

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 809

FINAL READING

Introduced by Moser, 22.

Read first time January 06, 2022

Committee: Natural Resources

1 A BILL FOR AN ACT relating to natural resources; to amend sections
2 71-5322, 81-1508.01, and 81-1511, Reissue Revised Statutes of
3 Nebraska, and sections 37-455, 71-5318, 81-1504, 81-1505, 81-1532,
4 81-15,153, and 81-15,160, Revised Statutes Cumulative Supplement,
5 2020; to redefine a term and to change provisions relating to
6 certain hunting permits under the Game Law; to change provisions
7 relating to a fund and powers and duties of the Department of
8 Environment and Energy under the Drinking Water State Revolving Fund
9 Act; to provide for powers and duties of the department relating to
10 the treatment of dredged and fill material under the Environmental
11 Protection Act; to establish a fund; to provide a penalty; to change
12 powers of the department under the Wastewater Treatment Facilities
13 Construction Assistance Act; to include cities of the first class as
14 grant recipients for certain reimbursement costs under the Waste
15 Reduction and Recycling Incentive Act; to harmonize provisions; and
16 to repeal the original sections.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 37-455, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 37-455 (1) The commission may issue a limited permit for deer,
4 antelope, wild turkey, or elk to a person who is a qualifying landowner
5 or leaseholder or a member of such person's immediate family as described
6 in this section. The commission may issue nonresident landowner limited
7 permits after preference has been given for the issuance of resident
8 permits as provided in rules and regulations adopted and promulgated by
9 the commission. Except as provided in subsection (4) of this section, a
10 permit shall be valid during the predetermined period established by the
11 commission pursuant to sections 37-447 to 37-450, 37-452, 37-456, or
12 37-457. Upon receipt of an application in proper form as prescribed by
13 the rules and regulations of the commission, the commission may issue (a)
14 a limited deer, antelope, or wild turkey permit valid for hunting on all
15 of the land which is owned or leased by the qualifying landowner or
16 leaseholder if such lands are identified in the application or (b) a
17 limited elk permit valid for hunting on the entire elk management unit of
18 which the land of the qualifying landowner or leaseholder included in the
19 application is a part.

20 (2)(a) The commission shall adopt and promulgate rules and
21 regulations prescribing procedures and forms and create requirements for
22 documentation by an applicant or permittee to determine whether the
23 applicant or permittee is a Nebraska resident and is a qualifying
24 landowner or leaseholder of the described property or is a member of the
25 immediate family of such qualifying landowner or leaseholder. The
26 commission may adopt and promulgate rules and regulations that create
27 requirements for documentation to designate one qualifying landowner
28 among partners of a partnership or officers or shareholders of a
29 corporation that owns or leases eighty acres or more of farm or ranch
30 land for agricultural purposes and among beneficiaries of a trust that
31 owns or leases eighty acres or more of farm or ranch land for

1 agricultural purposes. Only a person who is a qualifying landowner or
2 leaseholder or a member of such person's immediate family may apply for a
3 limited permit. An applicant may apply for no more than one permit per
4 species per year except as otherwise provided in subsection (4) of this
5 section and the rules and regulations of the commission. For purposes of
6 this section, member of a person's immediate family means and is limited
7 to the spouse of such person, any child or stepchild of such person or of
8 the spouse of such person, any spouse of any such child or stepchild, any
9 grandchild or stepgrandchild of such person or of the spouse of such
10 person, any spouse of such grandchild or stepgrandchild, any sibling of
11 such person sharing ownership in the property, and any spouse of any such
12 sibling.

13 (b) The conditions applicable to permits issued pursuant to sections
14 37-447 to 37-450, 37-452, 37-456, or 37-457, whichever is appropriate,
15 shall apply to limited permits issued pursuant to this section, except
16 that the commission may pass commission orders for species harvest
17 allocation pertaining to the sex and age of the species harvested which
18 are different for a limited permit than for other hunting permits. For
19 purposes of this section, white-tailed deer and mule deer shall be
20 treated as one species.

21 (3)(a) To qualify for a limited permit to hunt deer or antelope, the
22 applicant shall be a Nebraska resident who (i) owns or leases eighty
23 acres or more of farm or ranch land for agricultural purposes or a member
24 of such person's immediate family or (ii) is the partner, officer,
25 shareholder, or beneficiary designated as the qualifying landowner by a
26 partnership, corporation, or trust as provided in the rules and
27 regulations under subdivision (2)(a) of this section or a member of the
28 immediate family of the partner, officer, shareholder, or beneficiary.
29 The number of limited permits issued annually per species for each farm
30 or ranch shall not exceed the total acreage of the farm or ranch divided
31 by eighty. The fee for a limited permit to hunt deer or antelope shall be

1 one-half the fee for the regular permit for such species.

2 (b) A nonresident of Nebraska who owns three hundred twenty acres or
3 more of farm or ranch land in the State of Nebraska for agricultural
4 purposes or a member of such person's immediate family may apply for a
5 limited deer or antelope permit. The number of limited permits issued
6 annually per species for each farm or ranch shall not exceed the total
7 acreage of the farm or ranch divided by three hundred twenty. The fee for
8 such a permit to hunt deer or antelope shall be one-half the fee for a
9 nonresident permit to hunt such species.

10 (c) The commission may adopt and promulgate rules and regulations
11 providing for the issuance of an additional limited deer permit to a
12 qualified individual for the taking of a deer without antlers at a fee
13 equal to or less than the fee for the original limited permit.

14 (4)(a) In addition to any limited permit to hunt deer issued to a
15 qualifying landowner under subsection (3) of this section, the commission
16 shall issue up to eight four limited permits to hunt deer during the
17 three days of Saturday through Monday immediately preceding the opening
18 day of firearm deer hunting season to any qualifying landowner meeting
19 the requirements of subdivision (b) of this subsection and designated
20 members of his or her immediate family. The fee for each permit issued
21 under this subsection shall be five dollars. Permits shall be issued
22 subject to the following:

23 (i) No more than eight four permits may be issued per qualifying
24 landowner to the landowner or designated members of his or her immediate
25 family, except that no more than one permit shall be issued per person
26 for the qualifying landowner or any designated member of his or her
27 immediate family;

28 (ii) Of the eight four permits that may be issued, no more than six
29 two permits may be issued to persons who are younger than nineteen years
30 of age and no more than two permits may be issued to persons who are
31 nineteen years of age or older; and

1 (iii) For a Nebraska resident landowner, the number of permits
2 issued shall not exceed the total acreage of the farm or ranch divided by
3 eighty, and for a nonresident landowner, the number of permits issued
4 shall not exceed the total acreage of the farm or ranch divided by three
5 hundred twenty.

6 (b) For purposes of this subsection, the qualifying criteria for a
7 Nebraska resident described in subdivisions (3)(a)(i) and (ii) of this
8 section and the ownership criteria for a nonresident of Nebraska
9 described in subdivision (3)(b) of this section apply.

10 (c) The commission may adopt and promulgate rules and regulations to
11 carry out this subsection.

12 (5)(a) To qualify for a limited permit to hunt wild turkey, the
13 applicant shall be a Nebraska resident who (i) owns or leases eighty
14 acres or more of farm or ranch land for agricultural purposes or a member
15 of such person's immediate family or (ii) is the partner, officer,
16 shareholder, or beneficiary designated as the qualifying landowner by a
17 partnership, corporation, or trust as provided in the rules and
18 regulations under subdivision (2)(a) of this section or a member of the
19 immediate family of the partner, officer, shareholder, or beneficiary.
20 The number of limited permits issued annually per season for each farm or
21 ranch shall not exceed the total acreage of the farm or ranch divided by
22 eighty. An applicant may apply for no more than one limited permit per
23 season. The fee for a limited permit to hunt wild turkey shall be one-
24 half the fee for the regular permit to hunt wild turkey.

25 (b) A nonresident of Nebraska who owns three hundred twenty acres or
26 more of farm or ranch land in the State of Nebraska for agricultural
27 purposes or a member of such person's immediate family may apply for a
28 limited permit to hunt wild turkey. Only one limited wild turkey permit
29 per three hundred twenty acres may be issued annually for each wild
30 turkey season under this subdivision. The fee for such a permit to hunt
31 shall be one-half the fee for a nonresident permit to hunt wild turkey.

1 (6) To qualify for a limited permit to hunt elk, (a) the applicant
2 shall be (i) a Nebraska resident who owns three hundred twenty acres or
3 more of farm or ranch land for agricultural purposes, (ii) a Nebraska
4 resident who leases six hundred forty acres or more of farm or ranch land
5 for agricultural purposes or has a leasehold interest and an ownership
6 interest in farm or ranch land used for agricultural purposes which when
7 added together totals at least six hundred forty acres, (iii) a
8 nonresident of Nebraska who owns at least one thousand two hundred eighty
9 acres of farm or ranch land for agricultural purposes, or (iv) a member
10 of such owner's or lessee's immediate family and (b) the qualifying farm
11 or ranch land of the applicant shall be within an area designated as an
12 elk management zone by the commission in its rules and regulations. An
13 applicant shall not be issued a limited bull elk permit more than once
14 every three years, and the commission may give preference to a person who
15 did not receive a limited elk permit or a specified type of limited elk
16 permit during the previous years. The fee for a resident landowner
17 limited permit to hunt elk shall not exceed one-half the fee for the
18 regular permit to hunt elk. The fee for a nonresident landowner limited
19 permit to hunt elk shall not exceed three times the cost of a resident
20 elk permit. The number of applications allowed for limited elk permits
21 for each farm or ranch shall not exceed the total acreage of the farm or
22 ranch divided by the minimum acreage requirements established for the
23 property. No more than one person may qualify for the same described
24 property.

25 Sec. 2. Section 71-5318, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 71-5318 (1) The Drinking Water Facilities Loan Fund is created. The
28 fund shall be held as a trust fund for the purposes and uses described in
29 the Drinking Water State Revolving Fund Act.

30 The fund shall consist of federal capitalization grants, state
31 matching appropriations, proceeds of state match bond issues credited to

1 the fund, repayments of principal and interest on loans, transfers made
2 pursuant to section 71-5327, and other money designated for the fund. The
3 director may make loans from the fund pursuant to the Drinking Water
4 State Revolving Fund Act and may conduct activities related to financial
5 administration of the fund, administration or provision of technical
6 assistance through public water system source water assessment programs,
7 and implementation of a source water petition program under the Safe
8 Drinking Water Act. The state investment officer shall invest any money
9 in the fund available for investment pursuant to the Nebraska Capital
10 Expansion Act and the Nebraska State Funds Investment Act, except that
11 any bond proceeds in the fund shall be invested in accordance with the
12 terms of the documents under which the bonds are issued. The state
13 investment officer may direct that the bond proceeds shall be deposited
14 with the bond trustee for investment. Investment earnings shall be
15 credited to the fund.

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

20 The fund and the assets thereof may be used, to the extent permitted
21 by the Safe Drinking Water Act and the regulations adopted and
22 promulgated pursuant to such act, to (a) pay or to secure the payment of
23 bonds and the interest thereon, except that amounts deposited into the
24 fund from state appropriations and the earnings on such appropriations
25 may not be used to pay or to secure the payment of bonds or the interest
26 thereon, and (b) buy or refinance the debt obligation of any municipality
27 for a public water supply system if the debt was incurred and
28 construction began after July 1, 1993.

29 The director may transfer any money in the Drinking Water Facilities
30 Loan Fund to the Wastewater Treatment Facilities Construction Loan Fund
31 to meet the purposes of section 71-5327. The director shall identify any

1 such transfer in the intended use plan presented to the council for
2 annual review and adoption pursuant to section 71-5321.

3 (2) The Land Acquisition and Source Water Loan Fund is created. The
4 fund shall be held as a trust for the purposes and uses described in the
5 Drinking Water State Revolving Fund Act.

6 The fund shall consist of federal capitalization grants, state
7 matching appropriations, proceeds of state match bond issues credited to
8 the fund, repayments of principal and interest on loans, and other money
9 designated for the fund. The director may make loans from the fund
10 pursuant to the Drinking Water State Revolving Fund Act and may, in
11 consultation with the Director of Public Health of the Division of Public
12 Health, conduct activities other than the making of loans permitted under
13 section 1452(k) of the Safe Drinking Water Act. The state investment
14 officer shall invest any money in the fund available for investment
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
16 Funds Investment Act, except that any bond proceeds in the fund shall be
17 invested in accordance with the terms of the documents under which the
18 bonds are issued. The state investment officer may direct that the bond
19 proceeds shall be deposited with the bond trustee for investment.
20 Investment earnings shall be credited to the fund.

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

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

31 The director may transfer any money in the Land Acquisition and

1 Source Water Loan Fund to the Drinking Water Facilities Loan Fund.
2 (3) There is hereby created the Drinking Water Administration Fund.
3 Any funds available for administering loans or fees collected pursuant to
4 the Drinking Water State Revolving Fund Act shall be remitted to the
5 State Treasurer for credit to such fund. The fund shall be administered
6 by the department for the purposes of the act. The state investment
7 officer shall invest any money in the fund available for investment
8 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
9 Funds Investment Act. Investment earnings shall be credited to the fund.

10 The fund and assets thereof may be used, to the extent permitted by
11 the Safe Drinking Water Act and the regulations adopted and promulgated
12 pursuant to such act, to fund subdivisions (9), (11) ~~(10)~~, and (12) ~~(11)~~
13 of section 71-5322. The annual obligation of the state pursuant to
14 subdivisions (9) and (12) ~~(11)~~ of section 71-5322 shall not exceed sixty-
15 five percent of the revenue from administrative fees collected pursuant
16 to section 71-5321 in the prior fiscal year.

17 The director may transfer any money in the Drinking Water
18 Administration Fund to the Drinking Water Facilities Loan Fund to meet
19 the state matching appropriation requirements of any applicable federal
20 capitalization grants or to meet the purposes of subdivision (9) of
21 section 71-5322.

22 Sec. 3. Section 71-5322, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-5322 The department shall have the following powers and duties:

25 (1) The power to establish a program to make loans to owners of
26 public water systems, individually or jointly, for construction or
27 modification of safe drinking water projects in accordance with the
28 Drinking Water State Revolving Fund Act and the rules and regulations of
29 the council adopted and promulgated pursuant to such act;

30 (2) The power, if so authorized by the council pursuant to section
31 71-5321, to execute and deliver documents obligating the Drinking Water

1 Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund
2 and the assets thereof to the extent permitted by section 71-5318 to
3 repay, with interest, loans to or credits into such funds and to execute
4 and deliver documents pledging to the extent permitted by section 71-5318
5 all or part of such funds and assets to secure, directly or indirectly,
6 the loans or credits;

7 (3) The duty to prepare an annual report for the Governor and the
8 Legislature. The report submitted to the Legislature shall be submitted
9 electronically;

10 (4) The duty to establish fiscal controls and accounting procedures
11 sufficient to assure proper accounting during appropriate accounting
12 periods, including the following:

13 (a) Accounting from the Nebraska Investment Finance Authority for
14 the costs associated with the issuance of bonds pursuant to the act;

15 (b) Accounting for payments or deposits received by the funds;

16 (c) Accounting for disbursements made by the funds; and

17 (d) Balancing the funds at the beginning and end of the accounting
18 period;

19 (5) The duty to establish financial capability requirements that
20 assure sufficient revenue to operate and maintain a facility for its
21 useful life and to repay the loan for such facility;

22 (6) The power to determine the rate of interest to be charged on a
23 loan in accordance with the rules and regulations adopted and promulgated
24 by the council;

25 (7) The power to develop an intended use plan, in consultation with
26 the Director of Public Health of the Division of Public Health, for
27 adoption by the council;

28 (8) The power to enter into required agreements with the United
29 States Environmental Protection Agency pursuant to the Safe Drinking
30 Water Act;

31 (9) The power to enter into agreements to provide grants and for the

1 purpose of providing loan forgiveness concurrent with loans to public
2 water systems that provide service to ten thousand persons or less, that
3 are operated by political subdivisions, and that demonstrate serious
4 financial hardships. The department may enter into agreements for up to
5 seventy-five percent ~~one-half~~ of the eligible project cost. Such
6 agreements shall contain a provision that payment of the amount allocated
7 is conditional upon the availability of appropriated funds;

8 (10) The power to enter into agreements to provide grants and loan
9 forgiveness, for up to seventy-five percent of eligible project costs,
10 concurrent with loans to public water systems for lead service line
11 replacement projects in accordance with all federal regulatory and
12 statutory provisions;

13 (11) (10) The power to provide emergency funding to public water
14 systems operated by political subdivisions with drinking water facilities
15 which have been damaged or destroyed by natural disaster or other
16 unanticipated actions or circumstances. Such funding shall not be used
17 for routine repair or maintenance of facilities;

18 (12) (11) The power to provide financial assistance consistent with
19 the intended use plan, described in subdivision (7) of this section, for
20 completion of engineering studies, research projects to investigate low-
21 cost options for achieving compliance with safe drinking water standards,
22 preliminary engineering reports, regional water system planning, source
23 water protection, and other studies for the purpose of enhancing the
24 ability of communities to meet the requirements of the Safe Drinking
25 Water Act, to public water systems that provide service to ten thousand
26 persons or less, that are operated by political subdivisions, and that
27 demonstrate serious financial hardships. The department may enter into
28 agreements for up to ninety percent of the eligible project cost. Such
29 agreements shall contain a provision that payment of the amount obligated
30 is conditional upon the availability of appropriated funds; and

31 (13) (12) Such other powers as may be necessary and appropriate for

1 the exercise of the duties created under the Drinking Water State
2 Revolving Fund Act.

3 Sec. 4. Section 81-1504, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 81-1504 The department shall have and may exercise the following
6 powers and duties:

7 (1) To exercise exclusive general supervision of the administration
8 and enforcement of the Environmental Protection Act, the Integrated Solid
9 Waste Management Act, the Livestock Waste Management Act, and all rules
10 and regulations and orders adopted and promulgated under such acts;

11 (2) To develop comprehensive programs for the prevention, control,
12 and abatement of new or existing pollution of the air, waters, and land
13 of the state;

14 (3) To advise and consult, cooperate, and contract with other
15 agencies of the state, the federal government, and other states, with
16 interstate agencies, and with affected groups, political subdivisions,
17 and industries in furtherance of the purposes of the acts;

18 (4) To act as the state water pollution, air pollution, and solid
19 waste pollution control agency for all purposes of the Clean Water Act,
20 as amended, 33 U.S.C. 1251 et seq., the Clean Air Act, as amended, 42
21 U.S.C. 7401 et seq., the Resource Conservation and Recovery Act, as
22 amended, 42 U.S.C. 6901 et seq., and any other federal legislation
23 pertaining to loans or grants for environmental protection and from other
24 sources, public or private, for carrying out any of its functions, which
25 loans and grants shall not be expended for other than the purposes for
26 which provided;

27 (5) To encourage, participate in, or conduct studies,
28 investigations, research, and demonstrations relating to air, land, and
29 water pollution and causes and effects, prevention, control, and
30 abatement of such pollution as it may deem advisable and necessary for
31 the discharge of its duties under the Environmental Protection Act, the

1 Integrated Solid Waste Management Act, and the Livestock Waste Management
2 Act, using its own staff or private research organizations under
3 contract;

4 (6) To collect and disseminate information and conduct educational
5 and training programs relating to air, water, and land pollution and the
6 prevention, control, and abatement of such pollution;

7 (7) To issue, modify, or revoke orders: (a) Prohibiting prohibiting
8 or abating discharges of wastes into the air, waters, or land of the
9 state; and (b) requiring the construction of new disposal systems or any
10 parts thereof or the modification, extension, or adoption of other
11 remedial measures to prevent, control, or abate pollution; and (c)
12 prohibiting or abating the discharge of dredged or fill material into
13 waters of the United States;

14 (8) To administer state grants to political subdivisions for solid
15 waste disposal facilities and for the construction of sewage treatment
16 works and facilities to dispose of water treatment plant wastes;

17 (9) To (a) hold such hearings and give notice thereof, (b) issue
18 such subpoenas requiring the attendance of such witnesses and the
19 production of such evidence, (c) administer such oaths, and (d) take such
20 testimony as the director deems necessary, and any of these powers may be
21 exercised on behalf of the director by a hearing officer designated by
22 the director;

23 (10) To require submission of plans, specifications, and other data
24 relative to, and to inspect construction of, disposal systems or any part
25 thereof prior to issuance of such permits or approvals as are required by
26 the Environmental Protection Act, the Integrated Solid Waste Management
27 Act, and the Livestock Waste Management Act;

28 (11) To issue, continue in effect, revoke, modify, or deny permits,
29 under such conditions as the director may prescribe and consistent with
30 the standards, rules, and regulations adopted by the council, (a) to
31 prevent, control, or abate pollution, (b) for the discharge of wastes

1 into the air, land, or waters of the state, and (c) for the installation,
2 modification, or operation of disposal systems or any parts thereof, and
3 (d) for the discharge of dredged and fill material into waters of the
4 United States;

5 (12) To require proper maintenance and operation of disposal
6 systems;

7 (13) To exercise all incidental powers necessary to carry out the
8 purposes of the Environmental Protection Act, the Integrated Solid Waste
9 Management Act, and the Livestock Waste Management Act;

10 (14) To establish bureaus, divisions, or sections for the control of
11 air pollution, water pollution, mining and land quality, and solid wastes
12 which shall be administered by full-time salaried bureau, division, or
13 section chiefs and to delegate and assign to each such bureau, division,
14 or section and its officers and employees the duties and powers granted
15 to the department for the enforcement of Chapter 81, article 15, the
16 Integrated Solid Waste Management Act, the Livestock Waste Management
17 Act, and the standards, rules, and regulations adopted pursuant thereto;

18 (15)(a) To require access to existing and available records relating
19 to (i) emissions or discharges which cause or contribute to air, land, or
20 water pollution or (ii) the monitoring of such emissions or discharges;
21 and

22 (b) To require, for purposes of developing or assisting the
23 development of any regulation or enforcing any of the provisions of the
24 Environmental Protection Act which pertain to hazardous waste, any person
25 who generates, stores, treats, transports, disposes of, or otherwise
26 handles or has handled hazardous waste, upon request of any officer,
27 employee, or representative of the department, to furnish information
28 relating to such waste and any permit involved. Such person shall have
29 access at all reasonable times to a copy of all results relating to such
30 waste;

31 (16) To obtain such scientific, technical, administrative, and

1 operational services including laboratory facilities, by contract or
2 otherwise, as the director deems necessary;

3 (17) To encourage voluntary cooperation by persons and affected
4 groups to achieve the purposes of the Environmental Protection Act, the
5 Integrated Solid Waste Management Act, and the Livestock Waste Management
6 Act;

7 (18) To encourage local units of government to handle air, land, and
8 water pollution problems within their respective jurisdictions and on a
9 cooperative basis and to provide technical and consultative assistance
10 therefor;

11 (19) To consult with any person proposing to construct, install, or
12 otherwise acquire an air, land, or water contaminant source or a device
13 or system for control of such source, upon request of such person,
14 concerning the efficacy of such device or system or concerning the air,
15 land, or water pollution problem which may be related to the source,
16 device, or system. Nothing in any such consultation shall be construed to
17 relieve any person from compliance with the Environmental Protection Act,
18 the Integrated Solid Waste Management Act, the Livestock Waste Management
19 Act, rules and regulations in force pursuant to the acts, or any other
20 provision of law;

21 (20) To require all persons engaged or desiring to engage in
22 operations which result or which may result in air, water, or land
23 pollution to secure a permit prior to installation or operation or
24 continued operation;

25 (21) To enter and inspect, during reasonable hours, any building or
26 place, except a building designed for and used exclusively for a private
27 residence;

28 (22)(a) To receive or initiate complaints of air, water, or
29 land pollution, hold hearings in connection with air, water, or land
30 pollution, and institute legal proceedings in the name of the state for
31 the control or prevention of air, water, or land pollution, and for the

1 recovery of penalties, in accordance with the Environmental Protection
2 Act, the Integrated Solid Waste Management Act, and the Livestock Waste
3 Management Act; and

4 (b) To receive and initiate complaints of, hold hearings in
5 connection with, and institute legal proceedings in the name of the state
6 for the control, prevention, or abatement of the discharge of dredged and
7 fill material into waters of the United States and for the recovery of
8 penalties, in accordance with the Environmental Protection Act;

9 (23) To delegate, by contract with governmental subdivisions which
10 have adopted local air, water, or land pollution control programs
11 approved by the council, the enforcement of state-adopted air, water, or
12 land pollution control regulations within a specified region surrounding
13 the jurisdictional area of the governmental subdivisions. Prosecutions
14 commenced under such contracts shall be conducted by the Attorney General
15 or county attorneys as provided in the Environmental Protection Act, the
16 Integrated Solid Waste Management Act, and the Livestock Waste Management
17 Act;

18 (24) To conduct tests and take samples of air, water, or land
19 contaminants, fuel, process materials, or any other substance which
20 affects or may affect discharges or emissions of air, water, or land
21 contaminants from any source, giving the owner or operator a receipt for
22 the sample obtained;

23 (25) To develop and enforce compliance schedules, under such
24 conditions as the director may prescribe and consistent with the
25 standards, rules, and regulations adopted by the council, to prevent,
26 control, or abate pollution;

27 (26) To employ the Governor's Keep Nebraska Beautiful Committee for
28 such special occasions and projects as the department may decide.
29 Reimbursement of the committee shall be made from state and appropriate
30 federal matching funds for each assignment of work by the department as
31 provided in sections 81-1174 to 81-1177;

1 (27) To provide, to the extent determined by the council to be
2 necessary and practicable, for areawide, selective, and periodic
3 inspection and testing of motor vehicles to secure compliance with
4 applicable exhaust emission standards for a fee not to exceed five
5 dollars to offset the cost of inspection;

6 (28) To enforce, when it is not feasible to prescribe or enforce any
7 emission standard for control of air pollutants, the use of a design,
8 equipment, a work practice, an operational standard, or a combination
9 thereof, adequate to protect the public health from such pollutant or
10 pollutants with an ample margin of safety;

11 (29) To establish the position of public advocate to be located
12 within the department to assist and educate the public on departmental
13 programs and to carry out all duties of the ombudsman as provided in the
14 Clean Air Act, as amended, 42 U.S.C. 7661f;

15 (30) Under such conditions as it may prescribe for the review,
16 recommendations, and written approval of the director, to require the
17 submission of such plans, specifications, and other information as it
18 deems necessary to carry out the Environmental Protection Act, the
19 Integrated Solid Waste Management Act, and the Livestock Waste Management
20 Act or to carry out the rules and regulations adopted pursuant to the
21 acts. When deemed necessary by the director, the plans and specifications
22 shall be prepared and submitted by a professional engineer licensed to
23 practice in Nebraska;

24 (31) To carry out the provisions of the Petroleum Products and
25 Hazardous Substances Storage and Handling Act;

26 (32) To consider the risk to human health and safety and to the
27 environment in evaluating and approving plans for remedial action;

28 (33) To evaluate permits proposed to be issued to any political
29 subdivision under the National Pollutant Discharge Elimination System
30 created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., as
31 provided in section 81-1517;

1 (34) To exercise such powers and duties as may be delegated by the
2 federal government to administer an individual and general permit program
3 for the discharge of dredged or fill material consistent with section 404
4 of the Clean Water Act, as amended, 33 U.S.C. 1344;

5 (35) To serve as or assist in developing and coordinating a central
6 repository within state government for the collection of data on energy;

7 (36) To undertake a continuing assessment of the trends in the
8 availability, consumption, and development of all forms of energy;

9 (37) To collect and analyze data relating to present and future
10 demands and resources for all sources of energy and to specify energy
11 needs for the state;

12 (38) To recommend to the Governor and the Legislature energy
13 policies and conservation measures for the state and to carry out such
14 measures as are adopted;

15 (39) To provide for public dissemination of appropriate information
16 on energy, energy sources, and energy conservation;

17 (40) To accept, expend, or disburse funds, public or private, made
18 available to it for research studies, demonstration projects, or other
19 activities which are related either to energy conservation and efficiency
20 or development;

21 (41) To study the impact and relationship of state energy policies
22 to national and regional energy policies and engage in such activities as
23 will reasonably insure that the State of Nebraska and its residents
24 receive an equitable share of energy supplies, including the
25 administration of any federally mandated or state-mandated energy
26 allocation programs;

27 (42) To actively seek the advice of the residents of Nebraska
28 regarding energy policies and programs;

29 (43) To prepare emergency allocation plans suggesting to the
30 Governor actions to be taken in the event of serious shortages of energy;

31 (44) To design and maintain a state program for conservation of

1 energy and energy efficiency;

2 (45) To provide technical assistance regarding energy to local
3 subdivisions of government;

4 (46) To provide technical assistance to private persons desiring
5 information on energy conservation and efficiency techniques and the use
6 of renewable energy technologies;

7 (47) To develop a strategic state energy plan pursuant to section
8 81-1604;

9 (48) To develop and disseminate transparent and objective energy
10 information and analysis while utilizing existing energy planning
11 resources of relevant stakeholder entities;

12 (49) To actively seek to maximize federal and other nonstate funding
13 and support to the state for energy planning;

14 (50) To monitor energy transmission capacity planning and policy
15 affecting the state and the regulatory approval process for the
16 development of energy infrastructure and make recommendations to the
17 Governor and electronically to the Legislature as necessary to facilitate
18 energy infrastructure planning and development;

19 (51) To implement rules and regulations adopted and promulgated by
20 the director pursuant to the Administrative Procedure Act to carry out
21 subdivisions (35) through (58) of this section;

22 (52) To make all contracts pursuant to subdivisions (35) through
23 (58) of this section and do all things to cooperate with the federal
24 government, and to qualify for, accept, expend, and dispense public or
25 private funds intended for the implementation of subdivisions (35)
26 through (58) of this section;

27 (53) To contract for services, if such work or services cannot be
28 satisfactorily performed by employees of the department or by any other
29 part of state government;

30 (54) To enter into such agreements as are necessary to carry out
31 energy research and development with other states;

1 (55) To carry out the duties and responsibilities relating to energy
2 as may be requested or required of the state by the federal government;

3 (56) To cooperate and participate with the approval of the Governor
4 in the activities of organizations of states relating to the
5 availability, conservation, development, and distribution of energy;

6 (57) To engage in such activities as will seek to insure that the
7 State of Nebraska and its residents receive an equitable share of energy
8 supplies at a fair price; and

9 (58) To form advisory committees of residents of Nebraska to advise
10 the director on programs and policies relating to energy and to assist in
11 implementing such programs. Such committees shall be of a temporary
12 nature, and no member shall receive any compensation for serving on any
13 such committee but, with the approval of the Governor, members shall
14 receive reimbursement for expenses as provided in sections 81-1174 to
15 81-1177. The minutes of meetings of and actions taken by each committee
16 shall be kept and a record shall be maintained of the name, address, and
17 occupation or vocation of every individual serving on any committee. The
18 department shall maintain such minutes and records and shall make them
19 available for public inspection during regular office hours.

20 Sec. 5. Section 81-1505, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 81-1505 (1) In order to carry out the purposes of the Environmental
23 Protection Act, the Integrated Solid Waste Management Act, and the
24 Livestock Waste Management Act, the council shall adopt and promulgate
25 rules and regulations which shall set standards of air, water, and land
26 quality to be applicable to the air, waters, and land of this state or
27 portions thereof. Such standards of quality shall be such as to protect
28 the public health and welfare. The council shall classify air, water, and
29 land contaminant sources according to levels and types of discharges,
30 emissions, and other characteristics which relate to air, water, and land
31 pollution and may require reporting for any such class or classes. Such

1 classifications and standards made pursuant to this section may be made
2 for application to the state as a whole or to any designated area of the
3 state and shall be made with special reference to effects on health,
4 economic and social factors, and physical effects on property. Such
5 standards and classifications may be amended as determined necessary by
6 the council.

7 (2) In adopting the classifications of waters and water quality
8 standards, the primary purpose for such classifications and standards
9 shall be to protect the public health and welfare and the council shall
10 give consideration to:

11 (a) The size, depth, surface area, or underground area covered, the
12 volume, direction, and rate of flow, stream gradient, and temperature of
13 the water;

14 (b) The character of the area affected by such classification or
15 standards, its peculiar suitability for particular purposes, conserving
16 the value of the area, and encouraging the most appropriate use of lands
17 within such area for domestic, agricultural, industrial, recreational,
18 and aquatic life purposes;

19 (c) The uses which have been made, are being made, or are likely to
20 be made, of such waters for agricultural, transportation, domestic, and
21 industrial consumption, for fishing and aquatic culture, for the disposal
22 of sewage, industrial waste, and other wastes, or other uses within this
23 state and, at the discretion of the council, any such uses in another
24 state on interstate waters flowing through or originating in this state;

25 (d) The extent of present pollution or contamination of such waters
26 which has already occurred or resulted from past discharges therein; and

27 (e) Procedures pursuant to section 401 of the Clean Water Act, as
28 amended, 33 U.S.C. 1251 et seq., for certification by the department of
29 activities requiring a federal license or permit which may result in a
30 discharge.

31 (3) In adopting effluent limitations or prohibitions, the council

1 shall give consideration to the type, class, or category of discharges
2 and the quantities, rates, and concentrations of chemical, physical,
3 biological, and other constituents which are discharged from point
4 sources into navigable or other waters of the state, including schedules
5 of compliance, best practicable control technology, and best available
6 control technology.

7 (4) In adopting standards of performance, the council shall give
8 consideration to the discharge of pollutants which reflect the greatest
9 degree of effluent reduction which the council determines to be
10 achievable through application of the best available demonstrated control
11 technology, processes, operating methods, or other alternatives,
12 including, when practicable, a standard permitting no discharge of
13 pollutants.

14 (5) In adopting toxic pollutant standards and limitations, the
15 council shall give consideration to the combinations of pollutants, the
16 toxicity of the pollutant, its persistence, degradability, the usual or
17 potential presence of the affected organisms in any waters, the
18 importance of the affected organisms, and the nature and extent of the
19 effect of the toxic pollutant on such organisms.

20 (6) In adopting pretreatment standards, the council shall give
21 consideration to the prohibitions or limitations to noncompatible
22 pollutants, prohibitions against the passage through a publicly owned
23 treatment works of pollutants which would cause interference with or
24 obstruction to the operation of publicly owned treatment works, damage to
25 such works, and the prevention of the discharge of pollutants therefrom
26 which are inadequately treated.

27 (7) In adopting treatment standards, the council shall give
28 consideration to providing for processes to which wastewater shall be
29 subjected in a publicly owned wastewater treatment works in order to make
30 such wastewater suitable for subsequent use.

31 (8) In adopting regulations pertaining to the disposal of domestic

1 and industrial liquid wastes, the council shall give consideration to the
2 minimum amount of biochemical oxygen demand, suspended solids, or
3 equivalent in the case of industrial wastewaters, which must be removed
4 from the wastewaters and the degree of disinfection necessary to meet
5 water quality standards with respect to construction, installation,
6 change of, alterations in, or additions to any wastewater treatment works
7 or disposal systems, including issuance of permits and proper
8 abandonment, and requirements necessary for proper operation and
9 maintenance thereof.

10 (9)(a) The council shall adopt and promulgate rules and regulations
11 for controlling mineral exploration holes and mineral production and
12 injection wells. The rules and regulations shall include standards for
13 the construction, operation, and abandonment of such holes and wells. The
14 standards shall protect the public health and welfare and air, land,
15 water, and subsurface resources so as to control, minimize, and eliminate
16 hazards to humans, animals, and the environment. Consideration shall be
17 given to:

18 (i) Area conditions such as suitability of location, geologic
19 formations, topography, industry, agriculture, population density,
20 wildlife, fish and other aquatic life, sites of archaeological and
21 historical importance, mineral, land, and water resources, and the
22 existing economic activities of the area including, but not limited to,
23 agriculture, recreation, tourism, and industry;

24 (ii) A site-specific evaluation of the geologic and hydrologic
25 suitability of the site and the injection, disposal, and production
26 zones;

27 (iii) The quality of the existing ground water, the effects of
28 exemption of the aquifer from any existing water quality standards, and
29 requirements for restoration of the aquifer;

30 (iv) Standards for design and use of production facilities, which
31 shall include, but not be limited to, all wells, pumping equipment,

1 surface structures, and associated land required for operation of
2 injection or production wells; and

3 (v) Conditions required for closure, abandonment, or restoration of
4 mineral exploration holes, injection and production wells, and production
5 facilities in order to protect the public health and welfare and air,
6 land, water, and subsurface resources.

7 (b) The council shall establish fees for regulated activities and
8 facilities and for permits for such activities and facilities. The fees
9 shall be sufficient but shall not exceed the amount necessary to pay the
10 department for the direct and indirect costs of evaluating, processing,
11 and monitoring during and after operation of regulated facilities or
12 performance of regulated activities.

13 (c) With respect to mineral production wells, the council shall
14 adopt and promulgate rules and regulations which require restoration of
15 air, land, water, and subsurface resources and require mineral production
16 well permit applications to include a restoration plan for the air, land,
17 water, and subsurface resources affected. Such rules and regulations may
18 provide for issuance of a research and development permit which
19 authorizes construction and operation of a pilot plant by the permittee
20 for the purpose of demonstrating the permittee's ability to inject and
21 restore in a manner which meets the standards required by this subsection
22 and the rules and regulations.

23 The rules and regulations adopted and promulgated may also provide
24 for issuance of a commercial permit after a finding by the department
25 that the injection and restoration procedures authorized by the research
26 and development permit have been successful in demonstrating the
27 applicant's ability to inject and restore in a manner which meets the
28 standards required by this subsection and the rules and regulations.

29 (d) For the purpose of this subsection, unless the context otherwise
30 requires, restoration shall mean the employment, during and after an
31 activity, of procedures reasonably designed to control, minimize, and

1 eliminate hazards to humans, animals, and the environment, to protect the
2 public health and welfare and air, land, water, and subsurface resources,
3 and to return each resource to a quality of use consistent with the uses
4 for which the resource was suitable prior to the activity.

5 (10) In adopting livestock waste control regulations, the council
6 shall consider the discharge of livestock wastes into the waters of the
7 state or onto land not owned by the livestock operator, conditions under
8 which permits for such operations may be issued, including design,
9 location, and proper management of such facilities, protection of ground
10 water from such operations, and revocation, modification, or suspension
11 of such permits for cause and all requirements of the Livestock Waste
12 Management Act.

13 (11) In adopting regulations for the issuance of permits under the
14 National Pollutant Discharge Elimination System created by the Clean
15 Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider
16 when such permits shall be required and exemptions, application and
17 filing requirements, terms and conditions affecting such permits, notice
18 and public participation, duration and review of such permits, the
19 evaluation provided for under section 81-1517, and monitoring, recording,
20 and reporting under the system.

21 (12) The council shall adopt and promulgate rules and regulations
22 for air pollution control which shall include:

23 (a) A construction permit program which requires the owner or
24 operator of an air contaminant source to obtain a permit prior to
25 construction. Application fees shall be according to section 81-1505.06;

26 (b) An operating permit program consistent with requirements of the
27 Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and an operating
28 permit program for minor sources of air pollution, which programs shall
29 require permits for both new and existing sources;

30 (c) Provisions for operating permits to be issued after public
31 notice, to be terminated, modified, or revoked for cause, and to be

1 modified to incorporate new requirements;

2 (d) Provisions for applications to be on forms provided by the
3 department and to contain information necessary to make a determination
4 on the appropriateness of issuance or denial. The department shall make a
5 completeness determination in a timely fashion and after such
6 determination shall act on the application within time limits set by the
7 council. Applications for operating permits shall include provisions for
8 certification of compliance by the applicant;

9 (e) Requirements for operating permits which may include such
10 conditions as necessary to protect public health and welfare, including,
11 but not limited to (i) monitoring and reporting requirements on all
12 sources subject to the permit, (ii) payment of annual fees sufficient to
13 pay the reasonable direct and indirect costs of developing and
14 administering the air quality permit program, (iii) retention of records,
15 (iv) compliance with all air quality standards, (v) a permit term of no
16 more than five years from date of issuance, (vi) any applicable schedule
17 of compliance leading to compliance with air quality regulations, (vii)
18 site access to the department for inspection of the facility and records,
19 (viii) emission limits or control technology requirements, (ix) periodic
20 compliance certification, and (x) other conditions necessary to carry out
21 the purposes of the Environmental Protection Act. For purposes of this
22 subsection, control technology shall mean a design, equipment, a work
23 practice, an operational standard which may include a requirement for
24 operator training or certification, or any combination thereof;

25 (f) Classification of air quality control regions;

26 (g) Standards for air quality that may be established based upon
27 protection of public health and welfare, emission limitations established
28 by the United States Environmental Protection Agency, and maximum
29 achievable control technology standards for sources of toxic air
30 pollutants. For purposes of this subdivision, maximum achievable control
31 technology standards shall mean an emission limit or control technology

1 standard which requires the maximum degree of emission reduction that the
2 council, taking into consideration the cost of achieving such emission
3 reduction, any health and environmental impacts not related to air
4 quality, and energy requirements, determines is achievable for new or
5 existing sources in the category or subcategory to which the standard
6 applies through application of measures, processes, methods, systems, or
7 techniques, including, but not limited to, measures which accomplish one
8 or a combination of the following:

9 (i) Reduce the volume of or eliminate emissions of the pollutants
10 through process changes, substitution of materials, or other
11 modifications;

12 (ii) Enclose systems or processes to eliminate emissions; or

13 (iii) Collect, capture, or treat the pollutants when released from a
14 process, stack, storage, or fugitive emission point;

15 (h) Restrictions on open burning and fugitive emissions;

16 (i) Provisions for issuance of general operating permits, after
17 public notice, for sources with similar operating conditions and for
18 revoking such general authority to specific permittees;

19 (j) Provisions for implementation of any emissions trading programs
20 as defined by the department. Such programs shall be consistent with the
21 Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and administered
22 through the operating permit program;

23 (k) A provision that operating permits will not be issued if the
24 Environmental Protection Agency objects in a timely manner;

25 (l) Provisions for periodic reporting of emissions;

26 (m) Limitations on emissions from process operations, fuel-burning
27 equipment, and incinerator emissions and such other restrictions on
28 emissions as are necessary to protect the public health and welfare;

29 (n) Time schedules for compliance;

30 (o) Requirements for owner or operator testing and monitoring of
31 emissions;

1 (p) Control technology requirements when it is not feasible to
2 prescribe or enforce an emission standard; and

3 (q) Procedures and definitions necessary to carry out payment of the
4 annual emission fee set in section 81-1505.04.

5 (13)(a) In adopting regulations for hazardous waste management, the
6 council shall give consideration to generation of hazardous wastes,
7 labeling practices, containers used, treatment, storage, collection,
8 transportation including a manifest system, processing, resource
9 recovery, and disposal of hazardous wastes. It shall consider the
10 permitting, licensing, design and construction, and development and
11 operational plans for hazardous waste treatment, storage, and disposal
12 facilities, and conditions for licensing or permitting of hazardous waste
13 treatment, storage, and disposal areas. It shall consider modification,
14 suspension, or revocation of such licenses and permits, including
15 requirements for waste analysis, site improvements, fire prevention,
16 safety, security, restricted access, and covering and handling of
17 hazardous liquids and materials. Licenses and permits for hazardous
18 waste, treatment, storage, and disposal facilities shall not be issued
19 until certification by the State Fire Marshal as to fire prevention and
20 fire safety has been received by the department. The council shall
21 further consider the need at treatment, storage, or disposal facilities
22 for required equipment, communications and alarms, personnel training,
23 and contingency plans for any emergencies that might arise and for a
24 coordinator during such emergencies.

25 In addition the council shall give consideration to (i) ground water
26 monitoring, (ii) use and management of containers and tanks, (iii)
27 surface impoundments, (iv) waste piles, (v) land treatment, (vi)
28 incinerators, (vii) chemical or biological treatment, (viii) landfills
29 including the surveying thereof, and (ix) special requirements for
30 ignitable, reactive, or incompatible wastes.

31 In considering closure and postclosure of hazardous waste treatment,

1 storage, or disposal facilities, the council shall consider regulations
2 that would result in the owner or operator closing his or her facility so
3 as to minimize the need for future maintenance, and to control, minimize,
4 or eliminate, to the extent necessary to protect humans, animals, and the
5 environment, postclosure escape of hazardous waste, hazardous waste
6 constituents, and leachate to the ground water or surface waters, and to
7 control, minimize, or eliminate, to the extent necessary to protect
8 humans, animals, and the environment, waste decomposition to the
9 atmosphere. In considering corrective action for hazardous waste
10 treatment, storage, or disposal facilities, the council shall consider
11 regulations that would require the owner or operator, or any previous
12 owner or operator with actual knowledge of the presence of hazardous
13 waste at the facility, to undertake corrective action or such other
14 response measures necessary to protect human health or the environment
15 for all releases of hazardous waste or hazardous constituents from any
16 treatment, storage, or disposal facility or any solid waste management
17 unit at such facility regardless of the time at which waste was placed in
18 such unit.

19 Such regulations adopted pursuant to this subsection shall in all
20 respects comply with the Environmental Protection Act and the Resource
21 Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

22 (b) In adopting regulations for hazardous waste management, the
23 council shall consider, in addition to criteria in subdivision (a) of
24 this subsection, establishing criteria for (i) identifying hazardous
25 waste including extraction procedures, toxicity, persistence, and
26 degradability in nature, potential for accumulation in tissue,
27 flammability or ignitability, corrosiveness, reactivity, and generation
28 of pressure through decomposition, heat, or other means, and other
29 hazardous characteristics, (ii) listing all materials it deems hazardous
30 and which should be subject to regulation, and (iii) locating treatment,
31 storage, or disposal facilities for such wastes. In adopting criteria for

1 flammability and ignitability of wastes pursuant to subdivision (b)(i) of
2 this subsection, no regulation shall be adopted without the approval of
3 the State Fire Marshal.

4 (c) In adopting regulations for hazardous waste management, the
5 council shall establish a schedule of fees to be paid to the director by
6 licensees or permittees operating hazardous waste processing facilities
7 or disposal areas on the basis of a monetary value per cubic foot or per
8 pound of the hazardous wastes, sufficient but not exceeding the amount
9 necessary to reimburse the department for the costs of monitoring such
10 facilities or areas during and after operation of such facilities or
11 areas. The licensees may assess a cost against persons using the
12 facilities or areas. The director shall remit any money collected from
13 fees paid to him or her to the State Treasurer who shall credit the
14 entire amount thereof to the General Fund.

15 (d) In adopting regulations for solid waste disposal, the council
16 shall consider storage, collection, transportation, processing, resource
17 recovery, and disposal of solid waste, developmental and operational
18 plans for solid waste disposal areas, conditions for permitting of solid
19 waste disposal areas, modification, suspension, or revocation of such
20 permits, regulations of operations of disposal areas, including site
21 improvements, fire prevention, ground water protection, safety and
22 restricted access, handling of liquid and hazardous materials, insect and
23 rodent control, salvage operations, and the methods of disposing of
24 accumulations of junk outside of solid waste disposal areas. Such
25 regulations shall in all respects comply with the Environmental
26 Protection Act, the Integrated Solid Waste Management Act, and the
27 Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et
28 seq.

29 (14) In adopting regulations governing discharges or emissions of
30 oil and other hazardous materials into the waters, in the air, or upon
31 the land of the state, the council shall consider the requirements of the

1 Integrated Solid Waste Management Act, methods for prevention of such
2 discharges or emissions, and the responsibility of the discharger or
3 emitter for cleanup, toxicity, degradability, and dispersal
4 characteristics of the substance.

5 (15) In adopting regulations governing composting and composting
6 sites, the council shall give consideration to:

7 (a) Approval of a proposed site by the local governing body,
8 including the zoning authority, if any, prior to issuance of a permit by
9 the department;

10 (b) Issuance of permits by the department for such composting
11 operations, with conditions if necessary;

12 (c) Submission of construction and operational plans by the
13 applicant for a permit to the department, with approval of such plans
14 before issuance of such permit;

15 (d) A term of up to ten years for such permits;

16 (e) Renewal of permits if the operation has been in substantial
17 compliance with composting regulations adopted pursuant to this
18 subsection, permit conditions, and operational plans;

19 (f) Review by the department of materials to be composted, including
20 chemical analysis when found by the department to be necessary;

21 (g) Inspections of such compost sites by the department. Operations
22 out of compliance with composting regulations, permit conditions, or
23 operational plans shall be given a reasonable time for voluntary
24 compliance, and failure to do so within the specified time shall result
25 in a hearing after notice is given, at which time the owner or operator
26 shall appear and show cause why his or her permit should not be revoked;

27 (h) Special permits of the department for demonstration projects not
28 to exceed six months;

29 (i) Exemptions from permits of the department; and

30 (j) The Integrated Solid Waste Management Act.

31 (16) Any person operating or responsible for the operation of air,

1 water, or land contaminant sources of any class for which the rules and
2 regulations of the council require reporting shall make reports
3 containing information as may be required by the department concerning
4 quality and quantity of discharges and emissions, location, size, and
5 height of contaminant outlets, processes employed, fuels used, and the
6 nature and time periods or duration of discharges and emissions, and such
7 other information as is relevant to air, water, or land pollution and is
8 available.

9 (17) Prior to adopting, amending, or repealing standards and
10 classifications of air, water, and land quality and rules and regulations
11 under the Integrated Solid Waste Management Act or the Livestock Waste
12 Management Act, the council shall, after due notice, conduct public
13 hearings thereon. Notice of public hearings shall specify the waters or
14 the area of the state for which standards of air, water, or land are
15 sought to be adopted, amended, or repealed and the time, date, and place
16 of such hearing. Such hearing shall be held in the general area to be
17 affected by such standards. Such notice shall be given in accordance with
18 the Administrative Procedure Act.

19 (18) Standards of quality of the air, water, or land of the state
20 and rules and regulations adopted under the Integrated Solid Waste
21 Management Act or the Livestock Waste Management Act or any amendment or
22 repeal of such standards or rules and regulations shall become effective
23 upon adoption by the council and filing in the office of the Secretary of
24 State. In adopting standards of air, water, and land quality or making
25 any amendment thereof, the council shall specify a reasonable time for
26 persons discharging wastes into the air, water, or land of the state to
27 comply with such standards and upon the expiration of any such period of
28 time may revoke or modify any permit previously issued which authorizes
29 the discharge of wastes into the air, water, or land of this state which
30 results in reducing the quality of such air, water, or land below the
31 standards established therefor by the council.

1 (19) All standards of quality of air, water, or land and all rules
2 and regulations adopted pursuant to law by the council prior to May 29,
3 1981, and applicable to specified air, water, or land are hereby approved
4 and adopted as standards of quality of and rules and regulations for such
5 air, water, or land.

6 (20) In addition to such standards as are heretofore authorized, the
7 council shall adopt and promulgate rules and regulations to set standards
8 of performance, effluent standards, pretreatment standards, treatment
9 standards, toxic pollutant standards and limitations, effluent
10 limitations, effluent prohibitions, and quantitative limitations or
11 concentrations which shall in all respects conform with and meet the
12 requirements of the National Pollutant Discharge Elimination System in
13 the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

14 (21)(a) The council shall adopt and promulgate rules and regulations
15 requiring all new or renewal permit or license applicants regulated under
16 the Environmental Protection Act, the Integrated Solid Waste Management
17 Act, or the Livestock Waste Management Act to establish proof of
18 financial responsibility by providing funds in the event of abandonment,
19 default, or other inability of the permittee or licensee to meet the
20 requirements of its permit or license or other conditions imposed by the
21 department pursuant to the acts. The council may exempt classes of
22 permittees or licensees from the requirements of this subdivision when a
23 finding is made that such exemption will not result in a significant risk
24 to the public health and welfare.

25 (b) Proof of financial responsibility shall include any of the
26 following made payable to or held in trust for the benefit of the state
27 and approved by the department:

28 (i) A surety bond executed by the applicant and a corporate surety
29 licensed to do business in this state;

30 (ii) A deposit of cash, negotiable bonds of the United States or the
31 state, negotiable certificates of deposit, or an irrevocable letter of

1 credit of any bank or other savings institution organized or transacting
2 business in the United States in an amount or which has a market value
3 equal to or greater than the amount of the bonds required for the bonded
4 area under the same terms and conditions upon which surety bonds are
5 deposited;

6 (iii) An established escrow account; or

7 (iv) A bond of the applicant without separate surety upon a
8 satisfactory demonstration to the director that such applicant has the
9 financial means sufficient to self-bond pursuant to bonding requirements
10 adopted by the council consistent with the purposes of this subdivision.

11 (c) The director shall determine the amount of the bond, deposit, or
12 escrow account which shall be reasonable and sufficient so the department
13 may, if the permittee or licensee is unable or unwilling to do so and in
14 the event of forfeiture of the bond or other financial responsibility
15 methods, arrange to rectify any improper management technique committed
16 during the term of the permit or license and assure the performance of
17 duties and responsibilities required by the permit or license pursuant to
18 law, rules, and regulations.

19 (d) In determining the amount of the bond or other method of
20 financial responsibility, the director shall consider the requirements of
21 the permit or license or any conditions specified by the department, the
22 probable difficulty of completing the requirements of such permit,
23 license, or conditions due to such factors as topography, geology of the
24 site, and hydrology, and the prior history of environmental activities of
25 the applicant.

26 This subsection shall apply to hazardous waste treatment, storage,
27 or disposal facilities which have received interim status.

28 (22)(a) The council shall adopt and promulgate rules and regulations
29 no more stringent than the provisions of section 1453 et seq. of the
30 federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-13 et seq.,
31 for public water system source water assessment programs.

1 (b) The council may adopt and promulgate rules and regulations to
2 implement a source water petition program no more stringent than section
3 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42
4 U.S.C. 300j-14 et seq.

5 (23) The council may adopt and promulgate rules and regulations for
6 the issuance of permits relating to the discharge of dredged or fill
7 material into the waters of the United States under section 404 of the
8 Clean Water Act, as amended, 33 U.S.C. 1251 et seq., giving consideration
9 to (a) when such permits are required and exemptions, application, and
10 filing requirements, (b) terms and conditions affecting such permits,
11 notice and public participation, and duration, (c) review of such
12 permits, (d) monitoring, recording, and reporting requirements, (e)
compensatory mitigation, and (f) (e) such other requirements not
14 inconsistent with the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

15 (24) The council may establish fees for applications,
16 determinations, permits, licenses, or similar authorizations for the
17 discharge of dredged and fill material under section 404 of the Clean
18 Water Act, as amended, 33 U.S.C. 1251 et seq., to be collected by the
19 department. The fees shall be sufficient to pay the department for the
20 direct and indirect costs of administering a permitting program under
21 section 404 of the Clean Water Act.

22 Sec. 6. The Dredge and Fill Cash Fund is hereby created. The
23 department shall remit all fees collected pursuant to subsection (24) of
24 section 81-1505 and money received by the department in the form of
25 gifts, grants, reimbursements, or monetary transfers from any source
26 intended to be used for the purposes of the fund, to the State Treasurer
27 for credit to the fund. The fund shall be used to pay the reasonable
28 direct and indirect costs required to develop and administer a program to
29 regulate discharges of dredged and fill material under section 404 of the
30 Clean Water Act, as amended, 33 U.S.C. 1251 et seq. Any money in the fund
31 available for investment shall be invested by the state investment

1 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
2 State Funds Investment Act.

3 Sec. 7. Section 81-1508.01, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-1508.01 (1) Any person who violates the Environmental Protection
6 Act, the Integrated Solid Waste Management Act, or the Livestock Waste
7 Management Act by knowingly and willfully committing any of the following
8 offenses shall be guilty of a Class IV felony:

9 (a) Violating any water pollution control law, rule, or regulation
10 adopted pursuant to the National Pollutant Discharge Elimination System
11 created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or
12 any permit or permit condition or limitation or failing to obtain a
13 permit as required by the Environmental Protection Act, the Integrated
14 Solid Waste Management Act, or the Livestock Waste Management Act;

15 (b) Violating any air pollution control law, rule, regulation,
16 permit, license, or permit or license condition or limitation;

17 (c) Violating any hazardous waste control law, rule, regulation,
18 permit, license, or permit or license condition or limitation;

19 (d) Violating any mineral production, mineral exploration, or
20 injection control law, rule, regulation, permit, license, or permit or
21 license condition or limitation;

22 (e) Making any false statement, representation, or certification in
23 any application, label, manifest, record, report, plan, or other document
24 required to be filed or maintained by the Environmental Protection Act,
25 the Integrated Solid Waste Management Act, or the Livestock Waste
26 Management Act or the rules or regulations adopted and promulgated
27 pursuant to such acts;

28 (f) Falsifying, tampering with, or rendering inaccurate any
29 monitoring device or method used or required for compliance with any
30 permit or license or the Environmental Protection Act, the Integrated
31 Solid Waste Management Act, or the Livestock Waste Management Act or the

1 rules or regulations adopted and promulgated pursuant to such acts;—~~or~~
2 (g) Transporting hazardous waste to an unpermitted facility; or .
3 (h) Violating any law, rule, regulation, permit, license, or permit
4 or license condition or limitation for the discharge of dredged and fill
5 material under section 404 of the Clean Water Act, as amended, 33 U.S.C.
6 1251 et seq.

7 (2) Any person who violates the Environmental Protection Act, the
8 Integrated Solid Waste Management Act, or the Livestock Waste Management
9 Act by knowingly and willfully committing any of the following offenses
10 shall be guilty of a Class I misdemeanor:

11 (a) Violating any solid waste control law, rule, regulation, permit,
12 license, or permit or license condition or limitation; or
13 (b) Violating any livestock waste control law, rule, regulation,
14 permit, license, or permit or license condition or limitation.

15 (3) Any person who knowingly and willfully violates any other
16 provision of the Environmental Protection Act, the Integrated Solid Waste
17 Management Act, or the Livestock Waste Management Act or any rule or
18 regulation adopted and promulgated pursuant to such acts shall be guilty
19 of a Class III misdemeanor.

20 (4) Each violation under this section shall be actionable. In case
21 of a continuing violation, each day shall constitute a separate offense.
22 Any person who knowingly and willfully violates this section shall be
23 subject to personal liability under this section. In assessing the amount
24 of any fine, the court shall consider the degree and extent of the
25 violation, the size of the operation, and any economic benefit derived
26 from noncompliance.

27 Sec. 8. Section 81-1511, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-1511 Any duly authorized officer, employee, or representative of
30 the director may at any reasonable time, with the consent of the person
31 or persons in control of an air, land, or water contaminant source, or

1 property where dredged or fill material is being discharged, enter and
2 inspect any property, premise, or place on or at which such a contaminant
3 source is located or being constructed, installed, or established, or
4 where such dredged or fill material is being discharged, for the purpose
5 of ascertaining the state of compliance with the Environmental Protection
6 Act, the Integrated Solid Waste Management Act, and the Livestock Waste
7 Management Act and rules and regulations in force pursuant to the acts. A
8 suitably restricted search warrant, upon a showing of probable cause in
9 writing and upon oath or affirmation, may be issued by the district court
10 as provided by law to such officer, employee, or representative of the
11 department for the purpose of enabling him or her to make such
12 inspection. No person shall refuse entry or access to any authorized
13 representative of the department who requests entry for purposes of
14 inspection and who presents appropriate credentials and warrants. No
15 person shall obstruct, hamper, or interfere with any such inspection.
16 Nothing in this section shall be construed to prevent prompt inspection
17 without consent or appropriate warrant in acute and compelling emergency
18 situations when there is neither sufficient time nor opportunity to
19 obtain a search warrant. If requested, the owner or operator of the
20 premises shall receive a report setting forth all facts found which
21 relate to compliance status.

22 Sec. 9. Section 81-1532, Revised Statutes Cumulative Supplement,
23 2020, is amended to read:

24 81-1532 Sections 81-1501 to 81-1532 and section 6 of this act shall
25 be known and may be cited as the Environmental Protection Act.

26 Sec. 10. Section 81-15,153, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 81-15,153 The department shall have the following powers and duties:
29 (1) The power to establish a program to make loans to municipalities
30 or to counties, individually or jointly, for construction or modification
31 of publicly owned wastewater treatment works in accordance with the

1 Wastewater Treatment Facilities Construction Assistance Act and the rules
2 and regulations of the council adopted and promulgated pursuant to such
3 act;

4 (2) The power to establish a program to make loans to municipalities
5 or to counties for construction, rehabilitation, operation, or
6 maintenance of nonpoint source control systems in accordance with the
7 Wastewater Treatment Facilities Construction Assistance Act and the rules
8 and regulations of the council adopted and promulgated pursuant to such
9 act;

10 (3) The power, if so authorized by the council pursuant to section
11 81-15,152, to execute and deliver documents obligating the Wastewater
12 Treatment Facilities Construction Loan Fund and the assets thereof to the
13 extent permitted by section 81-15,151 to repay, with interest, loans to
14 or deposits into the fund and to execute and deliver documents pledging
15 to the extent permitted by section 81-15,151 all or part of the fund and
16 its assets to secure, directly or indirectly, the loans or deposits;

17 (4) The power to establish the linked deposit program to promote
18 loans for construction, rehabilitation, operation, or maintenance of
19 nonpoint source control systems in accordance with the Wastewater
20 Treatment Facilities Construction Assistance Act and the rules and
21 regulations adopted and promulgated pursuant to such act;

22 (5) The duty to prepare an annual report for the Governor and the
23 Legislature containing information which shows the financial status of
24 the program. The report submitted to the Legislature shall be submitted
25 electronically;

26 (6) The duty to establish fiscal controls and accounting procedures
27 sufficient to assure proper accounting during appropriate accounting
28 periods, including the following:

29 (a) Accounting from the Nebraska Investment Finance Authority for
30 the costs associated with the issuance of bonds pursuant to the act;

31 (b) Accounting for payments or deposits received by the fund;

1 (c) Accounting for disbursements made by the fund; and
2 (d) Balancing the fund at the beginning and end of the accounting
3 period;

4 (7) The duty to establish financial capability requirements that
5 assure sufficient revenue to operate and maintain a facility for its
6 useful life and to repay the loan for such facility;

7 (8) The power to determine the rate of interest to be charged on a
8 loan in accordance with the rules and regulations adopted and promulgated
9 by the council;

10 (9) The power to refinance debt obligations of municipalities in
11 accordance with the rules and regulations adopted and promulgated by the
12 council;

13 (10) The power to enter into required agreements with the United
14 States Environmental Protection Agency pursuant to the Clean Water Act;

15 (11) The power to enter into agreements to provide grants and loan
16 forgiveness concurrent with loans to municipalities with populations of
17 ten thousand inhabitants or less as determined by the most recent federal
18 decennial census or the most recent revised certified count by the United
19 States Bureau of the Census which demonstrate serious financial
20 hardships. The department may authorize grants for up to seventy-five
21 percent one-half of the eligible project cost. Such grants shall contain
22 a provision that payment of the amount allocated is conditional upon the
23 availability of appropriated funds;

24 (12) The power to authorize emergency grants to municipalities with
25 wastewater treatment facilities which have been damaged or destroyed by
26 natural disaster or other unanticipated actions or circumstances. Such
27 grants shall not be used for routine repair or maintenance of facilities;

28 (13) The power to provide financial assistance to municipalities
29 with populations of ten thousand inhabitants or less as determined by the
30 most recent federal decennial census or the most recent revised certified
31 count by the United States Bureau of the Census for completion of

1 engineering studies, research projects, investigating low-cost options
2 for achieving compliance with the Clean Water Act, encouraging wastewater
3 reuse, and conducting other studies for the purpose of enhancing the
4 ability of communities to meet the requirements of the Clean Water Act.
5 The department may authorize financial assistance for up to ninety
6 percent of the eligible project cost. Such state allocation shall contain
7 a provision that payment of the amount obligated is conditional upon the
8 availability of appropriated funds;

9 (14) The power to provide grants or an additional interest subsidy
10 on loans for municipalities if the project contains a sustainable
11 community feature, measurable energy-use reductions, or low-impact
12 development or if there are any special assistance needs as determined
13 under section 81-1517; and

14 (15) Such other powers as may be necessary and appropriate for the
15 exercise of the duties created under the Wastewater Treatment Facilities
16 Construction Assistance Act.

17 Sec. 11. Section 81-15,160, Revised Statutes Cumulative Supplement,
18 2020, is amended to read:

19 81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is
20 created. The department shall deduct from the fund amounts sufficient to
21 reimburse itself for its costs of administration of the fund. The fund
22 shall be administered by the department. The fund shall consist of
23 proceeds from the fees imposed pursuant to the Waste Reduction and
24 Recycling Incentive Act.

25 (2) The fund may be used for purposes which include, but are not
26 limited to:

27 (a) Technical and financial assistance to political subdivisions for
28 creation of recycling systems and for modification of present recycling
29 systems;

30 (b) Recycling and waste reduction projects, including public
31 education, planning, and technical assistance;

1 (c) Market development for recyclable materials separated by
2 generators, including public education, planning, and technical
3 assistance;

4 (d) Capital assistance for establishing private and public
5 intermediate processing facilities for recyclable materials and
6 facilities using recyclable materials in new products;

7 (e) Programs which develop and implement composting of yard waste
8 and composting with sewage sludge;

9 (f) Technical assistance for waste reduction and waste exchange for
10 waste generators;

11 (g) Programs to assist communities and counties to develop and
12 implement household hazardous waste management programs;

13 (h) Capital assistance for establishing private and public
14 facilities to manufacture combustible waste products and to incinerate
15 combustible waste to generate and recover energy resources, except that
16 no disbursements shall be made under this section for scrap tire
17 processing related to tire-derived fuel; and

18 (i) Grants for reimbursement of costs to cities of the first class,
19 cities of the second class, villages, and counties of five thousand or
20 fewer population for the deconstruction of abandoned buildings. Eligible
21 deconstruction costs will be related to the recovery and processing of
22 recyclable or reusable material from the abandoned buildings.

23 (3) Grants up to one million five hundred thousand dollars annually
24 shall be available until June 30, 2024, for new scrap tire projects only,
25 if acceptable scrap tire project applications are received. Eligible
26 categories of disbursement under section 81-15,161 may include, but are
27 not limited to:

28 (a) Reimbursement for the purchase of crumb rubber generated and
29 used in Nebraska, with disbursements not to exceed fifty percent of the
30 cost of the crumb rubber;

31 (b) Reimbursement for the purchase of tire-derived product which

1 utilizes a minimum of twenty-five percent recycled tire content, with
2 disbursements not to exceed twenty-five percent of the product's retail
3 cost;

4 (c) Participation in the capital costs of building, equipment, and
5 other capital improvement needs or startup costs for scrap tire
6 processing or manufacturing of tire-derived product, with disbursements
7 not to exceed fifty percent of such costs or five hundred thousand
8 dollars, whichever is less;

9 (d) Participation in the capital costs of building, equipment, or
10 other startup costs needed to establish collection sites or to collect
11 and transport scrap tires, with disbursements not to exceed fifty percent
12 of such costs;

13 (e) Cost-sharing for the manufacturing of tire-derived product, with
14 disbursements not to exceed twenty dollars per ton or two hundred fifty
15 thousand dollars, whichever is less, to any person annually;

16 (f) Cost-sharing for the processing of scrap tires, with
17 disbursements not to exceed twenty dollars per ton or two hundred fifty
18 thousand dollars, whichever is less, to any person annually;

19 (g) Cost-sharing for the use of scrap tires for civil engineering
20 applications for specified projects, with disbursements not to exceed
21 twenty dollars per ton or two hundred fifty thousand dollars, whichever
22 is less, to any person annually;

23 (h) Disbursement to a political subdivision up to one hundred
24 percent of costs incurred in cleaning up scrap tire collection and
25 disposal sites; and

26 (i) Costs related to the study provided in section 81-15,159.01.

27 The director shall give preference to projects which utilize scrap
28 tires generated and used in Nebraska.

29 (4) Priority for grants made under section 81-15,161 shall be given
30 to grant proposals demonstrating a formal public/private partnership
31 except for grants awarded from fees collected under subsection (6) of

1 section 13-2042.

2 (5) Grants awarded from fees collected under subsection (6) of
3 section 13-2042 may be renewed for up to a five-year grant period. Such
4 applications shall include an updated integrated solid waste management
5 plan pursuant to section 13-2032. Annual disbursements are subject to
6 available funds and the grantee meeting established grant conditions.
7 Priority for such grants shall be given to grant proposals showing
8 regional participation and programs which address the first integrated
9 solid waste management hierarchy as stated in section 13-2018 which shall
10 include toxicity reduction. Disbursements for any one year shall not
11 exceed fifty percent of the total fees collected after rebates under
12 subsection (6) of section 13-2042 during that year.

13 (6) Any person who stores waste tires in violation of section
14 13-2033, which storage is the subject of abatement or cleanup, shall be
15 liable to the State of Nebraska for the reimbursement of expenses of such
16 abatement or cleanup paid by the department.

17 (7) The department may receive gifts, bequests, and any other
18 contributions for deposit in the Waste Reduction and Recycling Incentive
19 Fund. Transfers may be made from the fund to the General Fund at the
20 direction of the Legislature. Any money in the Waste Reduction and
21 Recycling Incentive Fund available for investment shall be invested by
22 the state investment officer pursuant to the Nebraska Capital Expansion
23 Act and the Nebraska State Funds Investment Act.

24 Sec. 12. Original sections 71-5322, 81-1508.01, and 81-1511,
25 Reissue Revised Statutes of Nebraska, and sections 37-455, 71-5318,
26 81-1504, 81-1505, 81-1532, 81-15,153, and 81-15,160, Revised Statutes
27 Cumulative Supplement, 2020, are repealed.