

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. §§ 2-5301 - 2-5306: Carbon Sequestration Assessment Fund
- IV. Neb. Rev. Stat. § 46-2,137: Water Policy Task Force Cash Fund
- V. Neb. Rev. Stat. § 46-751: Ground Water Management Fund
- VI. Neb. Rev. Stat. § 46-752: Interrelated Water Management Fund
- VII. Neb. Rev. Stat. § 46-753: Water Resources Trust Fund
- VIII. Neb. Rev. Stat. § 46-754: Interrelated Water Management Plan Program Fund
- IX. Neb. Rev. Stat. §§ 46-1403 - 46-1405: Water Well Decommissioning Fund
- X. Neb. Rev. Stat. § 46-1656: Dam Safety Cash Fund
- XI. Neb. Rev. Stat. §§ 61-209 - 61-210: Department of Natural Resources Cash Fund
- XII. Neb. Rev. Stat. § 61-217: Department of Natural Resources Interstate Water Rights Cash Fund
- XIII. Neb. Rev. Stat. § 61-218: Water Resources Cash Fund
- XIV. Neb. Rev. Stat. § 81-1111.04, § 81-15,174: Department of Natural Resources Water Issues Cash Fund
- XV. Neb. Rev. Stat. § 28-106: Classification of Penalties

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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 April 2, 2008.

#### **Cross Reference**

**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 April 2, 2008.

### **III. 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 reports pursuant to sections 2-5304 and 2-5305 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.

### **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 Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

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

**46-2,137. Water Policy Task Force Cash Fund; created; use; investment.**

The Water Policy Task Force Cash Fund is created. The fund shall be administered by the Department of Natural Resources and expended at the direction of the Water Policy Task Force. The fund shall consist of funds appropriated by the Legislature, money received as gifts, grants, and donations, and transfers authorized under sections 2-1579 and 66-1519. 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 2002, LB 1003, § 7.

**Cross Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

**V. 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 Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

### **VI. 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 Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

## **VII. 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 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.

### **VIII. 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.

### **IX. 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 November 21, 2009.

#### **Cross Reference**

**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.

## **X. 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 Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

## **XI. 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 November 21, 2009.

#### **Cross Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

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

**61-217 Department of Natural Resources Interstate Water Rights Cash Fund; created; use; investment.**

The Department of Natural Resources Interstate Water Rights Cash Fund is created. The fund shall be used exclusively for the payment of expenses directly related to interstate water rights litigation. The fund shall contain proceeds transferred from the Nebraska Environmental Trust Fund, gifts, grants, and such other money as is appropriated or transferred by the Legislature. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. This fund terminates on June 30, 2003.

**Source:** Laws 2002, Second Spec. Sess., LB 1, § 11.

#### **Cross Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

### **XIII. Neb. Rev. Stat. § 61-218: Water Resources Cash Fund**

#### **61-218 Water Resources Cash Fund; created; use; investment; eligibility for funding; annual report; contents.**

(1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Water Resources Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(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) credited to the fund from the excise taxes imposed by section 66-1345.01 beginning January 1, 2013.

(3) The fund shall be expended by the department (a) to aid management actions taken to reduce consumptive uses of water 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 and (b) to the extent funds are not expended pursuant to subdivision (a) 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 two million seven hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2009-10 through FY2018-19.

(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 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.

(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 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.

**Source:** Laws 2007, LB701, § 25; Laws 2009, First Spec. Sess., LB3, § 39.  
Effective November 21, 2009.

#### **Cross Reference**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

#### **XIV. 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.

The State Treasurer shall transfer nine hundred twenty-five thousand dollars from the Nebraska Environmental Trust Fund to the Department of Natural Resources Water Issues Cash Fund, as administratively created pursuant to section 81-1111.04, on or after July 1, 2003, but no later than July 10, 2003.

The State Treasurer shall transfer one million dollars from the Nebraska Environmental Trust Fund to the Water Resources Trust Fund on July 1, 2004.

The State Treasurer shall transfer two million seven hundred sixty thousand seven hundred sixty dollars from the Nebraska Environmental Trust Fund to the University of Nebraska Central Administration Designated Cash Fund on March 1, 2007, unless LR 259CA is approved by the voters in the November 2006 general election, then the transfer shall occur on November 15, 2006.

**Cross References**

**Nebraska Capital Expansion Act**, see section 72-1269.

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

**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.

## **XV. Classification of Penalties**

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

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 four 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 six hundred dollars fine; Mandatory minimum — ninety days imprisonment and six hundred 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.

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).