water Sustainability Fund are to: (a)  
4 Provide financial assistance to programs, projects, or activities that  
5 increase aquifer recharge, reduce aquifer depletion, and increase  
6 streamflow; (b) remediate or mitigate threats to drinking water; (c)  
7 promote the goals and objectives of approved integrated management plans  
8 or ground water management plans; (d) contribute to multiple water supply  
9 management goals including flood control, reducing threats to property  
10 damage, agricultural uses, municipal and industrial uses, recreational  
11 benefits, wildlife habitat, conservation, and preservation of water  
12 resources; (e) assist municipalities with the cost of constructing,  
13 upgrading, developing, and replacing sewer infrastructure facilities as  
14 part of a combined sewer overflow project; (f) provide increased water  
15 productivity and enhance water quality; (g) promote the sustainable use  
16 of water in food production; (h) use the most cost-effective solutions  
17 available; and (i) ~~(h)~~ comply with interstate compacts, decrees, other  
18 state contracts and agreements, and federal law.

19 (2) The Legislature finds that the goals of the Water Sustainability  
20 Fund can be met by equally considering programs, projects, or activities  
21 in the following categories: (a) Research, data, and modeling; (b)  
22 rehabilitation or restoration of water supply infrastructure, new water  
23 supply infrastructure, or water supply infrastructure maintenance or  
24 flood prevention for protection of critical infrastructure; (c)  
25 conjunctive management, storage, and integrated management of ground  
26 water and surface water; (d) sustainable use of water as it relates to  
27 food production; and (e) ~~(d)~~ compliance with interstate compacts or  
28 agreements, or other formal state contracts or agreements, or federal  
29 law.

30 Sec. 2. Section 2-1507, Revised Statutes Supplement, 2019, is  
31 amended to read:

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

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

16           (3) Distributions to assist the University of Nebraska with the  
17 operation of the Daugherty Water for Food Institute created to conduct  
18 scientific and policy research into how to achieve more food security  
19 with less pressure on scarce water resources shall equal nine hundred  
20 thousand dollars annually. The institute shall submit to the director a  
21 summary of ongoing and planned research initiatives to be conducted using  
22 such funds, including descriptions of how the initiatives directly relate  
23 to sustainability of water use and food production.

24           (4) ~~(3)~~ Any money in the Water Sustainability Fund after the  
25 distribution pursuant to subsection (3) of this section may be allocated  
26 by 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           (5) ~~(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 twelve ~~eleven~~ million dollars. Additional allocations to  
10 a program, project, or activity shall be credited to the same subaccount  
11 as the original allocation. Subaccounts shall not be subject to transfer  
12 out 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           (6) ~~(5)~~ A natural resources district is eligible for funding from  
16 the 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           (7) ~~(6)~~ The commission shall utilize the resources and expertise of  
20 and collaborate with the Department of Natural Resources, the University  
21 of Nebraska, the Department of Environment and Energy, the Nebraska  
22 Environmental Trust Board, and the Game and Parks Commission on funding  
23 and planning for water programs, projects, or activities.

24           (8) ~~(7)~~ A biennial report shall be made to the Clerk of the  
25 Legislature describing the work accomplished by the use of funds towards  
26 the goals of the Water Sustainability Fund beginning on December 31,  
27 2015. The report submitted to the Clerk of the Legislature shall be  
28 submitted electronically.

29           Sec. 3. Section 2-1508, Revised Statutes Cumulative Supplement,  
30 2018, is amended to read:

31           2-1508 The commission shall rank and score applications for funding

1 based on criteria that demonstrate the extent to which a program,  
2 project, or activity:

3 (1) Remediates or mitigates threats to drinking water;

4 (2) Meets the goals and objectives of an approved integrated  
5 management plan or ground water management plan;

6 (3) Contributes to water sustainability goals by increasing aquifer  
7 recharge, reducing aquifer depletion, or increasing streamflow;

8 (4) Contributes to multiple water supply management goals,  
9 including, but not limited to, flood control, agricultural use, municipal  
10 and industrial uses, recreational benefits, wildlife habitat,  
11 conservation of water resources, and preservation of water resources;

12 (5) Maximizes the beneficial use of Nebraska's water resources for  
13 the benefit of the state's residents;

14 (6) Is cost-effective;

15 (7) Contributes to scientific and policy research regarding  
16 sustainable water use and food production;

17 (8) (7) Helps the state meet its obligations under interstate  
18 compacts, decrees, or other state contracts or agreements or federal law;

19 (9) (8) Reduces threats to property damage or protects critical  
20 infrastructure that consists of the physical assets, systems, and  
21 networks vital to the state or the United States such that their  
22 incapacitation would have a debilitating effect on public security or  
23 public health and safety;

24 (10) (9) Improves water quality;

25 (11) (10) Has utilized all available funding resources of the local  
26 jurisdiction to support the program, project, or activity;

27 (12) (11) Has a local jurisdiction with plans in place that support  
28 sustainable water use;

29 (13) (12) Addresses a statewide problem or issue;

30 (14) (13) Contributes to the state's ability to leverage state  
31 dollars with local or federal government partners or other partners to

1 maximize the use of its resources;

2 ~~(15)~~ ~~(14)~~ Contributes to watershed health and function; and

3 ~~(16)~~ ~~(15)~~ Uses objectives described in the annual report and plan of  
4 work for the state water planning and review process issued by the  
5 department.

6 Sec. 4. Section 2-1512, Revised Statutes Cumulative Supplement,  
7 2018, is amended to read:

8 2-1512 In order to develop Nebraska's water resources, the  
9 department, using the process provided for in subsection (4) of section  
10 2-1509, and with the approval of the commission, may acquire interests in  
11 water and related land resources projects in the name of the state  
12 utilizing the Water Sustainability Fund. Such use of the fund shall be  
13 made when the public benefits obtained from the projects or a part  
14 thereof are statewide in nature and when associated costs are determined  
15 to be more appropriately financed by other than a local organization.  
16 Such use of the fund may be made upon the determination by the department  
17 and the commission that such acquisition is appropriate under sections  
18 2-1506 to 2-1513. The department, with the approval of the commission,  
19 may also acquire interests in water resource projects in the name of the  
20 state to meet future demands for usable water. Such water resource  
21 projects may include, but not be limited to, the construction of dams and  
22 reservoirs to provide surplus water storage capacity for municipal and  
23 industrial water demands, for food production, and for other projects to  
24 assure an adequate quantity of usable water. In furtherance of these  
25 goals, the department may contract with the federal government or any of  
26 its agencies or departments for the inclusion of additional water supply  
27 storage space behind existing or proposed structures.

28 Sec. 5. Section 2-1513, Revised Statutes Cumulative Supplement,  
29 2018, is amended to read:

30 2-1513 The Appropriations Committee of the Legislature shall,  
31 beginning with the FY2023-25 biennial budget review process, conduct a

1 biennial analysis of the financial status of the Water Sustainability  
2 Fund, including a review of the committed and uncommitted balance of the  
3 fund pursuant to sections 2-1506 to 2-1512 and the financial impact of  
4 pending programs, projects, or activities. The committee shall base its  
5 recommendation for transfers to the Water Sustainability Fund upon  
6 information provided in the review process.

7 Sec. 6. Section 61-222, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 61-222 The Water Sustainability Fund is created in the Department of  
10 Natural Resources. The fund shall be used in accordance with sections  
11 2-1506 to 2-1513 ~~the provisions established in Laws 2014, LB1098,~~ and for  
12 costs directly related to the administration of the fund.

13 The fund shall consist of money transferred to the fund by the  
14 Legislature, other funds as appropriated by the Legislature, and money  
15 donated as gifts, bequests, or other contributions from public or private  
16 entities. Funds made available by any department or agency of the United  
17 States may also be credited to the fund if so directed by such department  
18 or agency. Any money in the fund available for investment shall be  
19 invested by the state investment officer pursuant to the Nebraska Capital  
20 Expansion Act and the Nebraska State Funds Investment Act. Investment  
21 earnings from investment of money in the fund shall be credited to the  
22 fund.

23 It is the intent of the Legislature that twenty-one million dollars  
24 be transferred from the General Fund to the Water Sustainability Fund in  
25 fiscal year 2014-15, ~~and~~ that eleven million dollars be transferred from  
26 the General Fund to the Water Sustainability Fund each fiscal year  
27 beginning in fiscal year 2015-16 through fiscal year 2019-20, and that  
28 twelve million dollars be transferred from the General Fund to the Water  
29 Sustainability Fund each fiscal year beginning in fiscal year 2020-21. ~~It~~  
30 ~~is the intent of the Legislature that three million dollars be~~  
31 ~~transferred annually from the Water Sustainability Fund to the Nebraska~~

1 ~~Resources Development Fund in FY2015-16 and in FY2016-17.~~

2       Sec. 7. Section 61-223, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4       61-223 The Legislature finds that water sustainability programs,  
5 projects, and activities are complex, multiyear endeavors that require a  
6 stable source of state funding support in order for the required matching  
7 funds to be secured and for projects to be completed in a timely and  
8 successful manner. It is the intent of the Legislature that transfers of  
9 money from the General Fund to the Water Sustainability Fund be  
10 maintained at the level established in section 61-222 through fiscal year  
11 2029-30 ~~for a minimum of ten fiscal years.~~

12       Sec. 8. Original sections 61-222 and 61-223, Reissue Revised  
13 Statutes of Nebraska, sections 2-1506, 2-1508, 2-1512, and 2-1513,  
14 Revised Statutes Cumulative Supplement, 2018, and section 2-1507, Revised  
15 Statutes Supplement, 2019, are repealed.