

LEGISLATIVE BILL 53

Approved by the Governor March 31, 1971

Introduced by Ramey C. Whitney, 44th District

AN ACT to amend sections 2-1571 and 81-8,182, Reissue Revised Statutes of Nebraska, 1943, sections 39-2215, 39-2310, 39-2401, 72-1241, 72-1243, 77-27,132, 77-27,144, 81-263.40, 81-805, 81-8,225, and 84-119.01, Revised Statutes Supplement, 1969, and section 77-1342, Revised Statutes Supplement, 1969, as amended by section 1, Legislative Bill 158, Eighty-second Legislature, First Session, 1971, relating to investments; to define terms; to provide for acting state investment officer and his duties; to provide for a deputy state investment officer and his duties; to provide additional duties for the State Treasurer to provide for investment of state funds as prescribed; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 2-1571, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1571. It is hereby declared that because a large portion of the costly public and private flood damages suffered in various areas of the state can be attributed to timber, debris, and other natural obstructions clogging the floodways of this state and obstructing flows, and in the interest of the public health, safety, and general welfare, a special fund should be created to provide assistance to political subdivisions in the removal of natural obstructions in order to minimize public and private property damage insofar as such is caused by any natural obstruction restricting the capacity of the floodways of the waters of the state. Any money in the Snagging and Clearing Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 2. That section 81-8,182, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,182. All fees collected under sections 81-8,158 to 81-8,183 shall be transmitted as received to the State Treasurer for deposit in the state treasury to the credit of a special fund to be known as the Nebraska Collection Agency Fund. The board may use such part of said fund as may be necessary for the proper administration and enforcement of sections 81-8,158 to 81-8,183. The fund shall be paid out only on proper vouchers approved by the chairman of the board and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer as provided by law. The expenses of conducting said board, its office, and the business thereof shall be kept within the income collected and deposited with the State Treasurer by such board and such board, its office and business and the expenses thereof shall not be supported or paid from any other state fund. All fees and expenses of the Attorney General in representing the board shall be paid out of such fund. Any money in the Nebraska Collection Agency Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 3. That section 39-2215, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2215. There is hereby created in the state treasury a special fund to be known as the Highway Trust Fund. All motor fuel taxes and special fuel taxes related to highway use retained by the state, all motor vehicle registration fees retained by the state, and such other highway user taxes which may be imposed by state law and allocated to the fund are hereby irrevocably pledged for the terms of the bonds to the payment of the principal, interest, and redemption premium, if any, of such bonds as they mature and become due at maturity or prior redemption, and for any reserves therefor and shall, as received by the State Treasurer, be deposited in the fund for such purpose. The money in the fund not required for such use may be used for the purchase for retirement of the bonds in the open market or for any other lawful purpose and the balance shall be transferred monthly to the Highway Allocation Fund, established by section 39-2401, for such use as may be provided by law. The State Treasurer shall disburse the money in the Highway Trust Fund as directed by resolution of the commission. The money deposited in the Highway Trust Fund shall be invested in the manner provided by law. The earnings therefrom, if any, shall be credited to the fund. All disbursements for the fund shall be made upon warrants drawn by the

Director of Administrative Services. Any money in the Highway Trust Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 4. That section 39-2310, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2310. All funds received under the provisions of sections 39-2301 to 39-2310 shall be transmitted to the State Treasurer for deposit in the state treasury to the credit of the County Highway and City Street Superintendents Fund which is hereby created and which, when appropriated by the Legislature, shall be expended solely for the administration of the provisions of sections 39-2301 to 39-2311. Any money in the County Highway and City Street Superintendents Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 5. That section 39-2401, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2401. There is hereby established in the state treasury a special fund to be known as the Highway Allocation Fund. There shall be paid into such fund the amounts disbursed from time to time from the Highway Trust Fund as provided by law together with such sums as may be received under the provisions of section 77-27,132, and such further sums as may be appropriated thereto from the General Fund. Any money in the Highway Allocation Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 6. That section 72-1241, Revised Statutes Supplement, 1969, be amended to read as follows:

72-1241. The state investment officer shall devote his entire time and attention to the duties of his office. He shall not engage in any other occupation or profession or hold any other public office, appointive or elective. If for any reason the state investment officer is unable to perform the duties of his office, or the office is vacant due to death, resignation or otherwise, the council shall designate an acting state investment officer to serve until the state investment officer is able to act or the vacancy is filled. With the approval of the council, the state investment officer may designate a deputy to perform such acts and duties as the state investment officer

shall authorize, subject to the same restrictions as apply to the state investment officer. The deputy shall furnish bond in the face amount and conditioned as the bond of the state investment officer. The state investment officer shall be responsible for all official acts of his deputy.

Sec. 7. That section 72-1243, Revised Statutes Supplement, 1969, be amended to read as follows:

72-1243. Except as otherwise provided by this act, the state investment officer shall direct the investment and reinvestment of money in all state funds ~~invested on September 18, 1969 or not currently needed at any time after September 18, 1969~~ and order the purchase, sale or exchange of securities for such funds. He shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

Sec. 8. That section 77-1342, Revised Statutes Supplement, 1969, as amended by section 1, Legislative Bill 158, Eighty-second Legislature, First Session, 1971, be amended to read as follows:

77-1342. There is hereby created a fund to be known as the Tax Commissioner Revolving Fund to which shall be credited all money received by the agency for services performed to county and multicounty assessment districts. The county or multicounty assessment district shall be billed by the Tax Commissioner for services rendered. Reimbursements to the Tax Commissioner shall be credited to the fund and expenditures therefrom shall be made only when such funds are available. The Tax Commissioner shall only bill for the actual amount expended in performing the service.

This fund shall, at the close of the biennium, be lapsed to the General Fund. Any money in the Tax Commissioner Revolving Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 9. That section 77-27,132, Revised Statutes Supplement, 1969, be amended to read as follows:

77-27,132. (1) There is hereby created a fund to be designated Tax Refund Fund which shall be set apart and maintained by the State Treasurer for prompt payments of all tax refunds under the provisions of sections 77-2701 to 77-27,135. Such fund shall be in such amount as the Tax Commissioner shall determine is necessary to meet current refunding requirements under the provisions of sections 77-2701 to 77-27,135. Any money in the Tax Refund Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under the provisions of sections 77-2701 to 77-27,135. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the aforementioned bank and of the amounts so deposited the State Treasurer shall (a) first credit to the Tax Refund Fund such amounts as are necessary to maintain such Tax Refund Fund at the level required by subsection (1) of this section, and (b) then credit to the Highway Allocation Fund all of the proceeds of the sales and use taxes derived from motor vehicles, trailers, and semitrailers. The balance of the amounts so paid shall be credited to the General Fund.

Sec. 10. That section 77-27,144, Revised Statutes Supplement, 1969, be amended to read as follows:

77-27,144. The Tax Commissioner shall collect the tax imposed by any incorporated municipality concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the incorporated municipalities levying the tax, after deducting the amount of refunds made and then three per cent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed under the provisions of sections 77-27,142 to 77-27,148.

All receipts from the three per cent administrative fee shall be deposited in the Tax Commissioner Cash Fund which is hereby created. Expenditures from this fund shall be used for costs incurred in the development, administration, and

enforcement of sections 77-27,142 to 77-27,148. Any money in the Tax Commissioner Cash Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 11. That section 81-263.40, Revised Statutes Supplement, 1969, be amended to read as follows:

81-263.40. (1) The Director of Agriculture is hereby entrusted with the administration and enforcement of the provisions of sections 81-263.37 to 81-263.49. There is hereby created in the Department of Agriculture a division to be known as the division of dairy trade practices. The head of the division shall be the chief of the division of dairy trade practices. All powers of the director under sections 81-263.37 to 81-263.49 may be exercised by and through the chief of the division of dairy trade practices. The director shall employ such accountants and other personnel as in his judgment shall be necessary for the proper performance of his duties.

(2) All money paid to or received by the director under the provisions of sections 81-263.37 to 81-263.49 shall be paid into the state treasury, thereafter to be placed by the State Treasurer in the Dairy Industry Trade Practices Fund which is hereby created and which shall be used solely for the administration of sections 81-263.37 to 81-263.49 and 81-263.81 to 81-263.86. Any money in the Dairy Industry Trade Practices Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

(3) The director shall quarterly set a fee of not to exceed four mills for each pound of butterfat contained in dairy products sold for consumption within this state, such fee to be an amount that will permit an adequate administration of the provisions of sections 81-263.37 to 81-263.49 and 81-263.81 to 81-263.86. Fees shall be collectible quarterly from the first processor of dairy products, but liability therefor shall extend to any distributor thereof. Products on which fees have been paid shall be exempt from further fees in subsequent transactions. The director may recover the amount of any fees from distributors in suits instituted for that purpose. The court may in such suits impose a penalty for delinquent fees in the amount of five per cent of the amount due for each month of delinquency.

Sec. 12. That section 81-805, Revised Statutes

Supplement, 1969, be amended to read as follows:

81-805. Except as herein otherwise provided, the Game and Parks Commission shall have sole charge of state parks, game and fish, recreation grounds, and all things pertaining thereto. All funds rendered available by law, including funds already collected for said purposes, may be used by the commission in administering and developing such resources. The commission shall adopt and carry into effect plans to replenish and stock the state with game and whenever it is in the best interest of the public to do so, to stock the streams, lakes, and ponds, whether public or private, of this state with fish. It may plan such extensions and additions to existing hatcheries and such new plants as may be necessary to supply fully the state with game and fish, and cause said plans to be executed, after ascertaining the cost thereof. With the consent of the Governor, it may by purchase, when funds on hand or appropriated therefor are sufficient, or by gift, devise, or otherwise, acquire title in the name of the State of Nebraska to sites therein situated outside organized municipalities, for additional state parks, hatcheries, recreation grounds, game farms, game refuges, and public shooting grounds, and may enter into appropriate contracts with reference thereto, all within the limits of amounts that may be appropriated, contributed, or available therefor. For these purposes, the commission may enter into appropriate contracts, leases, or lease-purchase agreements. The commission, with the consent of the Governor, is authorized to take, receive, and hold, either in the name of the state or in trust for the state, exempt from taxation, any grant or devise of lands and any gift or bequest of money or other personal property made in furtherance of the purposes contemplated by this section, and shall ~~preserve and may invest~~ have such funds, or the proceeds of such property, ~~in such securities as are authorized by law for the investment of state school funds~~ invested. Such invested funds shall be known as the State Park and Game Refuge Fund, and shall be used and expended under the direction of the commission. Any money in the State Park and Game Refuge Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259. The commission is authorized to make a survey of all lands and areas in the state which are suitable for state parks, game refuges, or other similar purposes contemplated by this section, and to locate and designate any or all of such lands or areas, or parts thereof, and to take such action as may tend to preserve or conserve the same. The commission shall publish such

informational material as it deems necessary and may, at its discretion, charge appropriate fees therefor. The commission is authorized and empowered to adopt and promulgate rules and regulations, under the procedures set forth in sections 84-901 to 84-919, governing the administration and use of all property, real and personal, under its ownership or control, and the commission is charged with the duty and responsibility of adopting such regulations as it shall deem necessary to administer the following activities and facilities:

(1) The commission may adopt regulations to designate camping areas on appropriate lands under its ownership or control and to permit camping thereon. As a condition to such permission, the commission may prescribe such rules and regulations as are reasonable and proper governing public use of such camping areas including, but not limited to, access to camping areas, area capacity, sanitation, opening and closing hours, public safety, fires, establishment and collection of fees where appropriate, protection of property, and zoning of activities, such rules and regulations to be posted on appropriate signs at the areas; Provided, that any person who camps on lands owned or controlled by the commission not designated as a camping area by the commission, or any person who fails to observe the conditions of occupancy, use, or access, posted as provided in this section, shall not have permission. Any person violating the provisions of the regulations above authorized shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section:

(2) The commission may adopt regulations permitting any type of fire, including the smoking of tobacco in any form, and providing for the size, location, and the conditions under which a fire may be established on any area under its ownership or control. The commission may enact regulations permitting the possession, or use, of any type of fireworks not prohibited by law on any areas under its ownership or control. The commission may adopt regulations authorizing management personnel to temporarily revoke permission by the posting of appropriate signs for all fires of any kind whatsoever, including smoking and the use of fireworks, in any area under its ownership or control, when such posting is in the interest of public health, safety, and welfare, or for the preservation of property; Provided, that any person who shall light any type of fire, who shall use any fireworks, or who shall smoke tobacco in any form, or who shall leave, unattended and unextinguished, any fire of any type in

any location, in any area under the ownership or control of the commission, unless the commission shall have given permission, which permission shall not have been revoked, to such type of fire, use or possession of fireworks, or to such smoking of tobacco, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(3) The commission may adopt regulations permitting pets, domestic animals, and poultry, to be brought upon, possessed, grazed, maintained, or run at large, on any area, or portion of any area, under its ownership or control; Provided, that any person who brings upon, possesses, grazes, maintains, or permits to run at large his pets, domestic animals, or poultry on any area, or portion of any area, under the ownership or control of the commission, unless the commission shall have permitted such bringing upon, possession, grazing, maintaining, or running at large, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(4) The commission is authorized to enact regulations, temporarily or permanently, permitting hunting, fishing, or the public use of firearms, bow and arrow, or any other projectile weapons or devices on any area or any portion of any area under its ownership or control. The commission is authorized to enact special regulations permitting trapping on any such area or areas; Provided, that any person who shall, without the permission of the commission, hunt, fish, trap, or use firearms, bow and arrow, or any other projectile weapon or device on any area or any portion of any area under the ownership or control of the commission, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(5) The commission is authorized to enact regulations permitting swimming, bathing, boating, wading, water skiing, and the use of any floatation device on all or any portion of any area under its ownership or control. Such regulations may include permission for swimming, bathing, boating, water skiing, wading, or the use of floatation devices, and all other water-related recreational activities in all areas, or any portion of any specific area, under the ownership or control of the commission, and may provide for special general conditions for specific swimming, water skiing, boating, bathing, or wading areas, which shall be posted at such areas; Provided, that any person who shall swim,

bathe, boat, wade, water ski, or use any floatation device on all or any portion of any area under the ownership or control of the commission, unless the commission shall have given permission for such activity in the specific area or portion thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(6) The commission may enact regulations relating to the protection, use or removal of, any public real or personal property on any area under its ownership or control, and may regulate or prohibit the construction or installation of any privately-owned structure on such area. The commission may close all or any portion of any area under its ownership or control to any form of public use or access with the erection of proper signs, without the enactment of formal written regulations; Provided, that any person who shall, without the permission of the commission, construct or install any privately-owned structure, or who shall use or remove any public real or personal property, on any area under the ownership or control of the commission, or who shall enter or remain upon all or any portion of any area under the ownership or control of the commission, where proper signs or public notices prohibiting the same have been erected or displayed, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(7) Any person who shall abandon any motor vehicle, trailer, or other conveyance, in any area under the ownership or control of the commission, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(8) The commission is authorized to enact regulations permitting the sale, trade, or vending of any goods, products or commodities of any type in any area under its ownership or control; Provided, that any person who shall sell, trade, or vend any goods, products or commodities of any type, in any area under the ownership or control of the commission, without having received the prior permission of the commission for such activity, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(9) Where the permission of the commission is required as a prerequisite to any activity set out in sections 39-736 to 39-738 and this section, such

permission shall be established by resolution of the commission; Provided, that such resolution may set out the circumstances under which the supervisor or managing official in charge of any area under the ownership or control of the commission may give such permission in emergency situations, and such resolutions may further provide for the revocation of such permission by the secretary of the commission, or by the supervisor or managing official of any area under the ownership and control of the commission. Any law enforcement official, including any conservation officer or deputy conservation officer, is authorized to enforce the provisions of sections 39-736 to 39-738 and this section. Where a violation has occurred in or on any area under the ownership or control of the commission any conservation officer or deputy conservation officer may arrest and detain any person committing such violation, or committing any misdemeanor or felony as provided by the laws of this state until a legal warrant can be obtained. Any person guilty of a misdemeanor as set forth in sections 39-736 to 39-738 and this section shall, upon conviction thereof, be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days, or both such fine and imprisonment.

The commission is authorized to issue, regardless of any other requirements or qualifications of law, without cost, special fishing permits to wards of the state, on a group basis, for therapeutic purposes, when application has been made to the commission by the head of the appropriate state institution involved. The commission is further authorized to enter into agreements with other states bordering on the Missouri River providing for reciprocal recognition of licenses, permits, and laws of the agreeing states. The commission is also authorized and shall have the duty, when funds have been made available, to advertise and promote the scenic, historic and outdoor recreational values and attractions of the state, and to do such things pertaining thereto as will attract nonresident trade to Nebraska.

The commission is authorized to grant easements across real estate under its control for purposes that are in the public interest and do not negate the primary purpose for which the real estate is owned or controlled by the commission.

Sec. 13. That section 81-8,225, Revised Statutes Supplement, 1969, be amended to read as follows:

81-8,225. There is hereby established in the state treasury a Tort Claims Fund from which all awards or judgments under this act shall be paid. This fund shall be in such amount as the Legislature shall determine to be reasonably sufficient to meet anticipated biennial claims. When the amount of money in the Tort Claims Fund is not sufficient to pay any awards or judgments under this act, the Director of Administrative Services shall immediately advise the Legislature, and request an emergency appropriation to satisfy such awards and judgments. Any money in the Tort Claims Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 14. That section 84-119.01, Revised Statutes Supplement, 1969, be amended to read as follows:

84-119.01. There is hereby established in the state treasury a special fund to be known as the Natural Disaster Fund. Any money in the Natural Disaster Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

Sec. 15. That original sections 2-1571 and 81-8,182, Reissue Revised Statutes of Nebraska, 1943, sections 39-2215, 39-2310, 39-2401, 72-1241, 72-1243, 77-27,132, 77-27,144, 81-263.40, 81-805, 81-8,225, and 84-119.01, Revised Statutes Supplement, 1969, and section 77-1342, Revised Statutes Supplement, 1969, as amended by section 1, Legislative Bill 158, Eighty-second Legislature, First Session, 1971, are repealed.

Sec. 16. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.