

## LEGISLATIVE BILL 426

Approved by the Governor May 24, 2005

Introduced by Speaker Brashear, 4; at the request of the Governor

AN ACT relating to funds; to amend sections 47-632, 72-816, 72-1005, 77-2602, 77-27,137.01, 81-15,101.01, 81-15,104, 81-15,113.01, 85-302, and 85-316, Reissue Revised Statutes of Nebraska, and sections 18-2603, 71-7611, and 81-1561, Revised Statutes Supplement, 2004; to create funds and provide powers and duties relating to capital construction, low-level radioactive waste compact litigation, environmental remediation, the Nebraska State Fair, and the Ferguson House as prescribed; to add and change provisions relating to state college audits and certain funds; to transfer funds; to eliminate obsolete provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. The Nebraska Capital Construction Fund is created. The fund shall consist of revenue and transfers credited to the fund as authorized by law. Money shall be appropriated from the fund to state agencies for making payments on projects as determined by the Legislature, including, but not limited to, purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, remodeling of buildings, and acquisition of equipment and furnishings of new or remodeled buildings. The fund shall be administered by the State Treasurer as a multiple-agency-use fund and appropriated to state agencies as determined by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 2. The Low-Level Radioactive Waste Settlement Fund is created. The State Treasurer shall use the fund to make settlement payments in accordance with the Consent Judgment in the case of Entergy Arkansas, Inc. et. al. v. State of Nebraska, Docket No. 4:98CV3411. The fund shall receive revenue from fund transfers as authorized by the Legislature and from fees, charges, and any other revenue source specifically designated by the Legislature for deposit in the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 3. The Superfund Cost Share Cash Fund is created. The Department of Environmental Quality shall remit grants and gifts received by the department for purposes of providing cost share for remediation of superfund sites to the State Treasurer for credit to the fund. The department shall administer the Superfund Cost Share Cash Fund to pay for nonfederal costs, including costs for inkind services, required as cost share for remediation of superfund sites. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer the balance of the Department of Environmental Quality Superfund Cash Fund, administratively created pursuant to section 81-1111.04, to the Superfund Cost Share Cash Fund.

Sec. 4. The Nebraska State Fair Support and Improvement Cash Fund is created. The fund shall be maintained in the state accounting system as a cash fund. The State Treasurer shall credit to the fund the disbursement of state lottery proceeds designated for the state fair and matching funds from the most populous city within the county in which the state fair is located. The balance of any fund that is administratively created to receive lottery proceeds designated for the Nebraska State Fair and matching fund revenue prior to the effective date of this act shall be transferred to the Nebraska State Fair Support and Improvement Cash Fund on such date. The Nebraska State Fair Support and Improvement Cash Fund shall be expended by the Nebraska State Fair Board to provide support for operating expenses and capital facility enhancements. Expenditures from the fund shall not be limited to the amount appropriated. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. The Department of Revenue shall, on a quarterly basis, provide to the most populous city within the county in which the state fair is

located, written notification of the amount estimated by the department to equal ten percent of the lottery revenue to be transferred to the Nebraska State Fair Support and Improvement Cash Fund. The department shall provide a copy of the written notification to the Department of Administrative Services.

Sec. 6. The most populous city within the county in which the state fair is located shall remit quarterly payments to the State Treasurer in amounts equal to the matching fund requirement established by the Department of Revenue under section 5 of this act. The State Treasurer shall credit the matching funds to the Nebraska State Fair Support and Improvement Cash Fund. The city shall provide written notification to the Department of Administrative Services regarding its compliance with the matching fund requirement. Upon verification by the Department of Administrative Services that a quarterly transfer of lottery proceeds to the Nebraska State Fair Support and Improvement Cash Fund has been executed and that the full amount of the matching funds requirement has been received from the city, the Department of Administrative Services shall authorize the expenditure of the fund by the Nebraska State Fair Board. Matching fund requirements shall not apply to investment income accruing to the fund and investment income may be expended by the board.

Sec. 7. The Nebraska State Fair Board shall, no later than November 1 of each year, provide an annual report to the Governor and the Legislature regarding the use of the Nebraska State Fair Support and Improvement Cash Fund. The report shall include (1) a detailed listing of how the proceeds of the fund were expended in the prior fiscal year and (2) any distributions from the fund that remain unexpended and on deposit in Nebraska State Fair accounts.

Sec. 8. The Ferguson House Fund is created. The fund shall be used by the Nebraska Environmental Trust Board only for the operation, administration, maintenance, restoration, and renovation of the Ferguson House and grounds. Revenue credited to the fund may consist of rental or other income related to the Ferguson House as well as gifts, grants, and bequests. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. The State Treasurer shall transfer the entire balance in the Rebates Federal Cash Fund, administratively created pursuant to section 81-1559, including any investment income credited to the fund, to the General Fund, as soon as possible after August 15, 2005.

Sec. 10. Section 18-2603, Revised Statutes Supplement, 2004, is amended to read:

18-2603. For purposes of the Municipal Infrastructure Redevelopment Fund Act:

(1) Bond means any evidence of indebtedness, including, but not limited to, bonds, notes including notes issued pending long-term financing arrangements, warrants, debentures, obligations under a loan agreement or a lease-purchase agreement, or any similar instrument or obligation;

(2) Fund means the Municipal Infrastructure Redevelopment Fund;

(3) Infrastructure project means any of the following projects, or any combination thereof, to be owned or operated by a municipality: Solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operations and activities of municipal government and to provide services to the residents of the municipality; convention and tourism facilities; redevelopment projects as defined in section 18-2103; and mass transit and other transportation systems, including parking facilities and excluding public highways and bridges and municipal roads, streets, and bridges;

(4) Municipal allocation amount means, for each municipality, the amount derived by multiplying the amount to be allocated by the fraction determined by dividing the total population of the municipality by the total population of the state living in municipalities, each as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119; and

(5) Municipality means any city ~~of any class or any village in the state, except that for fiscal years 2003-04 and 2004-05, municipality means only cities~~ of the primary class.

Sec. 11. Section 47-632, Reissue Revised Statutes of Nebraska, is amended to read:

47-632. The Community Corrections Uniform Data Analysis Fund is

created. The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice shall administer the fund which shall consist of funds collected pursuant to section 47-633 and such other funds as the Legislature may direct. The fund shall only be used to support operations relating to the implementation and coordination of the uniform analysis of crime data pursuant to the Community Corrections Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer three hundred fifty thousand dollars from the Community Corrections Uniform Data Analysis Fund to the Nebraska Law Enforcement Training Center Cash Fund within five days after July 1, 2005.

Sec. 12. Section 71-7611, Revised Statutes Supplement, 2004, is amended to read:

71-7611. (1) The Nebraska Health Care Cash Fund is created. The State Treasurer shall transfer ~~fifty~~ fifty-two million dollars annually no later than July 15 from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust Fund to the Nebraska Health Care Cash Fund. The state investment officer upon consultation with the Nebraska Investment Council shall advise the State Treasurer on the amounts to be transferred from the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska Tobacco Settlement Trust Fund under this section in order to sustain such transfers in perpetuity. The state investment officer shall report to the Legislature on or before October 1 of every even-numbered year on the sustainability of such transfers.

(2) Any money in the Nebraska Health Care Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

~~(3) The State Treasurer shall transfer two million dollars from the Nebraska Health Care Cash Fund to the University of Nebraska Medical Center Designated Cash Fund within fifteen days after July 1, 2004.~~

~~(4) The State Treasurer shall transfer two million dollars from the Nebraska Health Care Cash Fund to the University of Nebraska Medical Center Designated Cash Fund within fifteen days after July 1, 2005.~~

~~(5) (4) The State Treasurer shall transfer two million dollars from the Nebraska Health Care Cash Fund to the University of Nebraska Medical Center Designated Cash Fund within fifteen days after July 1, 2006.~~

(5) The State Treasurer shall transfer one million nine hundred thirty-nine thousand eight hundred sixty-three dollars from the Nebraska Health Care Cash Fund to the Nebraska Capital Construction Fund within five days after July 1, 2005.

(6) The State Treasurer shall transfer seven hundred thousand dollars from the Nebraska Health Care Cash Fund to the Nebraska Capital Construction Fund within five days after July 1, 2005.

(7) The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation.

Sec. 13. Section 72-816, Reissue Revised Statutes of Nebraska, is amended to read:

72-816. (1) The Vacant Building and Excess Land Cash Fund is created. The fund shall consist of proceeds credited to the fund pursuant to sections 72-815 and 90-268. Except as provided in sections 90-268 and 90-269, the fund shall be used to pay for the maintenance of vacant state buildings and excess state land and for expenses related to the disposal of state buildings and land referred to the Department of Administrative Services by the committee pursuant to sections 72-811 to 72-818. The fund shall be administered by the state building division of the Department of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Funds may be transferred from the Vacant Building and Excess Land Cash Fund to the General Fund at the direction of the Legislature.

(2) If there are insufficient funds in the fund to enable the division to fully implement the orders of the committee issued pursuant to sections 72-811 to 72-818, the division shall implement them in the order which most efficiently meets the purposes of such sections.

(3) Funds appropriated to the Task Force for Building Renewal shall not be used to carry out any of the purposes of such sections (a) unless the building would otherwise qualify for the use of such funds pursuant to the Deferred Building Renewal Act and (b) except for any expenses incurred by the

administrator of the Task Force for Building Renewal in fulfilling his or her duties under such sections.

(4) The State Treasurer shall transfer one million four hundred three thousand dollars from the Vacant Building and Excess Land Cash Fund to the Nebraska Capital Construction Fund within five days after July 1, 2005.

(5) The State Treasurer shall transfer seven hundred eighty-one thousand dollars from the Vacant Building and Excess Land Cash Fund to the Nebraska Capital Construction Fund within five days after July 1, 2006.

Sec. 14. Section 72-1005, Reissue Revised Statutes of Nebraska, is amended to read:

~~72-1005. There is hereby created a fund to be known as the State Building Fund. The State Building Fund is to be used for purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, and remodeling of buildings. In the case of armories and buildings constructed or remodeled from the proceeds of this fund or from the proceeds of the former State Institutional and Military Department Building Fund initial provisions of such equipment as may be required to render such building or buildings operative for the purpose or purposes intended to be achieved by construction or remodeling of such building or buildings shall also be a purpose of this fund.~~

The State Treasurer shall transfer to the State Building Fund an amount equivalent to the amount of money appropriated from the State Building Fund by the Legislature. Such transfer shall be made periodically as required to make expenditures from the State Building Fund. The State Building Fund is created. The fund shall consist of administrative General Fund transfers credited to the State Building Fund as authorized by law. Money shall be appropriated from the fund to state agencies for making payments on projects as determined by the Legislature, including, but not limited to, purchases of land, structural improvements to land, acquisition of buildings, construction of buildings, including architectural and engineering costs, replacement of or major repairs to structural improvements to land or buildings, additions to existing structures, remodeling of buildings, and acquisition of equipment and furnishings of new or remodeled buildings. The fund shall be administered by the State Treasurer as a multiple-agency-use fund and appropriated to state agencies as determined by the Legislature.

The State Treasurer shall administratively transfer from the General Fund to the State Building Fund such amounts as required to make expenditures, except that the fund balance in the State Building Fund plus any administrative fund transfers made shall not exceed the total state unexpended appropriations balances from the State Building Fund, as authorized by law. Such administrative transfers shall be made periodically as required to make expenditures from the State Building Fund.

Sec. 15. Section 77-2602, Reissue Revised Statutes of Nebraska, is amended to read:

77-2602. (1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Commencing July 1, 1994, and continuing until October 1, 2004, the State Treasurer shall place the equivalent of twenty-one cents of such tax in the General Fund. Commencing October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. The State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after

FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Department of Health and Human Services Finance and Support Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning July 1, 2001, and continuing until October 1, 2002, the State Treasurer shall place the equivalent of five cents of such tax in the Building Renewal Allocation Fund. Beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. The Legislature shall appropriate each fiscal year all sums inuring to the fund, plus interest earnings, for the Task Force for Building Renewal to be used to carry out its duties and to fulfill the purposes of the Deferred Building Renewal Act. Unexpended balances existing at the end of each fiscal year shall be, and are hereby, reappropriated. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Fourth, ~~beginning July 1, 1994, and continuing until July 1, 2009, 2003,~~ the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund ~~the sum of three million dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. Commencing July 1, 2003, and continuing until July 1, 2005,~~ the State Treasurer shall place in such fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the ~~act~~ Municipal Infrastructure Redevelopment Fund Act. Commencing July 1, 2005, and continuing until July 1, 2009, the State Treasurer shall place in such fund the sum of three million dollars each fiscal year to carry out the ~~act~~. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal years year 2003-04 and 2004-05. The Legislature shall appropriate the ~~sum of three million dollars each year for fiscal year 2005-06 through fiscal year 2008-09;~~

(e) Fifth, beginning July 1, 2001, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund;

(f) Sixth, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million dollars each fiscal year in the City of the Primary Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million dollars to be distributed pursuant to this subdivision;

(g) Seventh, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million five hundred thousand dollars each fiscal year in the City of the Metropolitan Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million five hundred thousand dollars to be distributed pursuant to this subdivision; and

(h) Eighth, beginning October 1, 2002, and continuing until October 1, 2004, the State Treasurer shall place the equivalent of twenty-eight cents of such tax in the Cash Reserve Fund.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

(5) The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such

date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Department of Health and Human Services Finance and Support Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the City of the Primary Class Development Fund, (h) the City of the Metropolitan Class Development Fund, and (i) the Cash Reserve Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (i) of this subsection.

Sec. 16. Section 77-27,137.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,137.01. (1) The appropriation provided for in section 77-27,136 for aid to incorporated municipalities shall be allocated by the Tax Commissioner to the various incorporated municipalities. The Tax Commissioner shall determine the amount to be distributed to the incorporated municipalities and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven as nearly as possible equal monthly payments on the last business day of each month beginning in December. The State Treasurer shall, on the business day preceding the last business day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, on the last business day of each month, draw warrants against funds appropriated. Except as provided in subsection (2) of this section, the Tax Commissioner shall compute the amount due the incorporated municipalities on the ratio of the population of the particular incorporated municipality to the total population of all incorporated municipalities in the state as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119, which amounts shall be placed in the general fund of such municipalities.

(2) For fiscal years 2003-04 ~~and 2004-05~~ through 2008-09, the allocation of state aid provided for in subsection (1) of this section shall be calculated based on the amount appropriated plus an additional five hundred twenty thousand dollars, and the amount of state aid calculated for a city of the primary class shall be reduced by the amount received by the city of the primary class under the Municipal Infrastructure Redevelopment Fund Act for fiscal years 2003-04 ~~and 2004-05~~ through 2008-09. Beginning with fiscal year ~~2005-06~~ 2009-10, the amount of aid to municipalities appropriated shall be increased by five hundred twenty thousand dollars.

Sec. 17. Section 81-1561, Revised Statutes Supplement, 2004, is amended to read:

81-1561. (1) The Tax Commissioner shall deduct and withhold from the litter fee collected a fee sufficient to reimburse himself or herself for the cost of collecting and administering the litter fee and shall deposit such collection fee in the Litter Fee Collection Fund which is hereby created. The Litter Fee Collection Fund shall be appropriated to the Department of Revenue. Any money in the Litter Fee Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Tax Commissioner shall remit the balance of the litter fee collections to the Department of Environmental Quality. The department shall allocate and distribute funds from the Nebraska Litter Reduction and Recycling Fund in percentage amounts to be determined by the council on an annual basis, after a public hearing on a date to be determined by the council, for the following activities:

(a) Programs of public education, motivation, and participation aimed at creating an ethic conducive to the reduction of litter, establishing an attitude against littering and a desire for a clean environment, and securing greater awareness of and compliance with antilitter laws. Such programs shall include:

(i) The distribution of informative materials to elementary and secondary schools;

(ii) The purchase and erection of roadside signs;

(iii) The organization and operation of cleanup drives conducted by local agencies and organizations using volunteer help;

(iv) Grants to state and local government units and agencies and private organizations for developing and conducting antilitter programs; and

(v) Any other public information method selected by the department,

including the use of media;

(b) Cleanup of public highways, waterways, recreation lands, urban areas, and public places within the state, including, but not limited to:

(i) Grants to cities and counties for payment of personnel employed in the pickup of litter;

(ii) Grants for programs aimed at increasing the use of youth and unemployed persons in seasonal and part-time litter pickup programs and to establish work release and other programs to carry out the purposes of the Nebraska Litter Reduction and Recycling Act;

(iii) Grants to public and private agencies and persons to conduct surveys of amounts and composition of litter and rates of littering; and

(iv) Grants to public and private agencies and persons for research and development in the fields of litter reduction, removal, and disposal, including the evaluation of behavioral science techniques in litter control and the development of new equipment, and to implement such research and development when appropriate; and

(c) New or improved community recycling and source separation programs, including, but not limited to:

(i) Expansion of existing and creation of new community recycling centers;

(ii) Expansion of existing and creation of new source separation programs;

(iii) Research and evaluation of markets for the materials and products recovered in source separation and recycling programs; and

(iv) Providing advice and assistance on matters relating to recycling and source separation, including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials and products recovered in recycling and source separation, transportation alternatives, and publicity techniques.

~~(3) The State Treasurer shall transfer four hundred eighty-one thousand one hundred four dollars from the Nebraska Litter Reduction and Recycling Fund to the Department of Environmental Quality Superfund Cash Fund, as administratively created pursuant to section 81-1111.04, on or after July 17, 2003, but no later than July 10, 2003.~~

~~(4) The State Treasurer shall transfer two hundred seventy-eight thousand nine hundred twenty-six dollars from the Nebraska Litter Reduction and Recycling Fund to the Livestock Waste Management Cash Fund on or after July 17, 2003, but no later than July 10, 2003.~~

Sec. 18. Section 81-15,101.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,101.01. (1) (a) The developer shall send written notification by certified or registered mail to the Governor and the Legislature of the selection of three proposed sites by January 1, 1989. Within thirty days after such notification, a local monitoring committee shall be established for each proposed site area. The local monitoring committees shall only exist until a site is selected, except that the local monitoring committee for the selected site area shall continue to exist.

(b) The committees shall represent the citizens of the proposed site areas and maintain communication with the developer and the department to assure protection of public health and safety and the protection of the air, land, and water resources of the area. It is the intent of the Legislature that the local monitoring committees provide significant input concerning local needs and resources regarding all relevant aspects of the site selection and, after a site is selected, that the remaining local monitoring committee provide significant input concerning local needs and resources regarding all relevant aspects of the construction, operation, monitoring, closure, and custodial care of the facility. The functions and duties of the committees shall be established pursuant to rules and regulations adopted and promulgated by the council.

(c) Each local monitoring committee shall have access to all monitoring data collected at the site and may contract with a geologist or any other technical expert who shall participate in the developer's onsite characterization and selection process. After a license is issued, the local monitoring committee may hire or contract with a qualified inspector as determined by the department. The inspector shall have the right of independent access to the facility and may inspect all records and activities at the site and carry out joint inspections with the department. The inspector shall report any violations to the department for appropriate action.

(2) The Conservation and Survey Division of the University of Nebraska shall provide without charge technical assistance to the local monitoring committee with the sampling, analysis, and testing provided for in

this section, including, but not limited to, monitoring and performance of such sampling, analysis, and testing.

(3) Each local monitoring committee shall be composed of the following ten members, all of whom shall be residents of Nebraska:

(a) Two members selected from municipalities which have zoning jurisdiction within fifteen miles of the proposed site or, if there are no such municipalities, from the municipality in closest proximity to the proposed site, to be appointed by the chief executive officer of each municipality or by the governing body if there is no chief executive officer;

(b) Two members from the county in which the site is proposed, to be appointed by the governing body of the county. One member shall be an owner of real property that is within a three-mile radius of the proposed site, and one member shall be an at-large member;

(c) Two members appointed by the board of directors of the natural resources district in which the site is proposed; and

(d) Four members, to be appointed by the Governor, who reside within fifty miles of the proposed site, one of whom represents conservation, one of whom represents agriculture, one of whom is an at-large member, and one of whom is the chief of a fire department located within fifteen miles of the proposed site.

If the appointments required by subdivisions (a) through (c) of this subsection have not been made within thirty days after May 26, 1989, the Governor shall make such appointments. Appointment of a person ineligible to serve pursuant to the requirements of this section shall be considered the equivalent of not making an appointment.

(4) No member of a local monitoring committee shall be liable in any civil action for damages resulting from his or her acts of commission or omission arising out of and in the course of his or her rendering any services as such member in good faith. This section shall not grant immunity for the operation of a motor vehicle in connection with such services or to any member causing damages by willful and wanton acts of commission or omission.

(5) There is hereby created the Local Site Selection Cash Fund which shall be under the direction of the department. Fees or surcharges received pursuant to subdivision (1)(g) of section 81-15,104 shall be placed in the fund. ~~There is hereby appropriated a one-time appropriation of three hundred thousand dollars from the Local Site Selection Cash Fund for the period July 1, 1988, to June 30, 1989, for the payment of all reasonable and necessary costs in order to carry out this section. The unexpended balance on June 30, 1989, is hereby reappropriated.~~ The funds shall be appropriated equally among the committees and may be used for technical studies, determination of social and economic impact, and any other purpose deemed appropriate by such committees to the monitoring of the low-level radioactive waste site planning, construction, or maintenance to assure protection of the air, land, and water resources of the area. The committees shall file quarterly reports with the department verifying expenditures made pursuant to this subsection. The local monitoring committees may hire clerical staff and purchase supplies. The local monitoring committees may not hire professional or technical staff but may contract for professional or technical services.

(6) There is hereby created the Local Monitoring Committee Cash Fund which shall be under the direction of the department. Fees or surcharges received pursuant to subdivision (1)(h) of section 81-15,104 shall be placed in the fund. The fees and surcharges collected pursuant to subdivision (1)(h) of section 81-15,104 shall not exceed one hundred thousand dollars per year and shall be used by such local monitoring committee for all reasonable and necessary costs in order to carry out this section. The local monitoring committee may hire clerical staff and purchase office supplies. Except for a qualified inspector hired pursuant to subdivision (1)(c) of this section, the local monitoring committee may not hire professional or technical staff but may contract for professional or technical services.

(7) Any money in the Local Site Selection Cash Fund or the Local Monitoring Committee Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(8) The State Treasurer shall transfer the entire balance in the Local Monitoring Committee Cash Fund, including any investment income credited to the fund, to the General Fund as soon as possible after August 15, 2005.

Sec. 19. Section 81-15,104, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,104. (1) The department shall collect fees or surcharges established by the council for radiation protection services provided pursuant to the Low-Level Radioactive Waste Disposal Act and the Central Interstate Low-Level Radioactive Waste Compact. Services for which fees or surcharges



may be established include (a) issuance, amendment, and renewal of licenses for facilities, (b) inspection of licensees, (c) environmental custodial care activities to assess the radiological impact of activities conducted by licensees, (d) certification of personnel to operate the facility, (e) such other activities of department personnel which are reasonably necessary to assure that the licensed facility is being operated in accordance with the Low-Level Radioactive Waste Disposal Act and which reasonably should be borne by the licensee, (f) the budget of the Central Interstate Low-Level Radioactive Waste Compact Commission pursuant to Article IV, section (h)(2), of the compact, (g) payment by the developer of all reasonable and necessary costs of the local monitoring committees as prescribed in subsection (5) of section 81-15,101.01 until June 30, 1989, or until a site is selected, whichever is later, and (h) payment by the developer of all reasonable and necessary costs of the local monitoring committee where the facility is located as prescribed in subsection (6) of section 81-15,101.01.

(2) In determining the amount of such fees or surcharges, the council shall set the fees or surcharges in an amount sufficient to reimburse the state for its direct and indirect costs of the services specified in subsection (1) of this section. Any costs incurred by the State of Nebraska that exceed the fees or surcharges collected pursuant to this section shall be recovered through a special assessment against those generators of low-level radioactive waste which used the facility during the previous two years. The director shall compute the amount due from each generator based on the ratio of the fees or surcharges collected from a particular generator during the two-year period to the total fees or surcharges collected from all generators during such two-year period. Any special assessment collected pursuant to this section shall be remitted to the State Treasurer who shall credit it to the Low-Level Radioactive Waste Cash Fund. The council shall take into account any special arrangements between the state and a licensee, another state, or a federal agency from which the cost of the service is partially or fully recovered.

(3) When a licensee fails to pay the applicable fee or surcharge, the department may suspend or revoke the license or may issue an appropriate order.

(4) Except as provided in subsections (5) and (6) of section 81-15,101.01, any fees or surcharges collected pursuant to this section shall be deposited in the Low-Level Radioactive Waste Cash Fund, which fund is hereby created. The fund shall be administered by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer the entire balance in the Low-Level Radioactive Waste Cash Fund, including any investment income credited to the fund, to the General Fund as soon as possible after August 15, 2005.

Sec. 20. Section 81-15,113.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,113.01. (1) There is hereby created the Community Improvements Cash Fund which shall be under the direction of the department. The Central Interstate Low-Level Radioactive Waste Compact Commission shall annually through 1998 remit to the department the funds received from the states belonging to the Central Interstate Low-Level Radioactive Waste Compact as compensation paid to the host state. When the facility begins operation, the developer shall levy, collect, and remit to the department a surcharge on the rates charged to the users of the facility which is sufficient to raise two million dollars per year together with any adjustments made by the department pursuant to this section. The department shall remit such surcharge to the State Treasurer who shall credit it to the Community Improvements Cash Fund. On October 1, 1990, and each October 1 thereafter, the department shall adjust the amount to be remitted by the developer by an amount equal to the percentage increase in the Consumer Price Index or, if publication of the Consumer Price Index is discontinued, a comparable index selected by the director. ~~There is hereby appropriated three hundred thousand dollars from the Community Improvements Cash Fund for the period July 1, 1988, to June 30, 1989, to carry out the purposes of this section.~~ Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall distribute money from the fund as follows:

(a) Prior to final site selection, three hundred thousand dollars per year shall be allocated for public purposes to be divided among the communities that are under active consideration to host the facility as

provided in subsection (3) of this section;

(b) After the final site has been selected and until the facility is operational, three hundred thousand dollars per year shall be allocated for public purposes as provided in subsection (3) of this section. Acceptance of the funds distributed pursuant to this subdivision or subdivision (a) of this subsection shall in no way affect the siting process; and

(c) Once the facility is operational and during the operational life of the facility, the total amount in the fund shall be allocated each year for public purposes as provided in subsection (3) of this section.

(3) Money distributed pursuant to subdivisions (2)(a), (b), and (c) of this section shall be allocated as follows:

(a) Fifty percent of such money shall be distributed to incorporated municipalities which lie totally or partially within ten kilometers of the facility or the proposed facility based on the ratio of the population of the particular incorporated municipality to the total population of all such incorporated municipalities as determined by the latest federal census; and

(b) Fifty percent of such money shall be distributed to the county treasurer of the county where the facility is located or proposed to be located to be distributed to each political subdivision which levied property taxes on the property where the facility is located or proposed to be located. The money shall be distributed on the basis of the ratio of the total amount of taxes levied by each political subdivision to the total amount of property taxes levied by all such political subdivisions on such property based on the amounts stated in the most recent certificate of taxes levied submitted by each county to the Property Tax Administrator pursuant to section 77-1613.01.

(4) The Natural Resources Committee of the Legislature shall conduct a study to establish a formula for the equitable distribution of the funds specified in subdivision (2)(c) of this section. The committee shall hold public hearings necessary to carry out the purposes of the study.

(5) The State Treasurer shall transfer the entire balance in the Community Improvements Cash Fund, including any investment income credited to the fund, to the General Fund as soon as possible after August 15, 2005.

Sec. 21. Section 85-302, Reissue Revised Statutes of Nebraska, is amended to read:

85-302. The members of the Board of Trustees of the Nebraska State Colleges shall annually elect a president and vice president from among their own number. The board shall constitute a body corporate to be known as the Board of Trustees of the Nebraska State Colleges, and as such may sue and be sued, and may make and use a common seal and alter the same at its pleasure. The board shall also select a secretary. The State Treasurer shall be treasurer of the board by virtue of his or her office. A complete and comprehensive annual audit shall be made of the books, accounts, funds, records, and affairs of the board and each of the state colleges.

Sec. 22. Section 85-316, Reissue Revised Statutes of Nebraska, is amended to read:

85-316. All funds appropriated for the use and benefit of the state colleges together with the income arising from the lease and sale of endowment lands belonging to such colleges shall be under the direction and control of the board of trustees, subject to the provisions contained in this section, except that each college may retain in its possession a sum not to exceed ~~twenty-five~~ fifty thousand dollars out of which to make settlement and equitable adjustments with students entitled thereto, to make payments for day-to-day operations calling for immediate payment, and to provide for contingencies. The State Treasurer shall pay out of the proper funds all warrants for money to be expended under sections 85-301 to 85-318, such warrants to be drawn by the Director of Administrative Services on certificates by the president of the state college. All requests for payment or reimbursement for mileage or other traveling expense shall be audited and allowed on the basis of the provisions set forth in sections 81-1174 to 81-1177. No expenditure for traveling expenses to other states shall be authorized by the board for any college employee unless approval for such trip is first granted by the president or his or her designee. The request shall be submitted to the president of such state college or his or her designee and approved in writing by him or her.

Sec. 23. Original sections 47-632, 72-816, 72-1005, 77-2602, 77-27, 137.01, 81-15, 101.01, 81-15, 104, 81-15, 113.01, 85-302, and 85-316, Reissue Revised Statutes of Nebraska, and sections 18-2603, 71-7611, and 81-1561, Revised Statutes Supplement, 2004, are repealed.

Sec. 24. Since an emergency exists, this act takes effect when passed and approved according to law.