

COMPILATION OF STATUTES
REGARDING THE
DEPARTMENT OF NATURAL RESOURCES

FUNDS ADMINISTERED
BY THE DEPARTMENT
OF NATURAL RESOURCES

Includes:

- I. *Neb. Rev. Stat.* §§ 2-1596 - 2-1598: Nebraska Soil Survey Fund
- II. *Neb. Rev. Stat.* §§ 2-3226.07 - 2-3226.08: Water Contingency Cash Fund
- III. *Neb. Rev. Stat.* §§ 2-3277 – 2-3278, 2-3280: NRD Long-Range Implementation Plans
- IV. *Neb. Rev. Stat.* §§ 2-5301 - 2-5306: Carbon Sequestration Assessment Fund
- V. *Neb. Rev. Stat.* § 46-2,137: Water Policy Task Force Cash Fund
- VI. *Neb. Rev. Stat.* § 46-751: Ground Water Management Fund
- VII. *Neb. Rev. Stat.* § 46-752: Interrelated Water Management Fund
- VIII. *Neb. Rev. Stat.* § 46-753: Water Resources Trust Fund
- IX. *Neb. Rev. Stat.* § 46-754: Interrelated Water Management Plan Program Fund
- X. *Neb. Rev. Stat.* §§ 46-1403 - 46-1405: Water Well Decommissioning Fund
- XI. *Neb. Rev. Stat.* § 46-1656: Dam Safety Cash Fund
- XII. *Neb. Rev. Stat.* §§ 61-209 - 61-210: Department of Natural Resources Cash Fund
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Cash Fund
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- XV. *Neb. Rev. Stat.* § 81-1111.04, § 81-15,174 & 81-15,175: Department of Natural
Resources Water Issues Cash Fund
- XVI. *Neb. Rev. Stat.* § 28-106: Classification of Penalties

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Disclaimer: This booklet was compiled for the convenience of Department staff and is not intended to replace Nebraska's Reissue Revised Statutes. It is always recommended that one research the actual statutes when making a determination. This book does not always contain all statutes regarding a specific topic and it may become out-of-date when statutes are amended, adopted, or repealed.

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I. Neb. Rev. Stat. § 2-1596 to § 2-1598: Nebraska Soil Survey Fund

2-1596 Legislative intent.

The Legislature finds that an accelerated completion of modern soil surveys will be an asset to the State of Nebraska and good for the general welfare of the citizens of the state. The Legislature further finds that the completion of modern soil surveys can be most appropriately accomplished by accelerating, in a manner deemed appropriate by the department, state financial input into the combined state and federal effort currently being conducted cooperatively by the Natural Resources Conservation Service of the United States Department of Agriculture and the Conservation and Survey Division of the University of Nebraska. It is therefor the intent of this Legislature to embark upon an accelerated program for the completion of Nebraska's modern soil surveys and to recommend that the State of Nebraska and the Legislature appropriate the funds necessary to carry out this accelerated program during the years required for its completion.

Source: Laws 1976, LB 180, § 1; R.S.1943, (1977), § 2-3273; Laws 1999, LB 403, § 4; Laws 2000, LB 900, § 40.

2-1597 Nebraska Soil Survey Fund; created; purposes; administration.

The Nebraska Soil Survey Fund is created. The State Treasurer shall credit to such fund for the uses and purposes of sections 2-1596 to 2-1598 such money as is specifically appropriated, and such funds, fees, donations, gifts, services, devises, or bequests of real or personal property received by the department from any source, federal, state, public or private, to be used by the department for the purposes of accelerating the completion of modern soil surveys. The department shall allocate money from the fund for the purposes of sections 2-1596 to 2-1598. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall issue warrants on such fund, and the State Treasurer shall countersign and pay from, but not in excess of, the amounts to the credit of such fund.

Source: Laws 1976, LB 180, § 2; R.S.1943, (1977), § 2-3274; Laws 2000, LB 900, § 41.

2-1598 Nebraska Soil Survey Fund; how expended.

The Nebraska Soil Survey Fund shall be expended by contractual agreement with the Conservation and Survey Division of the University of Nebraska for the purposes of accelerating the program of modern soil survey throughout the state in such manner as the department deems proper and necessary.

Source: Laws 1976, LB 180, § 3; R.S.1943, (1977), § 2-3275; Laws 2000, LB 900, § 42.

II. Neb. Rev. Stat. § 2-3226.07 to § 2-3226.08: Water Contingency Cash Fund

2-3226.07 Water Contingency Cash Fund; created; investment; natural resources district; financial assistance; request to department; compensation to water rights holders.

(1) The Water Contingency Cash Fund is created. The department shall administer 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.

(2) No later than five days after April 2, 2008, a natural resources district with jurisdiction that includes a river subject to an interstate compact among three or more states and that also includes one or more irrigation districts within the compact river basin, and such natural resources district, using authority granted under Laws 2007, LB 701, enters or has entered into agreements, shall submit a request in writing to the department certifying the amount of financial assistance necessary to meet its obligations under section 2-3226.04 by or through obligations of joint entities or joint public agencies formed for the purposes described in section 2-3226.01. Within fifteen days after April 2, 2008, if such a request has been received by the department, the department shall expend from the Water Contingency Cash Fund the amount requested to provide financial assistance to the submitting natural resources district. The natural resources district shall use the financial assistance provided by the state from the Water Contingency Cash Fund to compensate water rights holders who agree or have agreed to lease and forgo the use of water. Any financial assistance provided under this section not used for such purpose by the natural resources district within sixty days after it is received by such district shall be returned to the department for credit to the Water Contingency Cash Fund.

Source: Laws 2008, LB1094, § 5.
Effective date: April 2, 2008.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

2-3226.08 Financial assistance; district; repayment; duties.

(1) Any district receiving financial assistance pursuant to section 2-3226.07 shall remit to the department the proceeds of the property tax authorized pursuant to subdivision (1)(d) of section 2-3225, the proceeds of the occupation tax authorized pursuant to section 2-3226.05, or both, when such proceeds are available for distribution until the amount of such financial assistance has been repaid. Such proceeds shall be remitted within fifteen days after receipt of the proceeds by the district.

(2) If the district does not receive proceeds described in subsection (1) of this section, the district shall reimburse the Water Contingency Cash Fund by such means as are provided by the Legislature. Such reimbursement shall be made no later than June 30, 2013.

Source: Laws 2008, LB1094, § 6.
Effective date: April 2, 2008.

III. Neb. Rev. Stat. § 2-3277, 2-3278 & 2-3280: NRD Long-Range Implementation Plans

2-3277. Districts; long-range implementation plan; prepare and adopt; contents; review; filing; department; develop guidelines.

Each district shall also prepare and adopt a long-range implementation plan which shall summarize planned district activities and include projections of financial, personnel, and land rights needs of the district for at least the next five years and the specific needs assessment upon which the current budget is based. Such long-range implementation plan shall be reviewed and updated annually. A copy of the long-range implementation plan and all revisions and updates thereto as adopted shall be filed with the department, the Governor's Policy Research Office, and the Game and Parks Commission on or before October 1 of each year. The department shall develop and make available to the districts suggested guidelines regarding the format and general content of such long-range implementation plans.

Source: Laws 1978, LB 783, § 3; Laws 1979, LB 412, § 3; Laws 2000, LB 900, § 61.

2-3278. Districts; individual project plans; file; coordinate plans.

Each district shall also prepare and adopt any individual project plans as it deems necessary to carry out projects approved by the district. Project plans as developed involving state regulations or financing shall be filed with the appropriate agency. A project plan for any project shall also be filed with any of the agencies named in section 2-3277, if a timely request in writing is made by such agency. Each district shall consult with and coordinate its plans with those of other local implementation agencies.

Source: Laws 1978, LB 783, § 4.

2-3280. State funds; allocated or disbursed; when.

No state funds shall be allocated or disbursed to a district unless that district has submitted its master plan in accordance with sections 2-3229 and 2-3276 to 2-3280 and until the disbursing agency has determined that such funds are for plans, facilities, works, and programs which are in conformance with the plans of the agency.

Source: Laws 1978, LB 783, § 6.

IV. Neb. Rev. Stat. § 2-5301 to § 2-5306: Carbon Sequestration Assessment Fund

2-5301 Legislative intent.

Increasing levels of carbon dioxide and other greenhouse gases in the atmosphere has led to growing interest in national and international forums for implementing measures to slow and reverse the buildup of such atmospheric constituents. Such measures may potentially include the establishment of systems of trading in credits for adoption of practices, technologies, or other measures which decrease net emissions of carbon dioxide and other greenhouse gases.

Improved agricultural production methods, soil conservation practices, and other methods of stewardship of soil resources have great potential to increase carbon sequestration on agricultural lands and help offset carbon dioxide emissions from other sectors of the economy. It is in the interest of agricultural producers and the public in general that the Director of Natural Resources document and quantify carbon sequestration and greenhouse emissions reductions associated with agricultural practices, management systems, and land uses occurring on cropland and rangeland in Nebraska. It is the intent of the Legislature that efforts to quantify and verify carbon sequestration on agricultural land will enhance the ability of the state's agricultural landowners to participate in any system of carbon or greenhouse emissions marketing or trading.

Source: Laws 2000, LB 957, § 1.

2-5302 Carbon Sequestration Advisory Committee; expenses.

(1) The Carbon Sequestration Advisory Committee is created. The committee shall consist of the following members appointed by the Governor:

- (a) The Director of Agriculture or his or her designee;
- (b) The Director of Natural Resources or his or her designee;
- (c) The Director of Environmental Quality or his or her designee;
- (d) One member representing the Natural Resources Conservation Service of the United States Department of Agriculture;
- (e) One member representing the University of Nebraska Institute of Agriculture and Natural Resources;
- (f) One member representing the Nebraska Energy Office;
- (g) One member representing an entity which generates electrical energy;
- (h) Two members who are producers of field crops at least one of whom actively employs a minimum tillage management system in his or her farming operation;
- (i) Two members who are producers of livestock at least one of whom is actively involved in range management;
- (j) One member with expertise in greenhouse emissions marketing or trading;
- (k) One member representing natural resources districts; and
- (l) One member representing the ethanol industry.

(2) Members of the committee shall serve without compensation but shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The Director of Natural Resources shall assist the committee with administrative and operational support. The Nebraska Natural Resources Commission may advise the committee in the performance of its duties under sections 2-5301 to 2-5306.

Source: Laws 2000, LB 957, § 2.

2-5303. Carbon Sequestration Advisory Committee; duties.

The Carbon Sequestration Advisory Committee shall:

(1) Advise and assist the Director of Natural Resources in preparing the report and in conducting the assessment pursuant to section 2-5305;

(2) Recommend policies or programs to enhance the ability of Nebraska agricultural landowners to participate in systems of carbon trading. Such recommendations shall include potential policies or programs designed to optimize economic benefits to agricultural producers participating in carbon trading transactions. Such policies or programs may include, but are not limited to, identifying existing or the potential of creating nonprofit organizations or other public or private entities capable of serving as assemblers of carbon credits or as intermediaries on behalf of producers in carbon trading systems;

(3) Encourage the production of educational and advisory materials regarding carbon sequestration on agricultural lands and participation in systems of carbon or greenhouse emissions trading; and

(4) Identify and recommend areas of research needed to better understand and quantify the processes of carbon sequestration on agricultural lands.

Source: Laws 2000, LB 957, § 3; Laws 2012, LB782, § 8.

2-5304 Report; contents.

On or before December 1, 2001, the Director of Natural Resources, in consultation with the Carbon Sequestration Advisory Committee, shall prepare a report to the Legislature. The report shall include, but not be limited to:

(1) The potential for, and potential forms of, greenhouse emissions regulation;

(2) The potential for development of a system or systems of carbon emissions trading or markets for carbon sequestered on agricultural land;

(3) Agricultural practices, management systems, or land uses which increase stored soil carbon and minimize carbon dioxide or other greenhouse emissions associated with agricultural production;

(4) Methods for measuring and modeling net carbon sequestration and greenhouse emissions reduction associated with various agricultural practices, management systems, or land uses occurring on agricultural land;

(5) Areas of scientific uncertainty with respect to quantifying and understanding greenhouse emission reductions or soil carbon sequestration associated with agricultural activities; and

(6) Any recommendations of the Carbon Sequestration Advisory Committee developed pursuant to section 2-5303.

Source: Laws 2000, LB 957, § 4.

2-5305 Director of Natural Resources; powers and duties.

(1) The Director of Natural Resources shall, in consultation with the Carbon Sequestration Advisory Committee, assess agricultural lands in the State of Nebraska for past carbon sequestration and future carbon sequestration potential. The assessment shall seek to quantify carbon sequestration associated with various agricultural practices, management systems, and land uses occurring on agricultural lands in this state. On or before January 1, 2002, the director shall publish a report of the findings. The director may, from time to time, update such findings as advancements in understanding of the processes of carbon sequestration and new data become available.

(2) The assessment shall be conducted in a manner that shall provide a means for owners of agricultural land to estimate past and future net carbon sequestration resulting from agricultural practices, conservation measures, management systems, and land uses occurring on their property. The Director of Natural Resources may contract and cooperate with the Natural Resources Conservation Service of the United States Department of Agriculture to conduct assessment activities provided for in this section.

(3) The director may apply for and accept grants, gifts, or other sources of public and private funds to carry out the purposes of sections 2-5301 to 2-5306.

Source: Laws 2000, LB 957, § 5.

2-5306 Carbon Sequestration Assessment Cash Fund; created; use; investment.

The Carbon Sequestration Assessment Cash Fund is created. The fund shall be used to carry out sections 2-5301 to 2-5306. The State Treasurer shall credit to the fund any money appropriated to the fund by the Legislature and any money received as gifts, grants, or other contributions from public or private sources obtained for the purposes of sections 2-5301 to 2-5306. 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.

Source: Laws 2000, LB 957, § 6.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

V. Neb. Rev. Stat. § 46-2,137: Water Policy Cash Fund

46-2,137. Repealed. Laws 2011, LB 2, § 8.

VI. Neb. Rev. Stat. § 46-751: Ground Water Management Fund

46-751 Ground Water Management Fund; created; use; investment.

All fees paid to the Director of Natural Resources pursuant to the Nebraska Ground Water Management and Protection Act shall be remitted to the State Treasurer for credit to the Ground Water Management Fund which is hereby created and which shall be administered by the director. Any money credited to the fund may be utilized by the director for payments of expenses incurred in the administration of the 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.

Source: Laws 1975, LB 577, § 15; Laws 1984, LB 1071, § 12; Laws 1995, LB 7, § 42; R.S.Supp.,1995, § 46-670; Laws 1996, LB 108, § 39; Laws 2000, LB 900, § 200; R.S.Supp.,2002, § 46-656.33; Laws 2004, LB 962, § 91.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

VII. Neb. Rev. Stat. § 46-752: Interrelated Water Management Fund

46-752 Interrelated Water Management Fund; created; use; investment.

The Interrelated Water Management Fund is created. The State Treasurer shall credit to the fund, for the purpose of conducting studies to determine the cause of current or potential conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts and agreements, such money as is specifically appropriated and such funds, fees, donations, gifts, or services or devises or bequests of real or personal property received by the Department of Natural Resources from any federal, state, public, or private source, to be used by the department for the purpose of funding studies as described in this section. The department may use its budget authority to request appropriations specifically for the purpose of funding studies described in this section. The department shall allocate money from the fund for use by the department, by any state agency, board, or commission, or by any political subdivision of the state, by agreement, or by private organizations or firms as may be contracted with 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.

Source: Laws 1996, LB 108, § 73; Laws 2000, LB 900, § 219; R.S.Supp.,2002, § 46-656.67; Laws 2004, LB 962, § 92.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

VIII. Neb. Rev. Stat. § 46-753: Water Resources Trust Fund

46-753. Water Resources Trust Fund; created; use; investment; matching funds required; when.

(1) The Water Resources Trust Fund is created. The State Treasurer shall credit to the fund such money as is specifically appropriated thereto by the Legislature, transfers authorized by the Legislature, and such funds, fees, donations, gifts, or bequests received by the Department of Natural Resources from any federal, state, public, or private source for expenditure for the purposes described in the Nebraska Ground Water Management and Protection Act. Money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. 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 fund shall be administered by the department. The department shall adopt and promulgate rules and regulations regarding the allocation and expenditure of money from the fund.

(3) Money in the fund may be expended by the department for costs incurred by the department, by natural resources districts, or by other political subdivisions in (a) determining whether river basins, subbasins, or reaches are fully appropriated in accordance with section 46-713, (b) developing or implementing integrated management plans for such fully appropriated river basins, subbasins, or reaches or for river basins, subbasins, or reaches designated as overappropriated in accordance with section 46-713, (c) developing or implementing integrated management plans in river basins, subbasins, or reaches which have not yet become either fully appropriated or overappropriated, or (d) attaining state compliance with an interstate water compact or decree or other formal state contract or agreement.

(4) Except for funds paid to a political subdivision for forgoing or reducing its own water use or for implementing projects or programs intended to aid the state in complying with an interstate water compact or decree or other formal state contract or agreement, a political subdivision that receives funds from the fund shall provide, or cause to be provided, matching funds in an amount at least equal to twenty percent of the amount received from the fund by that

natural resources district or political subdivision. The department shall monitor programs and activities funded by the fund to ensure that the required match is being provided.

Source: Laws 2004, LB 962, § 93; Laws 2010, LB1057, § 4; Laws 2011, LB2, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

IX. Neb. Rev. Stat. § 46-754: Interrelated Water Management Plan Program Fund

46-754 Interrelated Water Management Plan Program; created; grants; commission; duties; use.

The Interrelated Water Management Plan Program is created for the purpose of facilitating and funding the duties of districts arising under the Nebraska Ground Water Management and Protection Act. The program shall function as a grant program administered by the Nebraska Natural Resources Commission and the Department of Natural Resources upon recommendations of the commission using funds appropriated for the program. The commission shall develop guidelines and limitations for grant requests for funding such district's duties, including studies required to carry out those duties. Grant requests shall be made to the commission for review in a manner and form prescribed by the commission. The amounts requested and approved shall be supported by a minimum local revenue match comprising twenty percent of the total project cost. The Director of Natural Resources shall expend funds to implement the commission's recommendations for fiscal support under the program only upon the commission's approval.

Source: Laws 2006, LB 1226, § 20.

X. Neb. Rev. Stat. § 46-1403 to § 46-1405: Water Well Decommissioning Fund

46-1403 Water Well Decommissioning Fund; created; use; investment.

There is hereby created the Water Well Decommissioning Fund. The State Treasurer shall credit to the fund for the uses and purposes of sections 46-1401 to 46-1405 such money as is specifically appropriated and such funds, fees, donations, gifts, services, or devises or bequests of real or personal property received by the Department of Natural Resources from any source, federal, state, public, or private, to be used by the department for the purpose of accelerating the decommissioning of illegal water wells. The department shall allocate money from the fund for purposes of sections 46-1401 to 46-1405. The fund shall be exempt from provisions relating to lapsing of appropriations. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Water Well Decommissioning 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.

Source: Laws 1994, LB 981, § 3; Laws 1995, LB 7, § 44; Laws 2000, LB 900, § 238; Laws 2009, First Spec. Sess., LB3, § 22.
Effective date: November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

46-1404 Water Well Decommissioning Fund; allocation; rules and regulations.

The Water Well Decommissioning Fund shall be allocated by contractual agreement with natural resources districts for the purpose of accelerating the decommissioning of illegal water wells throughout the state. The allocations each fiscal year shall be made by the Department of Natural Resources to natural resources districts in a proportion based on the number of illegal water wells decommissioned in each district in the previous fiscal year which were part of the district's cost-share program to the total number of illegal water wells decommissioned in the state in the previous fiscal year which were part of a district cost-share program. Subsequent allocations for any district which has had a cost-share program for three or more consecutive years shall be based upon the previous three-year average. The allocations may be adjusted on or after March 1 of any year if the Director of Natural Resources determines that one or more districts cannot reasonably be expected to use their full allocation for that fiscal year. Actual disbursement to each district shall be on a reimbursement basis and shall not exceed the amount expended by the district consistent with sections 46-1401 to 46-1405. The Nebraska Natural Resources Commission shall adopt and promulgate rules and regulations to carry out such sections.

Source: Laws 1994, LB 981, § 4; Laws 2000, LB 900, § 239; Laws 2006, LB 508, § 9.

46-1405 Natural resources district; cost-sharing program; qualification for funding.

Any natural resources district cost-sharing program for decommissioning illegal water wells may qualify for funding pursuant to section 46-1404 if the program:

- (1) Applies only to water wells properly decommissioned by licensed water well contractors and pump installation contractors;
- (2) Applies to all water wells in the district;
- (3) Is available for at least thirty water wells per year; and
- (4) Provides at least sixty percent of the costs of decommissioning, up to a maximum of five hundred dollars for all water wells other than hand-dug water wells which shall be eligible for up to a maximum of seven hundred dollars.

A natural resources district may establish maximum cost-share assistance amounts that will be provided to landowners for decommissioning water wells based on well depths and diameters

to insure that landowners will be compensated for at least sixty percent of the cost of water well decommissioning.

Source: Laws 1994, LB 981, § 1; Laws 1995, LB 871, § 7; Laws 1996, LB 1241, § 9; Laws 2006, LB 508, § 10.

XI. Neb. Rev. Stat. § 46-1656: Dam Safety Cash Fund

46-1656 Dam Safety Cash Fund; created; use; investment.

The Dam Safety Cash Fund is created. The fund shall consist of fees credited pursuant to section 46-1655 and any money specifically appropriated to the fund by the Legislature. Money in the fund shall not be subject to any fiscal-year limitation or provision for lapse of unexpended balance at the end of any fiscal year or biennium. The fund shall be administered by the department. Money in the fund may be expended by the department for costs incurred by the department in the administration of the Safety of Dams and Reservoirs 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.

Source: Laws 2005, LB 335, § 56.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

XII. Neb. Rev. Stat. § 61-209 to § 61-210: Department of Natural Resources Cash Fund

61-209 Department of Natural Resources; powers; water data collection; fee.

The Department of Natural Resources may conduct special projects for water data collection on behalf of other state agencies, political subdivisions, or federal agencies. Such data shall be public information. The department may charge a fee to cover in whole or in part the costs of collecting, analyzing, and publishing the data and such fees shall be deposited in the Department of Natural Resources Cash Fund.

Source: Laws 1983, LB 33, § 1; R.S.1943, (1998), § 46-212.01; Laws 2000, LB 900, § 9.

61-210 Department of Natural Resources Cash Fund; created; use; investment.

The Department of Natural Resources Cash Fund is created. The State Treasurer shall credit to such fund such money as is specifically appropriated or reappropriated by the Legislature. The State Treasurer shall also credit such fund with payments, if any, accepted for services rendered by the department and fees collected pursuant to subsection (6) of section 46-606 and section

61-209. The funds made available to the Department of Natural Resources by the United States, through the Natural Resources Conservation Service of the Department of Agriculture or through any other agencies, shall be credited to the fund by the State Treasurer. 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 Department of Natural Resources shall allocate money from the fund to pay costs of the programs or activities of the department. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall issue warrants on the fund, and the State Treasurer shall countersign and pay from, but never in excess of, the amounts to the credit of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

Source: Laws 1937, c. 8, § 13, p. 109; C.S.Supp.,1941, § 2-1913; R.S.1943, § 2-1547; Laws 1959, c. 6, § 25, p. 90; Laws 1969, c. 584, § 28, p. 2358; Laws 1973, LB 188, § 2; Laws 1987, LB 29, § 2; Laws 1995, LB 7, § 6; Laws 1999, LB 403, § 2; R.S.Supp.,1999, § 2-1547; Laws 2000, LB 900, § 10; Laws 2001, LB 667, § 26; Laws 2002, LB 458, § 8; Laws 2005, LB 335, § 81; Laws 2007, LB701, § 26; Laws 2009, First Spec. Sess., LB3, § 38.
Effective date: November 21, 2009.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

XIII. Neb. Rev. Stat. § 61-217: Department of Natural Resources Interstate Water Rights Cash Fund

61-217. Repealed. Laws 2010, LB 682, § 1.

XIV. Neb. Rev. Stat. § 61-218: Water Resources Cash Fund

61-218. Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents; Nebraska Environmental Trust Fund; grant application; use of funds; legislative intent; department; establish subaccount.

(1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. 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 State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the

United States if so directed by such department or agency, and (e) allocated pursuant to section 81-15,175.

(3) The fund shall be expended by the department (a) to aid management actions taken to reduce consumptive uses of water or to enhance streamflows or ground water recharge in river basins, subbasins, or reaches which are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement, (b) for purposes of projects or proposals described in the grant application as set forth in subdivision (2)(h) of section 81-15,175, and (c) to the extent funds are not expended pursuant to subdivisions (a) and (b) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement. The fund shall not be used to pay for administrative expenses or any salaries for the department or any political subdivision.

(4) It is the intent of the Legislature that three million three hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2011-12 through FY2018-19, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred thousand dollars be transferred from the General Fund to the Water Resources Cash Fund.

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

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

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

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

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

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

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

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

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

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

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

Source: Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39; Laws 2010, LB689, § 1; Laws 2010, LB993, § 1; Laws 2011, LB229, § 1; Laws 2012, LB782, § 87; Laws 2012, LB950, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

61-220. State Treasurer; 2012 transfer to Water Resources Cash Fund.

The State Treasurer shall transfer \$600,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2012, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 61-218.

Source: Laws 2011, LB229, § 4.
Effective date: May 18, 2011.

61-221. State Treasurer; 2013 transfer to Water Resources Cash Fund.

The State Treasurer shall transfer \$600,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2013, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services, pursuant to section 61-218.

Source: Laws 2011, LB229, § 5.
Effective date: May 18, 2011.

**XV. Neb. Rev. Stat. § 81-1111.04: Department of Natural Resources
Water Issues Cash Fund**

81-1111.04 Department of Administrative Services; Accounting Administrator; administratively establish funds.

(1) The Accounting Administrator may administratively establish cash and revolving funds to (a) account for gifts, bequests, or devises when no cash fund exists and (b) account for specific, one-time, nonfederal sources of revenue.

(2) All cash or revolving funds administratively created by the Accounting Administrator shall exist for a maximum of two fiscal years after the date of establishment. Prior to the end of two fiscal years, the expending agency shall notify the Accounting Administrator of its intentions to (a) lapse the balance of the administrative cash or revolving fund to the General Fund or (b) permanently establish the fund in statute.

(3) In addition, the Accounting Administrator may administratively establish federal funds, trust funds, and distributive funds as necessary.

Source: Laws 1994, LB 1194, § 7.

81-15,174. Nebraska Environmental Trust Fund; created; use; investment.

The Nebraska Environmental Trust Fund is created. The fund shall be maintained in the state accounting system as a cash fund. Except as otherwise provided in this section, the fund shall be

used to carry out the purposes of the Nebraska Environmental Trust Act, including the payment of administrative costs. Money in the fund shall include proceeds credited pursuant to section 9-812 and proceeds designated by the board pursuant to section 81-15,173. 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.

Source: Laws 1992, LB 1257, § 51; Laws 1994, LB 1066, § 124; Laws 2000, LB 957, § 10; Laws 2002, Second Spec. Sess., LB 1, § 8; Laws 2003, LB 408, § 6; Laws 2004, LB 962, § 111; Laws 2006, LB 1061, § 12; Laws 2011, LB229, § 2.
Effective date: May 18, 2011.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-15,175. Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

(1) The board may make an annual allocation each fiscal year from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations each fiscal year from the Nebraska Environmental Endowment Fund for projects which conform to the environmental categories of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish a calendar annually for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating systems shall include, but not be limited to, the following considerations:

- (a) Conformance with categories established pursuant to section 81-15,176;
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact;

(g) Environmental benefit to the general public and the long-term nature of such public benefit; and

(h) Applications recommended by the Director of Natural Resources and submitted by the Department of Natural Resources pursuant to subsection (7) of section 61-218 shall be awarded fifty priority points in the ranking process for the 2011 grant application if the Legislature has authorized annual transfers of three million three hundred thousand dollars to the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund in fiscal year 2013-14. Priority points shall be awarded if the proposed programs set forth in the grant application are consistent with the purposes of reducing consumptive uses of water, enhancing streamflows, recharging ground water, or supporting wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(3) A grant awarded under this section pursuant to an application made under subsection (7) of section 61-218 shall be paid out in the following manner:

(a) The initial three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than fifteen business days after the date that the grant is approved by the board;

(b) The second three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2013; and

(c) The third three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2014, if the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund to the Water Resources Cash Fund for fiscal year 2013-14.

(4) It is the intent of the Legislature that the Department of Natural Resources apply for an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2014-15 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report electronically to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced streamflows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving, enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit electronically a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(8) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant

to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor. The report submitted to the Legislature shall be submitted electronically.

Source: Laws 1992, LB 1257, § 52; Laws 1993, LB 138, § 81; Laws 2000, LB 957, § 12; Laws 2002, LB 1003, § 51; Laws 2004, LB 832, § 2; Laws 2011, LB229, § 3; Laws 2011, LB366, § 1; Laws 2012, LB782, § 204.

Cross References

Open Meetings Act, see section 84-1407.

XVI. Classification of Penalties

28-106. Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I misdemeanor.....	Maximum — not more than one year imprisonment, or one thousand dollars fine, or both Minimum — none
Class II misdemeanor.....	Maximum — six months imprisonment, or one thousand dollars fine, or both Minimum — none
Class III misdemeanor.....	Maximum — three months imprisonment, or five hundred dollars fine, or both Minimum — none
Class IIIA misdemeanor.....	Maximum — seven days imprisonment, five hundred dollars fine, or both Minimum — none
Class IV misdemeanor.....	Maximum — no imprisonment, five hundred dollars fine Minimum — one hundred dollars fine
Class V misdemeanor.....	Maximum — no imprisonment, one hundred dollars fine Minimum — none
Class W misdemeanor.....	Driving under the influence or implied consent First conviction Maximum — sixty days imprisonment and five hundred dollars fine Mandatory minimum — seven days imprisonment and five hundred dollars fine Second conviction Maximum — six months imprisonment and five hundred dollars fine Mandatory minimum — thirty days imprisonment and five hundred dollars fine Third conviction Maximum — one year imprisonment and one thousand dollars fine Mandatory minimum — ninety days imprisonment and one thousand dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

(a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor;

(b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or

(c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

Source: Laws 1977, LB 38, § 6; Laws 1982, LB 568, § 1; Laws 1986, LB 153, § 1; Laws 1992, LB 291, § 1; Laws 1998, LB 309, § 1; Laws 2002, LB 82, § 3; Laws 2005, LB 594, § 1; Laws 2011, LB675, § 1.

Operative date: January 1, 2012.

The proper determination of punishment for fourth offense driving under the influence of an alcoholic liquor or drug is governed by subsection (1) of this section and not by section 28-107(3). *State v. Schultz*, 252 Neb. 746, 566 N.W.2d 739 (1997).

For a Class III misdemeanor, a sentence of five days in jail with a fine of three hundred dollars is within the statutory maximum and will not be disturbed on appeal absent an abuse of discretion. *State v. Rosenberry*, 209 Neb. 383, 307 N.W.2d 823 (1981).