

AMENDMENTS TO LB809

Introduced by Natural Resources.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 37-455, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

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

22 (2)(a) The commission shall adopt and promulgate rules and
23 regulations prescribing procedures and forms and create requirements for
24 documentation by an applicant or permittee to determine whether the
25 applicant or permittee is a Nebraska resident and is a qualifying
26 landowner or leaseholder of the described property or is a member of the
27 immediate family of such qualifying landowner or leaseholder. The

1 commission may adopt and promulgate rules and regulations that create
2 requirements for documentation to designate one qualifying landowner
3 among partners of a partnership or officers or shareholders of a
4 corporation that owns or leases eighty acres or more of farm or ranch
5 land for agricultural purposes and among beneficiaries of a trust that
6 owns or leases eighty acres or more of farm or ranch land for
7 agricultural purposes. Only a person who is a qualifying landowner or
8 leaseholder or a member of such person's immediate family may apply for a
9 limited permit. An applicant may apply for no more than one permit per
10 species per year except as otherwise provided in subsection (4) of this
11 section and the rules and regulations of the commission. For purposes of
12 this section, member of a person's immediate family means and is limited
13 to the spouse of such person, any child or stepchild of such person or of
14 the spouse of such person, any spouse of any such child or stepchild, any
15 grandchild or stepgrandchild of such person or of the spouse of such
16 person, any spouse of such grandchild or stepgrandchild, any sibling of
17 such person sharing ownership in the property, and any spouse of any such
18 sibling.

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

27 (3)(a) To qualify for a limited permit to hunt deer or antelope, the
28 applicant shall be a Nebraska resident who (i) owns or leases eighty
29 acres or more of farm or ranch land for agricultural purposes or a member
30 of such person's immediate family or (ii) is the partner, officer,
31 shareholder, or beneficiary designated as the qualifying landowner by a

1 partnership, corporation, or trust as provided in the rules and
2 regulations under subdivision (2)(a) of this section or a member of the
3 immediate family of the partner, officer, shareholder, or beneficiary.
4 The number of limited permits issued annually per species for each farm
5 or ranch shall not exceed the total acreage of the farm or ranch divided
6 by eighty. The fee for a limited permit to hunt deer or antelope shall be
7 one-half the fee for the regular permit for such species.

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

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

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

29 (i) No more than eight ~~four~~ permits may be issued per qualifying
30 landowner to the landowner or designated members of his or her immediate
31 family, except that no more than one permit shall be issued per person

1 for the qualifying landowner or any designated member of his or her
2 immediate family;

3 (ii) Of the eight ~~four~~ permits that may be issued, no more than six
4 ~~two~~ permits may be issued to persons who are younger than nineteen years
5 of age and no more than two permits may be issued to persons who are
6 nineteen years of age or older; and

7 (iii) For a Nebraska resident landowner, the number of permits
8 issued shall not exceed the total acreage of the farm or ranch divided by
9 eighty, and for a nonresident landowner, the number of permits issued
10 shall not exceed the total acreage of the farm or ranch divided by three
11 hundred twenty.

12 (b) For purposes of this subsection, the qualifying criteria for a
13 Nebraska resident described in subdivisions (3)(a)(i) and (ii) of this
14 section and the ownership criteria for a nonresident of Nebraska
15 described in subdivision (3)(b) of this section apply.

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

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

31 (b) A nonresident of Nebraska who owns three hundred twenty acres or

1 more of farm or ranch land in the State of Nebraska for agricultural
2 purposes or a member of such person's immediate family may apply for a
3 limited permit to hunt wild turkey. Only one limited wild turkey permit
4 per three hundred twenty acres may be issued annually for each wild
5 turkey season under this subdivision. The fee for such a permit to hunt
6 shall be one-half the fee for a nonresident permit to hunt wild turkey.

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

31 Sec. 2. Section 71-5318, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 71-5318 (1) The Drinking Water Facilities Loan Fund is created. The
3 fund shall be held as a trust fund for the purposes and uses described in
4 the Drinking Water State Revolving Fund Act.

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

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

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

1 thereon, and (b) buy or refinance the debt obligation of any municipality
2 for a public water supply system if the debt was incurred and
3 construction began after July 1, 1993.

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

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

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

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

31 The fund and assets thereof may be used, to the extent permitted by

1 the Safe Drinking Water Act and the regulations adopted and promulgated
2 pursuant to such act, to pay or secure the payment of bonds and the
3 interest thereon, except that amounts credited to the fund from state
4 appropriations and the earnings on such appropriations may not be used to
5 pay or to secure the payment of bonds or the interest thereon.

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

8 (3) There is hereby created the Drinking Water Administration Fund.
9 Any funds available for administering loans or fees collected pursuant to
10 the Drinking Water State Revolving Fund Act shall be remitted to the
11 State Treasurer for credit to such fund. The fund shall be administered
12 by the department for the purposes of the act. The state investment
13 officer shall invest any money in the fund available for investment
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
15 Funds Investment Act. Investment earnings shall be credited to the fund.

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

23 The director may transfer any money in the Drinking Water
24 Administration Fund to the Drinking Water Facilities Loan Fund to meet
25 the state matching appropriation requirements of any applicable federal
26 capitalization grants or to meet the purposes of subdivision (9) of
27 section 71-5322.

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

30 71-5322 The department shall have the following powers and duties:

31 (1) The power to establish a program to make loans to owners of

1 public water systems, individually or jointly, for construction or
2 modification of safe drinking water projects in accordance with the
3 Drinking Water State Revolving Fund Act and the rules and regulations of
4 the council adopted and promulgated pursuant to such act;

5 (2) The power, if so authorized by the council pursuant to section
6 71-5321, to execute and deliver documents obligating the Drinking Water
7 Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund
8 and the assets thereof to the extent permitted by section 71-5318 to
9 repay, with interest, loans to or credits into such funds and to execute
10 and deliver documents pledging to the extent permitted by section 71-5318
11 all or part of such funds and assets to secure, directly or indirectly,
12 the loans or credits;

13 (3) The duty to prepare an annual report for the Governor and the
14 Legislature. The report submitted to the Legislature shall be submitted
15 electronically;

16 (4) The duty to establish fiscal controls and accounting procedures
17 sufficient to assure proper accounting during appropriate accounting
18 periods, including the following:

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

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

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

23 (d) Balancing the funds at the beginning and end of the accounting
24 period;

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

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

31 (7) The power to develop an intended use plan, in consultation with

1 the Director of Public Health of the Division of Public Health, for
2 adoption by the council;

3 (8) The power to enter into required agreements with the United
4 States Environmental Protection Agency pursuant to the Safe Drinking
5 Water Act;

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

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

19 (11) ~~(10)~~ The power to provide emergency funding to public water
20 systems operated by political subdivisions with drinking water facilities
21 which have been damaged or destroyed by natural disaster or other
22 unanticipated actions or circumstances. Such funding shall not be used
23 for routine repair or maintenance of facilities;

24 (12) ~~(11)~~ The power to provide financial assistance consistent with
25 the intended use plan, described in subdivision (7) of this section, for
26 completion of engineering studies, research projects to investigate low-
27 cost options for achieving compliance with safe drinking water standards,
28 preliminary engineering reports, regional water system planning, source
29 water protection, and other studies for the purpose of enhancing the
30 ability of communities to meet the requirements of the Safe Drinking
31 Water Act, to public water systems that provide service to ten thousand

1 persons or less, that are operated by political subdivisions, and that
2 demonstrate serious financial hardships. The department may enter into
3 agreements for up to ninety percent of the eligible project cost. Such
4 agreements shall contain a provision that payment of the amount obligated
5 is conditional upon the availability of appropriated funds; and

6 (13) ~~(12)~~ Such other powers as may be necessary and appropriate for
7 the exercise of the duties created under the Drinking Water State
8 Revolving Fund Act.

9 Sec. 4. Section 81-1504, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

11 81-1504 The department shall have and may exercise the following
12 powers and duties:

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

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

20 (3) To advise and consult, cooperate, and contract with other
21 agencies of the state, the federal government, and other states, with
22 interstate agencies, and with affected groups, political subdivisions,
23 and industries in furtherance of the purposes of the acts;

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

1 which provided;

2 (5) To encourage, participate in, or conduct studies,
3 investigations, research, and demonstrations relating to air, land, and
4 water pollution and causes and effects, prevention, control, and
5 abatement of such pollution as it may deem advisable and necessary for
6 the discharge of its duties under the Environmental Protection Act, the
7 Integrated Solid Waste Management Act, and the Livestock Waste Management
8 Act, using its own staff or private research organizations under
9 contract;

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

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

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

23 (9) To (a) hold such hearings and give notice thereof, (b) issue
24 such subpoenas requiring the attendance of such witnesses and the
25 production of such evidence, (c) administer such oaths, and (d) take such
26 testimony as the director deems necessary, and any of these powers may be
27 exercised on behalf of the director by a hearing officer designated by
28 the director;

29 (10) To require submission of plans, specifications, and other data
30 relative to, and to inspect construction of, disposal systems or any part
31 thereof prior to issuance of such permits or approvals as are required by

1 the Environmental Protection Act, the Integrated Solid Waste Management
2 Act, and the Livestock Waste Management Act;

3 (11) To issue, continue in effect, revoke, modify, or deny permits,
4 under such conditions as the director may prescribe and consistent with
5 the standards, rules, and regulations adopted by the council, (a) to
6 prevent, control, or abate pollution, (b) for the discharge of wastes
7 into the air, land, or waters of the state, ~~and~~ (c) for the installation,
8 modification, or operation of disposal systems or any parts thereof, and
9 (d) for the discharge of dredged and fill material into waters of the
10 United States;

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

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

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

24 (15)(a) To require access to existing and available records relating
25 to (i) emissions or discharges which cause or contribute to air, land, or
26 water pollution or (ii) the monitoring of such emissions or discharges;
27 and

28 (b) To require, for purposes of developing or assisting the
29 development of any regulation or enforcing any of the provisions of the
30 Environmental Protection Act which pertain to hazardous waste, any person
31 who generates, stores, treats, transports, disposes of, or otherwise

1 handles or has handled hazardous waste, upon request of any officer,
2 employee, or representative of the department, to furnish information
3 relating to such waste and any permit involved. Such person shall have
4 access at all reasonable times to a copy of all results relating to such
5 waste;

6 (16) To obtain such scientific, technical, administrative, and
7 operational services including laboratory facilities, by contract or
8 otherwise, as the director deems necessary;

9 (17) To encourage voluntary cooperation by persons and affected
10 groups to achieve the purposes of the Environmental Protection Act, the
11 Integrated Solid Waste Management Act, and the Livestock Waste Management
12 Act;

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

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

27 (20) To require all persons engaged or desiring to engage in
28 operations which result or which may result in air, water, or land
29 pollution to secure a permit prior to installation or operation or
30 continued operation;

31 (21) To enter and inspect, during reasonable hours, any building or

1 place, except a building designed for and used exclusively for a private
2 residence;

3 (22)(a) ~~(22)~~ To receive or initiate complaints of air, water, or
4 land pollution, hold hearings in connection with air, water, or land
5 pollution, and institute legal proceedings in the name of the state for
6 the control or prevention of air, water, or land pollution, and for the
7 recovery of penalties, in accordance with the Environmental Protection
8 Act, the Integrated Solid Waste Management Act, and the Livestock Waste
9 Management Act; and

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

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

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

29 (25) To develop and enforce compliance schedules, under such
30 conditions as the director may prescribe and consistent with the
31 standards, rules, and regulations adopted by the council, to prevent,

1 control, or abate pollution;

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

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

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

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

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

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

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

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

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

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

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

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

18 (38) To recommend to the Governor and the Legislature energy
19 policies and conservation measures for the state and to carry out such
20 measures as are adopted;

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

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

27 (41) To study the impact and relationship of state energy policies
28 to national and regional energy policies and engage in such activities as
29 will reasonably insure that the State of Nebraska and its residents
30 receive an equitable share of energy supplies, including the
31 administration of any federally mandated or state-mandated energy

1 allocation programs;

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

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

6 (44) To design and maintain a state program for conservation of
7 energy and energy efficiency;

8 (45) To provide technical assistance regarding energy to local
9 subdivisions of government;

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

13 (47) To develop a strategic state energy plan pursuant to section
14 81-1604;

15 (48) To develop and disseminate transparent and objective energy
16 information and analysis while utilizing existing energy planning
17 resources of relevant stakeholder entities;

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

20 (50) To monitor energy transmission capacity planning and policy
21 affecting the state and the regulatory approval process for the
22 development of energy infrastructure and make recommendations to the
23 Governor and electronically to the Legislature as necessary to facilitate
24 energy infrastructure planning and development;

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

28 (52) To make all contracts pursuant to subdivisions (35) through
29 (58) of this section and do all things to cooperate with the federal
30 government, and to qualify for, accept, expend, and dispense public or
31 private funds intended for the implementation of subdivisions (35)

1 through (58) of this section;

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

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

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

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

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

15 (58) To form advisory committees of residents of Nebraska to advise
16 the director on programs and policies relating to energy and to assist in
17 implementing such programs. Such committees shall be of a temporary
18 nature, and no member shall receive any compensation for serving on any
19 such committee but, with the approval of the Governor, members shall
20 receive reimbursement for expenses as provided in sections 81-1174 to
21 81-1177. The minutes of meetings of and actions taken by each committee
22 shall be kept and a record shall be maintained of the name, address, and
23 occupation or vocation of every individual serving on any committee. The
24 department shall maintain such minutes and records and shall make them
25 available for public inspection during regular office hours.

26 Sec. 5. Section 81-1505, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 81-1505 (1) In order to carry out the purposes of the Environmental
29 Protection Act, the Integrated Solid Waste Management Act, and the
30 Livestock Waste Management Act, the council shall adopt and promulgate
31 rules and regulations which shall set standards of air, water, and land

1 quality to be applicable to the air, waters, and land of this state or
2 portions thereof. Such standards of quality shall be such as to protect
3 the public health and welfare. The council shall classify air, water, and
4 land contaminant sources according to levels and types of discharges,
5 emissions, and other characteristics which relate to air, water, and land
6 pollution and may require reporting for any such class or classes. Such
7 classifications and standards made pursuant to this section may be made
8 for application to the state as a whole or to any designated area of the
9 state and shall be made with special reference to effects on health,
10 economic and social factors, and physical effects on property. Such
11 standards and classifications may be amended as determined necessary by
12 the council.

13 (2) In adopting the classifications of waters and water quality
14 standards, the primary purpose for such classifications and standards
15 shall be to protect the public health and welfare and the council shall
16 give consideration to:

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

20 (b) The character of the area affected by such classification or
21 standards, its peculiar suitability for particular purposes, conserving
22 the value of the area, and encouraging the most appropriate use of lands
23 within such area for domestic, agricultural, industrial, recreational,
24 and aquatic life purposes;

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

31 (d) The extent of present pollution or contamination of such waters

1 which has already occurred or resulted from past discharges therein; and

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

6 (3) In adopting effluent limitations or prohibitions, the council
7 shall give consideration to the type, class, or category of discharges
8 and the quantities, rates, and concentrations of chemical, physical,
9 biological, and other constituents which are discharged from point
10 sources into navigable or other waters of the state, including schedules
11 of compliance, best practicable control technology, and best available
12 control technology.

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

20 (5) In adopting toxic pollutant standards and limitations, the
21 council shall give consideration to the combinations of pollutants, the
22 toxicity of the pollutant, its persistence, degradability, the usual or
23 potential presence of the affected organisms in any waters, the
24 importance of the affected organisms, and the nature and extent of the
25 effect of the toxic pollutant on such organisms.

26 (6) In adopting pretreatment standards, the council shall give
27 consideration to the prohibitions or limitations to noncompatible
28 pollutants, prohibitions against the passage through a publicly owned
29 treatment works of pollutants which would cause interference with or
30 obstruction to the operation of publicly owned treatment works, damage to
31 such works, and the prevention of the discharge of pollutants therefrom

1 which are inadequately treated.

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

6 (8) In adopting regulations pertaining to the disposal of domestic
7 and industrial liquid wastes, the council shall give consideration to the
8 minimum amount of biochemical oxygen demand, suspended solids, or
9 equivalent in the case of industrial wastewaters, which must be removed
10 from the wastewaters and the degree of disinfection necessary to meet
11 water quality standards with respect to construction, installation,
12 change of, alterations in, or additions to any wastewater treatment works
13 or disposal systems, including issuance of permits and proper
14 abandonment, and requirements necessary for proper operation and
15 maintenance thereof.

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

24 (i) Area conditions such as suitability of location, geologic
25 formations, topography, industry, agriculture, population density,
26 wildlife, fish and other aquatic life, sites of archaeological and
27 historical importance, mineral, land, and water resources, and the
28 existing economic activities of the area including, but not limited to,
29 agriculture, recreation, tourism, and industry;

30 (ii) A site-specific evaluation of the geologic and hydrologic
31 suitability of the site and the injection, disposal, and production

1 zones;

2 (iii) The quality of the existing ground water, the effects of
3 exemption of the aquifer from any existing water quality standards, and
4 requirements for restoration of the aquifer;

5 (iv) Standards for design and use of production facilities, which
6 shall include, but not be limited to, all wells, pumping equipment,
7 surface structures, and associated land required for operation of
8 injection or production wells; and

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

13 (b) The council shall establish fees for regulated activities and
14 facilities and for permits for such activities and facilities. The fees
15 shall be sufficient but shall not exceed the amount necessary to pay the
16 department for the direct and indirect costs of evaluating, processing,
17 and monitoring during and after operation of regulated facilities or
18 performance of regulated activities.

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

29 The rules and regulations adopted and promulgated may also provide
30 for issuance of a commercial permit after a finding by the department
31 that the injection and restoration procedures authorized by the research

1 and development permit have been successful in demonstrating the
2 applicant's ability to inject and restore in a manner which meets the
3 standards required by this subsection and the rules and regulations.

4 (d) For the purpose of this subsection, unless the context otherwise
5 requires, restoration shall mean the employment, during and after an
6 activity, of procedures reasonably designed to control, minimize, and
7 eliminate hazards to humans, animals, and the environment, to protect the
8 public health and welfare and air, land, water, and subsurface resources,
9 and to return each resource to a quality of use consistent with the uses
10 for which the resource was suitable prior to the activity.

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

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

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

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

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

5 (c) Provisions for operating permits to be issued after public
6 notice, to be terminated, modified, or revoked for cause, and to be
7 modified to incorporate new requirements;

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

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

31 (f) Classification of air quality control regions;

1 (g) Standards for air quality that may be established based upon
2 protection of public health and welfare, emission limitations established
3 by the United States Environmental Protection Agency, and maximum
4 achievable control technology standards for sources of toxic air
5 pollutants. For purposes of this subdivision, maximum achievable control
6 technology standards shall mean an emission limit or control technology
7 standard which requires the maximum degree of emission reduction that the
8 council, taking into consideration the cost of achieving such emission
9 reduction, any health and environmental impacts not related to air
10 quality, and energy requirements, determines is achievable for new or
11 existing sources in the category or subcategory to which the standard
12 applies through application of measures, processes, methods, systems, or
13 techniques, including, but not limited to, measures which accomplish one
14 or a combination of the following:

15 (i) Reduce the volume of or eliminate emissions of the pollutants
16 through process changes, substitution of materials, or other
17 modifications;

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

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

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

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

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

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

31 (l) Provisions for periodic reporting of emissions;

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

4 (n) Time schedules for compliance;

5 (o) Requirements for owner or operator testing and monitoring of
6 emissions;

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

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

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

31 In addition the council shall give consideration to (i) ground water

1 monitoring, (ii) use and management of containers and tanks, (iii)
2 surface impoundments, (iv) waste piles, (v) land treatment, (vi)
3 incinerators, (vii) chemical or biological treatment, (viii) landfills
4 including the surveying thereof, and (ix) special requirements for
5 ignitable, reactive, or incompatible wastes.

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

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

28 (b) In adopting regulations for hazardous waste management, the
29 council shall consider, in addition to criteria in subdivision (a) of
30 this subsection, establishing criteria for (i) identifying hazardous
31 waste including extraction procedures, toxicity, persistence, and

1 degradability in nature, potential for accumulation in tissue,
2 flammability or ignitability, corrosiveness, reactivity, and generation
3 of pressure through decomposition, heat, or other means, and other
4 hazardous characteristics, (ii) listing all materials it deems hazardous
5 and which should be subject to regulation, and (iii) locating treatment,
6 storage, or disposal facilities for such wastes. In adopting criteria for
7 flammability and ignitability of wastes pursuant to subdivision (b)(i) of
8 this subsection, no regulation shall be adopted without the approval of
9 the State Fire Marshal.

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

21 (d) In adopting regulations for solid waste disposal, the council
22 shall consider storage, collection, transportation, processing, resource
23 recovery, and disposal of solid waste, developmental and operational
24 plans for solid waste disposal areas, conditions for permitting of solid
25 waste disposal areas, modification, suspension, or revocation of such
26 permits, regulations of operations of disposal areas, including site
27 improvements, fire prevention, ground water protection, safety and
28 restricted access, handling of liquid and hazardous materials, insect and
29 rodent control, salvage operations, and the methods of disposing of
30 accumulations of junk outside of solid waste disposal areas. Such
31 regulations shall in all respects comply with the Environmental

1 Protection Act, the Integrated Solid Waste Management Act, and the
2 Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et
3 seq.

4 (14) In adopting regulations governing discharges or emissions of
5 oil and other hazardous materials into the waters, in the air, or upon
6 the land of the state, the council shall consider the requirements of the
7 Integrated Solid Waste Management Act, methods for prevention of such
8 discharges or emissions, and the responsibility of the discharger or
9 emitter for cleanup, toxicity, degradability, and dispersal
10 characteristics of the substance.

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

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

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

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

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

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

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

27 (g) Inspections of such compost sites by the department. Operations
28 out of compliance with composting regulations, permit conditions, or
29 operational plans shall be given a reasonable time for voluntary
30 compliance, and failure to do so within the specified time shall result
31 in a hearing after notice is given, at which time the owner or operator

1 shall appear and show cause why his or her permit should not be revoked;

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

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

5 (j) The Integrated Solid Waste Management Act.

6 (16) Any person operating or responsible for the operation of air,
7 water, or land contaminant sources of any class for which the rules and
8 regulations of the council require reporting shall make reports
9 containing information as may be required by the department concerning
10 quality and quantity of discharges and emissions, location, size, and
11 height of contaminant outlets, processes employed, fuels used, and the
12 nature and time periods or duration of discharges and emissions, and such
13 other information as is relevant to air, water, or land pollution and is
14 available.

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

25 (18) Standards of quality of the air, water, or land of the state
26 and rules and regulations adopted under the Integrated Solid Waste
27 Management Act or the Livestock Waste Management Act or any amendment or
28 repeal of such standards or rules and regulations shall become effective
29 upon adoption by the council and filing in the office of the Secretary of
30 State. In adopting standards of air, water, and land quality or making
31 any amendment thereof, the council shall specify a reasonable time for

1 persons discharging wastes into the air, water, or land of the state to
2 comply with such standards and upon the expiration of any such period of
3 time may revoke or modify any permit previously issued which authorizes
4 the discharge of wastes into the air, water, or land of this state which
5 results in reducing the quality of such air, water, or land below the
6 standards established therefor by the council.

7 (19) All standards of quality of air, water, or land and all rules
8 and regulations adopted pursuant to law by the council prior to May 29,
9 1981, and applicable to specified air, water, or land are hereby approved
10 and adopted as standards of quality of and rules and regulations for such
11 air, water, or land.

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

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

31 (b) Proof of financial responsibility shall include any of the

1 following made payable to or held in trust for the benefit of the state
2 and approved by the department:

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

5 (ii) A deposit of cash, negotiable bonds of the United States or the
6 state, negotiable certificates of deposit, or an irrevocable letter of
7 credit of any bank or other savings institution organized or transacting
8 business in the United States in an amount or which has a market value
9 equal to or greater than the amount of the bonds required for the bonded
10 area under the same terms and conditions upon which surety bonds are
11 deposited;

12 (iii) An established escrow account; or

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

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

25 (d) In determining the amount of the bond or other method of
26 financial responsibility, the director shall consider the requirements of
27 the permit or license or any conditions specified by the department, the
28 probable difficulty of completing the requirements of such permit,
29 license, or conditions due to such factors as topography, geology of the
30 site, and hydrology, and the prior history of environmental activities of
31 the applicant.

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

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

7 (b) The council may adopt and promulgate rules and regulations to
8 implement a source water petition program no more stringent than section
9 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42
10 U.S.C. 300j-14 et seq.

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

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

28 Sec. 6. The Dredge and Fill Cash Fund is hereby created. The
29 department shall remit all fees collected pursuant to subsection (24) of
30 section 81-1505 and money received by the department in the form of
31 gifts, grants, reimbursements, or monetary transfers from any source

1 intended to be used for the purposes of the fund, to the State Treasurer
2 for credit to the fund. The fund shall be used to pay the reasonable
3 direct and indirect costs required to develop and administer a program to
4 regulate discharges of dredged and fill material under section 404 of the
5 Clean Water Act, as amended, 33 U.S.C. 1251 et seq. Any money in the fund
6 available for investment shall be invested by the state investment
7 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
8 State Funds Investment Act.

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

11 81-1508.01 (1) Any person who violates the Environmental Protection
12 Act, the Integrated Solid Waste Management Act, or the Livestock Waste
13 Management Act by knowingly and willfully committing any of the following
14 offenses shall be guilty of a Class IV felony:

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

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

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

25 (d) Violating any mineral production, mineral exploration, or
26 injection control law, rule, regulation, permit, license, or permit or
27 license condition or limitation;

28 (e) Making any false statement, representation, or certification in
29 any application, label, manifest, record, report, plan, or other document
30 required to be filed or maintained by the Environmental Protection Act,
31 the Integrated Solid Waste Management Act, or the Livestock Waste

1 Management Act or the rules or regulations adopted and promulgated
2 pursuant to such acts;

3 (f) Falsifying, tampering with, or rendering inaccurate any
4 monitoring device or method used or required for compliance with any
5 permit or license or the Environmental Protection Act, the Integrated
6 Solid Waste Management Act, or the Livestock Waste Management Act or the
7 rules or regulations adopted and promulgated pursuant to such acts; ~~or~~

8 (g) Transporting hazardous waste to an unpermitted facility; or ~~or~~

9 (h) Violating any law, rule, regulation, permit, license, or permit
10 or license condition or limitation for the discharge of dredged and fill
11 material under section 404 of the Clean Water Act, as amended, 33 U.S.C.
12 1251 et seq.

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

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

19 (b) Violating any livestock waste control law, rule, regulation,
20 permit, license, or permit or license condition or limitation.

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

26 (4) Each violation under this section shall be actionable. In case
27 of a continuing violation, each day shall constitute a separate offense.
28 Any person who knowingly and willfully violates this section shall be
29 subject to personal liability under this section. In assessing the amount
30 of any fine, the court shall consider the degree and extent of the
31 violation, the size of the operation, and any economic benefit derived

1 from noncompliance.

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

4 81-1511 Any duly authorized officer, employee, or representative of
5 the director may at any reasonable time, with the consent of the person
6 or persons in control of an air, land, or water contaminant source, or
7 property where dredged or fill material is being discharged, enter and
8 inspect any property, premise, or place on or at which such a contaminant
9 source is located or being constructed, installed, or established, or
10 where such dredged or fill material is being discharged, for the purpose
11 of ascertaining the state of compliance with the Environmental Protection
12 Act, the Integrated Solid Waste Management Act, and the Livestock Waste
13 Management Act and rules and regulations in force pursuant to the acts. A
14 suitably restricted search warrant, upon a showing of probable cause in
15 writing and upon oath or affirmation, may be issued by the district court
16 as provided by law to such officer, employee, or representative of the
17 department for the purpose of enabling him or her to make such
18 inspection. No person shall refuse entry or access to any authorized
19 representative of the department who requests entry for purposes of
20 inspection and who presents appropriate credentials and warrants. No
21 person shall obstruct, hamper, or interfere with any such inspection.
22 Nothing in this section shall be construed to prevent prompt inspection
23 without consent or appropriate warrant in acute and compelling emergency
24 situations when there is neither sufficient time nor opportunity to
25 obtain a search warrant. If requested, the owner or operator of the
26 premises shall receive a report setting forth all facts found which
27 relate to compliance status.

28 Sec. 9. Section 81-1532, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 81-1532 Sections 81-1501 to 81-1532 and section 6 of this act shall
31 be known and may be cited as the Environmental Protection Act.

1 Sec. 10. Section 81-15,153, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 81-15,153 The department shall have the following powers and duties:

4 (1) The power to establish a program to make loans to municipalities
5 or to counties, individually or jointly, for construction or modification
6 of publicly owned wastewater treatment works in accordance with the
7 Wastewater Treatment Facilities Construction Assistance Act and the rules
8 and regulations of the council adopted and promulgated pursuant to such
9 act;

10 (2) The power to establish a program to make loans to municipalities
11 or to counties for construction, rehabilitation, operation, or
12 maintenance of nonpoint source control systems in accordance with the
13 Wastewater Treatment Facilities Construction Assistance Act and the rules
14 and regulations of the council adopted and promulgated pursuant to such
15 act;

16 (3) The power, if so authorized by the council pursuant to section
17 81-15,152, to execute and deliver documents obligating the Wastewater
18 Treatment Facilities Construction Loan Fund and the assets thereof to the
19 extent permitted by section 81-15,151 to repay, with interest, loans to
20 or deposits into the fund and to execute and deliver documents pledging
21 to the extent permitted by section 81-15,151 all or part of the fund and
22 its assets to secure, directly or indirectly, the loans or deposits;

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

28 (5) The duty to prepare an annual report for the Governor and the
29 Legislature containing information which shows the financial status of
30 the program. The report submitted to the Legislature shall be submitted
31 electronically;

1 (6) The duty to establish fiscal controls and accounting procedures
2 sufficient to assure proper accounting during appropriate accounting
3 periods, including the following:

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

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

7 (c) Accounting for disbursements made by the fund; and

8 (d) Balancing the fund at the beginning and end of the accounting
9 period;

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

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

16 (9) The power to refinance debt obligations of municipalities in
17 accordance with the rules and regulations adopted and promulgated by the
18 council;

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

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

30 (12) The power to authorize emergency grants to municipalities with
31 wastewater treatment facilities which have been damaged or destroyed by

1 natural disaster or other unanticipated actions or circumstances. Such
2 grants shall not be used for routine repair or maintenance of facilities;

3 (13) The power to provide financial assistance to municipalities
4 with populations of ten thousand inhabitants or less as determined by the
5 most recent federal decennial census or the most recent revised certified
6 count by the United States Bureau of the Census for completion of
7 engineering studies, research projects, investigating low-cost options
8 for achieving compliance with the Clean Water Act, encouraging wastewater
9 reuse, and conducting other studies for the purpose of enhancing the
10 ability of communities to meet the requirements of the Clean Water Act.
11 The department may authorize financial assistance for up to ninety
12 percent of the eligible project cost. Such state allocation shall contain
13 a provision that payment of the amount obligated is conditional upon the
14 availability of appropriated funds;

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

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

23 Sec. 11. Section 81-15,160, Revised Statutes Cumulative Supplement,
24 2020, is amended to read:

25 81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is
26 created. The department shall deduct from the fund amounts sufficient to
27 reimburse itself for its costs of administration of the fund. The fund
28 shall be administered by the department. The fund shall consist of
29 proceeds from the fees imposed pursuant to the Waste Reduction and
30 Recycling Incentive Act.

31 (2) The fund may be used for purposes which include, but are not

1 limited to:

2 (a) Technical and financial assistance to political subdivisions for
3 creation of recycling systems and for modification of present recycling
4 systems;

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

7 (c) Market development for recyclable materials separated by
8 generators, including public education, planning, and technical
9 assistance;

10 (d) Capital assistance for establishing private and public
11 intermediate processing facilities for recyclable materials and
12 facilities using recyclable materials in new products;

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

15 (f) Technical assistance for waste reduction and waste exchange for
16 waste generators;

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

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

24 (i) Grants for reimbursement of costs to cities of the first class,
25 cities of the second class, villages, and counties of five thousand or
26 fewer population for the deconstruction of abandoned buildings. Eligible
27 deconstruction costs will be related to the recovery and processing of
28 recyclable or reusable material from the abandoned buildings.

29 (3) Grants up to one million five hundred thousand dollars annually
30 shall be available until June 30, 2024, for new scrap tire projects only,
31 if acceptable scrap tire project applications are received. Eligible

1 categories of disbursement under section 81-15,161 may include, but are
2 not limited to:

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

6 (b) Reimbursement for the purchase of tire-derived product which
7 utilizes a minimum of twenty-five percent recycled tire content, with
8 disbursements not to exceed twenty-five percent of the product's retail
9 cost;

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

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

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

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

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

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

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

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

4 (4) Priority for grants made under section 81-15,161 shall be given
5 to grant proposals demonstrating a formal public/private partnership
6 except for grants awarded from fees collected under subsection (6) of
7 section 13-2042.

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

19 (6) Any person who stores waste tires in violation of section
20 13-2033, which storage is the subject of abatement or cleanup, shall be
21 liable to the State of Nebraska for the reimbursement of expenses of such
22 abatement or cleanup paid by the department.

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

30 Sec. 12. Original sections 71-5322, 81-1508.01, and 81-1511,
31 Reissue Revised Statutes of Nebraska, and sections 37-455, 71-5318,

- 1 81-1504, 81-1505, 81-1532, 81-15,153, and 81-15,160, Revised Statutes
- 2 Cumulative Supplement, 2020, are repealed.