A BILL FOR AN ACT relating to water; to amend sections 71-5316, 71-5318, 71-5325, and 71-5327, Reissue Revised Statutes of Nebraska, and section 81-15,151, Revised Statutes Cumulative Supplement, 2018; to update a reference to federal law; to provide for transfers between funds by the Director of Environmental Quality; to change authorized terms of loans; to eliminate a termination provision; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 71-5316, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Safe Drinking Water Act means the federal Safe Drinking Water Act, as the act existed on October 23, 2018.

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

(3) Council means the Environmental Quality Council;

(4) Department means the Department of Environmental Quality;

(5) Director means the Director of Environmental Quality;

(6) Operate and maintain means all necessary activities, including the normal replacement of equipment or appurtenances, to assure the dependable and economical function of a public water system in accordance with its intended purpose;

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

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

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

Sec. 2. Section 71-5318, Reissue Revised Statutes of Nebraska, is amended to read:

71-5318 (1) The Drinking Water Facilities Loan Fund is created. The fund shall be held as a trust fund for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities related to financial administration of the fund, administrative provision of technical assistance through public water system source water assessment programs, and implementation of a source water petition program under the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Drinking Water Facilities Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2) The Land Acquisition and Source Water Loan Fund is created. The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund,
repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water Administration Fund Act and may in consultation with the Director of Public Health of the Division of Public Health, conduct activities other than the making of loans permitted under section 1452(k) of the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for security, investment, and repayment of bonds.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or secure the payment of bonds and the interest thereon, except that deposits to the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Land Acquisition and Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

(b) The fund shall consist of federal capitalization grants, state matching appropriations, repayment of principal and interest on loans, transfers made pursuant to section 71-5327, and other money designated for the fund. The director may make loans from the fund pursuant to the act and may use (1) up to four percent of all federal capitalization grant awards to the fund, (ii) up to four hundred thousand dollars per year, or (iii) the equivalent of one-hundred percent of the current valuation of the funds available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that (i) amounts designated by the
director for use in the linked deposit program shall be deposited with eligible financial institutions by the director and (ii) any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

(d) The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

(e) The fund and the assets thereof may be used, to the extent permitted by the Clean Water Act, as amended, and the regulations adopted and promulgated pursuant to such act, (i) to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon, (ii) to deposit as provided by the linked deposit program, and (iii) to buy or refinance the debt obligation of municipalities for wastewater treatment works if the debt was incurred and construction was begun after March 7, 1985. Eligibility and terms of such refinancing shall be in accordance with the Wastewater Treatment Facilities Construction Assistance Act.

(f) The director may transfer any money in the Wastewater Treatment Facilities Construction Loan Fund to the Drinking Water Facilities Loan Fund to meet the purposes of section 71-5327. The director shall identify any such transfer in the intended use plan presented to the council for annual review and adoption pursuant to section 71-5321.

(2)(a) There is hereby created the Construction Administration Fund. Any funds available for administering loans or fees collected pursuant to the Wastewater Treatment Facilities Construction Assistance Act shall be deposited in such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

(b) The Construction Administration Fund and assets thereof may be used, to the extent permitted by the Clean Water Act and the regulations adopted and promulgated pursuant to such act, to fund subdivisions (11), (12), and (13) of section 81-15,153. The annual obligation of the state pursuant to subdivisions (11) and (13) of such section shall not exceed sixty-five percent of the revenue from administrative fees collected pursuant to this section in the prior fiscal year.

(c) The director may transfer any money in the Construction Administration Fund to the Wastewater Treatment Facilities Construction Loan Fund to meet the nonfederal match requirements of any applicable federal capitalization grants or to meet the purposes of subdivision (11) of section 81-15,153.

Sec. 6. Original sections 71-5316, 71-5318, 71-5325, and 71-5327, Reissue Revised Statutes of Nebraska, and section 81-15,151, Revised Statutes Cumulative Supplement, 2018, are repealed.