

LEGISLATIVE BILL 1257

Approved by the Governor April 17, 1992

Introduced by Morrissey, 1; Hartnett, 45; Horgan, 4;
Beutler, 28

AN ACT relating to the environment; to amend sections 9-812, 9-823, 13-1701, 13-1703, 13-1704, 13-1709, 14-102, 18-2528, 19-2111, 69-2008, 69-2009, 71-1631, 81-1501, 81-1502, 81-1503, 81-1504, 81-1505, 81-1505.01, 81-1506, 81-1507, 81-1510, 81-1511, 81-1512, 81-1516, 81-1527, 81-1566, and 81-1572 to 81-1574, Reissue Revised Statutes of Nebraska, 1943, sections 81-15,159, 81-15,160, 81-1602, 81-1645, 81-1646, and 81-1648, Revised Statutes Supplement, 1990, sections 58-202, 58-203, 58-219, 58-239, 58-253, 81-1508, 81-1528, 81-1532, and 81-1647, Revised Statutes Supplement, 1991, and section 14-1108, Reissue Revised Statutes of Nebraska, 1943, as amended by section 34, Legislative Bill 746, Ninety-second Legislature, Second Session, 1992; to adopt the Integrated Solid Waste Management Act; to adopt the Nebraska Environmental Trust Act; to create the Solid Waste Landfill Closure Assistance Fund and provide procedures for its use; to change provisions relating to the distribution of proceeds from the State Lottery Act; to change provisions relating to municipal referendums and limited referendums; to define and redefine terms; to change provisions relating to siting approval and garbage disposal fees; to authorize the issuance of bonds by the Nebraska Investment Finance Authority for solid waste management; to state and restate intent; to rename the Department of Environmental Control, the Director of Environmental Control, the Environmental Control Council, and the Department of Environmental Control Cash Fund; to provide and change powers and duties for the Department of Environmental Quality, the Environmental Quality Council, and the State Board of Health; to create the Small Business Compliance Advisory Panel; to provide for an

emission fee; to provide for a public advocate; to change provisions relating to the control of air pollution; to change a reference to federal law; to change, provide, and eliminate penalty and enforcement provisions; to prohibit disposal of solid waste as prescribed; to provide exemptions; to change the date of an exemption as prescribed; to change a termination date relating to the Nebraska Litter Reduction and Recycling Act; to change administration of the State Government Recycling Management Act; to eliminate an appropriation; to eliminate provisions relating to preliminary orders and processing of applications; to eliminate provisions relating to solid waste disposal plans, permits, licenses, and siting procedures, to disposal of household refuse, and to landfill operations; to provide a duty for the Revisor of Statutes; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections, and also sections 19-2107, 19-2112, 19-2113, 19-4101 to 19-4121, 81-1517 to 81-1520, 81-1522, and 81-1571, Reissue Revised Statutes of Nebraska, 1943, and Laws 1991, LB 429A, section 1; and to declare an emergency.

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

Section 1. Sections 1 to 43 of this act shall be known and may be cited as the Integrated Solid Waste Management Act.

Sec. 2. The Legislature hereby finds and declares that:

(1) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(2) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(3) The growing concern with ground water protection and the desire to avoid financial risks

inherent in ground water contamination has caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost;

(4) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(5) Local governments are currently authorized to provide solid waste management services. As a group, counties and municipalities are best positioned to develop efficient solid waste management programs;

(6) An assignment of responsibility for integrated solid waste management should not prohibit governmental entities from procuring services from other units of governments or from private persons. It is the intent of the Legislature that natural resources districts, interlocal cooperative entities, tribal governments, and other statutory and voluntary regional organizations be encouraged to cooperatively provide financing or services to governmental entities responsible for solid waste management; and

(7) A variety of benefits results from a policy of integrated solid waste management, including the following environmental, economic, governmental, and public benefits:

(a) Not producing waste in the first instance is the most certain means for avoiding the widely recognized health and environmental damage associated with waste. Although waste reduction will never eliminate all wastes, to the extent that waste reduction is achieved it results in the most certain form of direct risk reduction;

(b) The government is better able to administer programs which offer a variety of benefits to industry and which reduce the overall cost of government involvement than to administer programs which offer few benefits to industry and require increasingly extensive, complex, and costly governmental actions; and

(c) Public confidence in environmental policies of the government is important for the effectiveness of these policies. Waste reduction and recycling pose no adverse environmental and public health effects and do not therefor lead to increased public concern. Waste reduction and recycling also increase the public confidence that government and industry are doing all that is possible to protect the environment and the public health and welfare.

Sec. 3. For purposes of the Integrated Solid Waste Management Act, the definitions found in sections 4 to 16 of this act shall be used.

Sec. 4. Agency shall mean any combination of two or more municipalities or counties acting together under the Interlocal Cooperation Act, a natural resources district acting alone or together with one or more counties and municipalities under the act, or any joint entity as defined in section 13-803.

Sec. 5. Council shall mean the Environmental Quality Council.

Sec. 6. County shall mean any county in the State of Nebraska.

Sec. 7. County solid waste jurisdiction area shall mean all areas of a county not located within the corporate limits of a municipality except a facility which does not serve unincorporated areas of the county.

Sec. 8. Department shall mean the Department of Environmental Quality.

Sec. 9. Director shall mean the Director of Environmental Quality.

Sec. 10. Facility shall mean any site owned and operated or utilized by any person for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste and shall include a solid waste landfill.

Sec. 11. Integrated solid waste management shall mean solid waste management which is focused on planned development of programs and facilities that reduce waste toxicity and volume, recycle marketable materials, and provide for safe disposal of residuals.

Sec. 12. Municipal solid waste jurisdiction area shall mean all the incorporated areas of a city or of a village.

Sec. 13. Municipality shall mean any city or village incorporated under the laws of this state.

Sec. 14. Solid waste shall have the definition found in section 81-1502.

Sec. 15. Solid waste management plan shall mean a plan adopted by a county or municipality, including a joint plan adopted by an agency, for integrated solid waste management.

Sec. 16. System shall mean any equipment, vehicles, facilities, personnel, or contractors utilized for the purpose of collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste.

Sec. 17. It is the policy of this state:

(1) To encourage the development of integrated

solid waste management programs, including waste volume reduction and recycling programs and education, at the local governmental level through incentives, technical assistance, grants, and other practical measures;

(2) To support and encourage the development of new uses and markets for recycled goods, placing emphasis on the development in Nebraska of businesses relating to waste reduction and recycling;

(3) To provide education concerning the components of integrated solid waste management, at the elementary level through the high school level and through community organizations, to enhance the success of local programs requiring public involvement; and

(4) To support and encourage manufacturing methods which are environmentally sustainable, technologically safe, and ecologically sound and which enhance waste reduction by creating products which have longer usage life and which are adaptable to secondary uses, require less input material, and decrease resource consumption.

Sec. 18. (1) An effective and efficient program of integrated solid waste management protects the environment and the public and provides the most practical and beneficial use of the solid waste material. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste are encouraged. In the promotion of these goals, the following solid waste management hierarchy, in descending order of preference, is established as the integrated solid waste management policy of the state:

(a) Volume reduction at the source;

(b) Recycling, reuse, and vegetative waste composting;

(c) Land disposal;

(d) Incineration with energy resource recovery; and

(e) Incineration for volume reduction.

(2) In the implementation of the integrated solid waste management policy, the state shall establish and maintain a cooperative state and local program of project planning and technical assistance to encourage integrated solid waste management.

Sec. 19. Because of the rights of both tribal sovereignty and Nebraska citizenship of individuals under the jurisdiction of federally recognized tribal governments, such tribal governments are recognized as localities which can assume responsibility for

integrated solid waste management. The department shall present the state's comprehensive solid waste management plan completed pursuant to section 81-15,166 to the federally recognized tribal governments in Nebraska and encourage such tribes to adopt the state's laws, rules, regulations, and standards for integrated solid waste management.

Sec. 20. (1) Effective October 1, 1993, each county and municipality shall provide or contract for facilities and systems as necessary for the safe and sanitary disposal of solid waste generated within its solid waste jurisdiction area. Such disposal shall comply with rules and regulations adopted and promulgated by the council for integrated solid waste management programs.

(2) A county, municipality, or agency may jointly own, operate, or own and operate with any person any facility or system and may enter into cooperative agreements as necessary and appropriate for the ownership, operation, or ownership and operation of any facility or system.

(3) A county, municipality, or agency may, either alone or in combination with any other county, municipality, or agency, contract with any person to provide any service, facility, or system required by the Integrated Solid Waste Management Act.

(4) The governing body of a county, municipality, or agency may make all necessary rules and regulations governing the use, operation, and control of a facility or system. Such governing body may establish just and equitable rates or charges to be paid to it for the use of such facility or system by each person whose premises are served by the facility or system, including charges for late payments, except that no city of the metropolitan class shall impose any rate or charge upon individual residences unless a majority of those voting in a regular or special election vote affirmatively to approve or authorize establishment of such a rate or charge. If the service charge so established is not paid when due, such sum may be recovered by the county, municipality, or agency in a civil action or, following notice by regular United States mail to the last-known address of the property owner of record and an opportunity for a hearing, may be certified by the governing body of the county, municipality, or agency to the county treasurer and assessed against the premises served and collected or returned in the same manner as other taxes are certified, assessed, collected, and returned.

(5) If the county, municipality, or agency enters into a contract with a person to provide a facility or system, such contract may authorize the person to charge the owners of premises served such a service rate therefor as the governing body determines to be just and reasonable or the county, municipality, or agency may pay therefor out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract or assess the owners of the premises served a reasonable charge therefor to be collected as provided in this section and paid into a fund to be used to defray such contract charges.

Sec. 21. A county, municipality, or agency may purchase, plan, develop, construct, equip, maintain, and improve facilities and systems and may lease or acquire land in fee by gift, grant, purchase, or condemnation as necessary for the construction and operation of a facility or system. A county, municipality, or agency may also make and enter into contracts with any person for the planning, development, construction, maintenance, or operation of such facility or system or any part thereof. Measures adopted or enacted by municipalities with respect to any facility or system shall constitute measures subject to limited referendum under subsection (2) of section 18-2528, and a municipality shall be authorized to exempt all subsequent measures relating to the same project from referendum and limited referendum as provided under subsection (4) of such section.

Sec. 22. A county, municipality, or agency shall close a facility in accordance with rules and regulations adopted by the council.

Sec. 23. A county, municipality, or agency may, by ordinance or resolution, adopt regulations governing collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste within its solid waste jurisdiction area as necessary to protect the public health and welfare and the environment. Regulations authorized by this section shall be equal to or more stringent than the provisions of the Integrated Solid Waste Management Act and rules and regulations adopted and promulgated by the council as authorized by the act. Any person who violates any such regulation shall be subject to a noncompliance fee not to exceed five hundred dollars.

Sec. 24. Notwithstanding any other provision of Nebraska law, any county or municipality may enter into a service agreement with an agency which owns and

operates or proposes to own and operate any solid waste management facility or system for obtaining solid waste management services from such agency. Any such service agreement may provide for the following:

(1) The payment of fixed or variable periodic amounts for service or the right to obtain service;

(2) That such service agreement may extend for a term of years as determined by the governing body of the county or municipality and be binding upon such county or municipality over such term of years;

(3) That variable or fixed amounts payable under such contracts may be determined based upon one or more of the following factors:

(a) Operating and maintenance expenses of the agency, including contract renewal and replacement for plant and equipment;

(b) Amounts payable by the agency with respect to debt service on its bonds or other obligations, including margins of coverage if deemed appropriate; and

(c) Amounts necessary for the agency to build or maintain operating reserves, capital reserves, and debt-service reserves;

(4) That any such service agreement may require payment to be made in the agreed fixed or variable amounts irrespective of whether such facility or system is completed or operational and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the services of such facility or system; and

(5) Such other provisions as the agency and county or municipality deem appropriate in connection with providing and obtaining solid waste management services.

In order to provide for the payments due under any such service agreement, any county or municipality may pledge the revenue received from any and all rates and charges received or to be received from provision of solid waste management services or from contracts with any other persons or entities, private or public, and may further provide, if determined appropriate by the governing body, that any deficiency in such revenue may be made up from a special tax levied for such purpose upon all taxable property within such county or municipality, which special tax shall for all purposes of Nebraska law, including limitations upon budget, revenue, and expenditures of public funds, have the same status as a tax levied for the purpose of paying the bonded indebtedness of such county or municipality.

Sec. 25. Any county, municipality, or agency

entering into any service agreement under section 24 of this act shall fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities furnished to its customers and users by and through its system as will be sufficient to:

(1) Pay (a) the cost of operating and maintaining the system and renewals or replacements thereto, including all amounts due and payable under such service agreement, and (b) the interest on and principal of any outstanding bonds or other indebtedness of the county, municipality, or agency relative to the service agreement, whether at maturity or upon sinking-fund redemption, which are payable from the revenue of its system; and

(2) Provide, as may be required by any resolution, ordinance, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for such operating and maintenance expenses and for any margins or coverages over and above debt service.

Sec. 26. That section 81-1572, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1572- In furtherance of the policy of the state as set forth in section 81-1571 the Integrated Solid Waste Management Act, municipalities, counties, and public corporations may enact an ordinance, a resolution, agencies may by ordinance or resolution adopt rules and regulations or may adopt bylaws or may enter into written agreements between and among themselves and private or corporate landfill or other waste disposal facility operators or other persons which shall limit or shall set regulate and govern solid waste management within their solid waste jurisdiction areas, including the establishment of conditions to assure that a specified amount and type of garbage or solid waste material will be delivered to a specific landfill or other waste disposal facility.

Sec. 27. That section 81-1573, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1573- In exercising the powers granted in sections 81-1571 to 81-1574 to execute agreements the Integrated Solid Waste Management Act, municipalities, counties, and public corporations agencies shall be exempt from all rules and regulations of state regulatory competition. It is intended that municipalities, counties, or public corporations

agencies carrying out the activities described in sections 81-1571 to 81-1574 the act receive full exemption and immunity from state and federal antitrust laws in light of the public purpose and regulatory provisions provided by sections 81-1571 to 81-1574 the act. The exemption granted pursuant to this section shall not be construed to diminish any other exemption for similar activities authorized through grants of authority to other public bodies even though such exemption may not be stated in terms of antitrust.

Sec. 28. That section 81-1574, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1574- The exemption granted under sections 81-1571 to 81-1574 section 27 of this act shall not constitute a waiver of or exemption from the bidding provisions of sections 16-321 and 17-568.01 or any other similar provision.

Sec. 29. On or before October 1, 1992, each county and municipality shall file a statement of intent with the department describing the way in which it intends to fulfill its responsibility for integrated solid waste management. If a municipality or county intends to enter into a cooperative relationship with another entity to fulfill such responsibility, documentation of the reciprocal intent of those entities shall be included with the statement. If no statement of intent is filed by a municipality or county, the responsibility for integrated solid waste management shall remain with the nonfiling county or municipality.

Sec. 30. On or before October 1, 1993, a certification shall be filed with the department on behalf of each county and municipality with respect to (1) facility and system capacity for solid waste management for the solid waste generated within each solid waste jurisdiction area and (2) facility and system capacity for solid waste generated outside of each solid waste jurisdiction area and disposed of in facilities within each solid waste jurisdiction area. If a county or municipality is unable to certify capacity for waste generated outside its solid waste jurisdiction area, it may restrict access to its facilities and systems for such solid waste. Such certification shall be approved by the department if it is found to be in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted under the act.

Sec. 31. On or before October 1, 1994, an integrated solid waste management plan shall be filed

with the department on behalf of each county and municipality. Such plan shall be approved by the department if it is found to be in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted under the act.

Sec. 32. (1) Each integrated solid waste management plan filed pursuant to section 31 of this act shall at a minimum:

(a) Certify facility and system capacity for solid waste management for the solid waste generated within each solid waste jurisdiction area for the twenty years following October 1, 1994;

(b) Certify facility and system capacity for solid waste generated outside of each solid waste jurisdiction area and disposed of in facilities within each solid waste jurisdiction area for the twenty years following October 1, 1994. If a county or municipality is unable to certify capacity for waste generated outside its solid waste jurisdiction area, it may restrict access to its facilities and systems for such solid waste;

(c) Incorporate and reflect the waste management hierarchy of the state integrated solid waste management policy;

(d) State the extent to which solid waste generated within the area covered by the plan is or can be recycled;

(e) State the economic and technical feasibility of using other existing disposal facilities in lieu of initiating new disposal facilities or continuing the use of disposal facilities in use at the time the plan is filed;

(f) State the expected environmental impact of alternative solid waste disposal methods, including the use of landfills;

(g) State a specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact; and

(h) State such additional information, data, and studies as may be required pursuant to rules and regulations adopted by the council.

(2) The integrated solid waste management plan shall provide for a local waste reduction and recycling program. If technically and economically feasible, the volume of materials disposed of in landfills as of July 1, 1994, shall be reduced by twenty-five percent as of July 1, 1996, by forty percent as of July 1, 1999, and by fifty percent as of July 1, 2002. Any county,

municipality, or agency which had in effect a recycling or waste reduction program prior to July 1, 1994, shall be credited with the waste-stream reduction achieved prior to July 1, 1994, with respect to the July 1, 1996, goal. The following wastes shall be given first priority when developing reduction and recycling programs and related timetables in relation to an integrated solid waste management plan:

(a) Yard wastes;

(b) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act;

(c) Discarded tires;

(d) Waste oil;

(e) Lead-acid batteries; and

(f) Discarded household appliances.

In addition, such plan shall provide a methodology for implementing a program of separation of wastes, including, but not limited to, glass, plastic, paper, and metal.

(3) The solid waste management plan shall be updated for compliance with federal and state laws and regulations as required by the department and may be updated, subject to approval by the department, at any time to reflect local needs and conditions.

Sec. 33.

(1) Except as provided in subsections (2) and (3) of this section, after October 1, 1993, no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility. The council may adopt and promulgate rules and regulations regarding the permitting of this activity, which rules and regulations shall protect the public interest but may be based upon criteria less stringent than those regulating a landfill. The council may adopt and promulgate rules and regulations exempting from permit requirements under this section (a) the use of dirt, stone, brick, or some inorganic compound for landfill, landscaping excavation, or grading purposes, (b) the placement of tires, posts, or ferrous objects, not contaminated with other wastes, for bank or blowout stabilization, or (c) such other waste placement or depositing activities that are found not to pose a threat to the public health or welfare.

(2) No person shall be found to be in violation of this section if (a) the solid waste generated by an individual is disposed of on such individual's property, (b) such property is outside the

corporate limits of a municipality, and (c) the department determines that the county has not provided integrated solid waste management facilities for its residents.

(3) Any person, county, municipality, or agency may apply to the department for an extension of the deadline contained in subsection (1) of this section. The department shall determine whether or not to grant such extension based upon the good faith efforts of the person, county, municipality, or agency to comply with the Integrated Solid Waste Management Act.

Sec. 34. The council shall adopt and promulgate rules and regulations which shall include the following:

(1) A permit program for facilities providing for permits to be issued to owners and operators;

(2) Requirements for the collection, source separation, storage, transportation, transfer, processing, recycling, resource recovery, treatment, and disposal of solid wastes as well as developmental and operational plans for facilities. Regulations concerning operations may include waste characterization, composition, and source identification, site improvements, air and methane gas monitoring, ground water and surface water monitoring, daily cover, insect and rodent control, salvage operations, waste tire disposal, safety and restricted access, inspection of loads and any other necessary inspection or verification requirements, reporting of monitoring analysis, record keeping and other reporting requirements, handling and disposal of wastes with special characteristics, and any other operational criteria, location criteria, or design criteria necessary to minimize environmental and health risks and to provide protection of the air, land, and waters of the state; and

(3) Requirements for closure and postclosure care and monitoring of landfills. Such rules and regulations shall require financial assurance for such activities and shall impose any necessary requirements upon owners or operators in order to assure proper closure, care, and monitoring of landfills to minimize the need for future maintenance and eliminate, to the extent necessary to protect humans, animals, and the environment, releases or the threat of releases of contaminants or leachate.

Sec. 35. Any applicant who applies to the department for a permit for a facility pursuant to the

Integrated Solid Waste Management Act shall be exempt from the siting approval requirements of sections 13-1701 to 13-1714 if a county, municipality, or agency is to be the owner of the facility and the facility is to be located in a county the unincorporated areas of which are among the areas to be served by such facility or the facility is to be located in the county of a municipality to be served by such facility if such facility will not serve unincorporated areas of a county.

The application of such county, municipality, or agency shall show that the applicant:

(1) Has considered the siting, operational, and traffic criteria established by section 13-1703;

(2) Has given notice of the proposed siting pursuant to the procedures established by section 13-1704;

(3) Has conducted a public hearing regarding the proposed siting preceded by published notice in a newspaper of general circulation in the county or municipality in which the proposed facility is to be located; and

(4) Has submitted a record of such hearing with its application to the department.

Sec. 36. (1) The department shall review applications for permits for facilities and provide for the issuance, modification, suspension, denial, or revocation of permits after public notice. Applications shall be on forms provided by the department which solicit information necessary to make a determination on the application. The department shall issue public notice of its intent to grant or deny an application for a permit within sixty days after receipt of an application containing all required information. If an application is denied, the department shall provide written rationale therefor to the applicant. Any change, modification, or other deviation from the terms or conditions of an approved permit must be approved by the director prior to implementation.

(2) The department shall condition the issuance of permits on terms necessary to protect the public health and welfare and the environment as well as compliance with all applicable regulations.

(3) The director shall require the owner or operator of a facility to undertake investigation and corrective action in the event of contamination or a threat of contamination caused by the facility. Financial assurance for investigative or corrective action may be required in an amount determined by the

director following notice and hearing.

(4) In addition to the information required by this section, the following specific areas shall be addressed in detail in any application filed in conjunction with the issuance, renewal, or reissuance of a permit for a facility:

(a) A closure and postclosure plan detailing the schedule for and the methods by which the operator will meet the conditions for proper closure and postclosure of the facility as defined by the council. The plan shall include, but not be limited to, the proposed frequency and types of actions to be implemented prior to and following closure of an operation, the proposed postclosure actions to be taken to return the area to a condition suitable for other uses, and an estimate of the costs of closure and postclosure and the proposed method of meeting the costs;

(b) A plan for the control and treatment of leachate, including financial considerations proposed in meeting the costs of such control and treatment; and

(c) An emergency response and remedial action plan, including provisions to minimize the possibility of fire, explosion, or any release to air, land, or water of pollutants that could threaten human health and the environment and the identification of possible occurrences that may endanger human health and environment.

If such application is modified after approval by the department, the application shall be resubmitted as a new proposal.

Sec. 37. (1) The department shall keep current the comprehensive state plan for solid waste management developed pursuant to section 81-15,166, including the rules, regulations, and guidelines adopted by the council for facilities in cooperation with local governments and with agencies.

(2) Rules and regulations adopted and promulgated by the council shall comply with rules and regulations promulgated by the Environmental Protection Agency pursuant to the Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., including the exemptions and deadlines provided for in 40 C.F.R. 258.1.

(3) The department shall apply for approval to the Environmental Protection Agency to attain an approved state program for solid waste management.

Sec. 38. The council shall adopt and

promulgate rules and regulations which define yard waste, lead-acid batteries, discarded household appliances, waste oil, and unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

Sec. 39. (1) On and after September 1, 1994, land disposal of yard waste shall be prohibited, except that yard waste which has been separated at its source from other solid waste may be accepted by a landfill for the purpose of soil conditioning or composting. State and local governmental entities responsible for the maintenance of public lands shall give preference to the use of composted materials in all land maintenance activities. Nothing in this section shall be construed to prohibit the use of yard waste as land cover or as soil-conditioning material.

(2) On and after September 1, 1994, land disposal of lead-acid batteries and waste oil shall be prohibited.

(3) On and after September 1, 1995, land disposal of waste tires shall be prohibited except for waste tires processed in a manner established by the department. A landfill shall not refuse to accept a waste tire which has been properly processed.

(4) On and after September 1, 1995, land disposal of discarded household appliances shall be prohibited.

(5) On and after September 1, 1996, land disposal of unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act shall be prohibited unless such disposal occurs at a licensed hazardous waste disposal facility.

(6) For purposes of this section, land disposal shall include, but not be limited to, incineration at a landfill.

Sec. 40. The department shall review all licenses for solid waste management facilities which were issued under the Environmental Protection Act prior to the operative date of this section and which expire after October 1, 1993, to determine whether the licensee is in compliance with the requirements of the Integrated Solid Waste Management Act and the rules and regulations adopted by the council.

The department may require such licensee to furnish written documentation evidencing compliance. If the department determines that the licensee is not in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted by the

council, the department may issue an amended permit as necessary to bring the licensee into compliance with these provisions.

All licenses for solid waste management facilities issued under the Environmental Protection Act prior to the operative date of this section shall expire at the stated date of expiration if such expiration date is before October 1, 1993, except that the department may extend such licenses to continue until October 1, 1993, if it finds that the facility remains in compliance with the Environmental Protection Act and the rules and regulations adopted thereunder by the council prior to the operative date of this section.

Permits for facilities issued pursuant to the Integrated Solid Waste Management Act shall expire five years following the date of issuance and may be renewed only if the department determines, upon application, that the permit holder is in compliance with all requirements of the act.

Sec. 41. There is hereby created the Integrated Solid Waste Management Cash Fund. All fees collected by the department pursuant to this section or fees designated pursuant to section 42 of this act or money forfeited under subsection (21) of section 81-1505 shall be remitted to the State Treasurer for credit to the fund. Forfeited funds may only be used for purposes specified in the underlying financial assurance instrument. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

The council shall adopt and promulgate rules and regulations establishing a fee schedule to be paid to the department by persons applying for a permit to operate a facility pursuant to the Integrated Solid Waste Management Act or the Environmental Protection Act. Payment shall be made in full to the department before the application is processed.

By October 1 of each year, any person holding a permit under the Integrated Solid Waste Management Act or to operate a solid waste management facility under the Environmental Protection Act shall pay an annual fee in an amount to be determined by the council. The annual fee shall be sufficient to cover the costs of ongoing permit considerations. The fees collected pursuant to this section shall not exceed the amount necessary to pay reasonable costs of administering the permit program pursuant to the Integrated Solid Waste Management Act or the Environmental Protection Act.

Sec. 42. (1) A disposal fee of one dollar and

twenty-five cents is imposed for each six cubic yards of uncompacted solid waste, one dollar and twenty-five cents for each three cubic yards of compacted solid waste, or one dollar and twenty-five cents per ton of solid waste disposed of at landfills regulated by the department. Each operator of a landfill disposal facility shall make the fee payment quarterly. The fee shall be paid quarterly to the department on or before the twentieth day of the month immediately following the end of each quarter. For purposes of this section, landfill shall have the same definition as municipal solid waste landfill unit in 40 C.F.R. part 258, subpart A, section 258.2.

(2) The department shall exempt a landfill operator from the disposal fee imposed by this section for solid waste that is disposed pursuant to a contract shown to have been in effect on or before December 15, 1991, if such contract requires the landfill operator to dispose of solid waste without a mechanism for a price increase for a period of not less than one year. Such exemption shall terminate at the earlier of the following dates: (a) The date such contract allows for a price increase; (b) the expiration of such contract; or (c) July 1, 1994.

(3) Each fee payment shall be accompanied by a form prepared and furnished by the department and completed by the permitholder. The form shall state the total volume of solid waste disposed of at that facility during the payment period and shall provide any other information deemed necessary by the department. The form shall be signed by the permitholder.

(4) If a permitholder fails to make a timely payment of the fee, he or she shall pay interest on the unpaid amount at a rate of five percent per month.

(5) This section shall not apply to a site used solely for the reclamation of land through the introduction of landscaping rubble or inert material.

(6) Fifty percent of the total of such fees collected in each quarter shall be remitted to the State Treasurer for credit to the Integrated Solid Waste Management Cash Fund and shall be used by the department to cover the direct and indirect costs of regulating and monitoring facilities during and after operation of facilities or performance of regulated activities under the Integrated Solid Waste Management Act. The remaining fifty percent of the total of such fees collected per quarter shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund.

(7) The council shall adopt and promulgate rules and regulations for the distribution of grants from the proceeds of the fees imposed by this section to counties, municipalities, and agencies for the purposes of planning and implementing facilities and systems to further the goals of the Integrated Solid Waste Management Act. The fees collected pursuant to this section shall not be used as grant proceeds to fund landfill closure site assessments, closure, monitoring, or remediation costs for existing landfills or landfills already closed prior to the operative date of this section. The rules and regulations shall base the awarding of grants on a project's reflection of the integrated solid waste management policy and hierarchy established in section 18 of this act, the proposed amount of local matching funds, and community need.

Sec. 43. Nothing in the Integrated Solid Waste Management Act shall be construed to apply to any operations or activities regulated by the Nebraska Oil and Gas Conservation Commission or to operations or activities regulated under subsection (10) of section 81-1505.

Sec. 44. Sections 44 to 53 of this act shall be known and may be cited as the Nebraska Environmental Trust Act.

Sec. 45. It is the intent of the Legislature to establish the Nebraska Environmental Trust for the purpose of conserving, enhancing, and restoring the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and natural areas of aesthetic or scenic values. The current and future well-being of the state and its citizens is vitally dependent on a safe and clean environment and requires a dynamic, proactive approach to address environmental needs. The trust shall complement existing governmental and private efforts by encouraging and leveraging the use of private resources on environmental needs with the greatest potential impact on future environmental quality in Nebraska. The trust shall develop a long-range environmental focus which encompasses the vision of all Nebraskans regarding the future of the environment and shall join public and private efforts in achieving the collective environmental goals of Nebraska's citizens.

Sec. 46. For purposes of the Nebraska Environmental Trust Act:

(1) Board shall mean the Nebraska Environmental Trust Board;

(2) Fund shall mean the Nebraska Environmental Trust Fund; and

(3) Trust shall mean the Nebraska Environmental Trust.

Sec. 47. The Nebraska Environmental Trust Board is hereby created. The board shall consist of the Director of Environmental Quality, the Director of Health, the Director of Water Resources, the Director of Natural Resources, the secretary of the Game and Parks Commission, and six citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Two appointees shall be chosen from each of the three congressional districts. For administrative purposes only, the board shall be part of the Game and Parks Commission.

Sec. 48. The citizen members of the board shall be appointed for terms of six years, except that of the members first appointed, except directors of agencies, the terms of two shall expire at the end of the second year, two at the end of the fourth year, and two at the end of the sixth year, as designated at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. A vacancy on the board shall exist in the event of the death, disability, or resignation of a member. All members shall be reimbursed for their actual and necessary travel expenses as provided in sections 81-1174 to 81-1177.

Sec. 49. The board shall annually elect a chairperson from among the citizen members. The board shall meet at least quarterly and may meet more often at the call of the chairperson or the request of any three members.

Sec. 50. The board shall have and may exercise the following powers and duties:

(1) Adopt bylaws to govern the proceedings of the board;

(2) Keep records, conduct hearings, and adopt and promulgate rules and regulations to carry out its duties and implement the Nebraska Environmental Trust

Act:

(3) Contract with the Game and Parks Commission for administrative support and with governmental agencies for technical assistance;

(4) Establish environmental priorities for use of the trust;

(5) Establish ad hoc advisory boards and subcommittees;

(6) Sponsor or assist environmental proposals pertaining to the environmental priorities of the board, including issuing grants to agencies, organizations, and persons engaged in the purposes of the trust;

(7) Cooperate with or assist any unit of the state, any political subdivision, or any private, public, or federal agency, foundation, or person in furtherance of the purposes of the trust; and

(8) Apply for or accept any monetary gift, grant, or donation and use it for the general purposes of the trust.

Sec. 51. There is hereby established the Nebraska Environmental Trust Fund which shall be a cash fund. The fund shall be used to carry out the purposes of the Nebraska Environmental Trust Act, including administrative costs. Money in the fund shall include proceeds credited pursuant to section 9-812 and any monetary gifts, grants, or donations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 52. (1) The board shall make annual allocations from the fund for projects which conform to the environmental priorities of the board established pursuant to section 53 of this act and to the extent the board determines those projects to have merit. The board shall establish an annual calendar for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

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

(a) Conformance with priorities established

pursuant to section 53 of this act;

(b) Amount of funds committed from other funding sources;

(c) Encouragement of public-private partnerships;

(d) Geographic mix of projects over time;

(e) Cost effectiveness and economic impact;

(f) Direct environmental impact; and

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

(3) The results of the annual rating of proposals shall guide the board's allocation of funds, except that the board may assign a higher rating to any proposal with an affirmative vote of eight members. The motion for such an action shall specify the reasons for such action. The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process, except for the initial application and requests to renew the commitment.

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

Sec. 53. (1) Subject to subsection (3) of this section, the board shall establish environmental priorities for the trust. The board, after allowing opportunity for public comment, shall designate as priorities those environmental goals which most affect the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and areas of aesthetic or scenic values. In designating environmental priorities, the board shall attempt to focus on the areas which promise the greatest opportunities for effective action to achieve and preserve the future environmental quality in the state. The board shall establish priorities for five-year periods beginning July 1, 1995, except that the board may make annual modifications to refine and clarify its priorities. The board shall provide for public involvement in developing the priorities for such five-year periods, including public meetings in each of the three congressional districts.

(2) The board shall establish criteria for determining the eligibility of projects for assistance

from the fund, which criteria shall include the following:

(a) The fund shall not provide direct assistance to regulatory programs or to implement actions mandated by regulations except remediation;

(b) Before January 1, 1997, no more than twenty-five percent of allocations in any year shall assist remediation of soils or ground water, and no allocation for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized. On and after January 1, 1997, no more than sixty percent of allocations in any year shall assist remediation of soils or ground water, and no allocation for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized;

(c) The fund shall not pay for private benefits or to relieve private liability for environmental damage;

(d) The fund shall not pay for projects which have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship;

(e) The fund should assist those projects which offer the greatest environmental benefits relative to cost;

(f) The fund should assist those projects which provide clear and direct environmental benefits;

(g) The fund should assist those projects which will make a real contribution to achieving the board's environmental priorities; and

(h) The fund should assist those projects which offer the greatest public benefits.

(3) Until the first five-year priorities become effective on July 1, 1995, the board shall observe the following initial priorities for allocating funds:

(a) Critical habitat areas, including wetlands acquisition, preservation, and restoration and acquisition and easements of areas critical to rare or endangered species;

(b) Surface water quality, including actions to preserve lakes and streams from degradation;

(c) Ground water quality, including fostering best management practices as defined in section 46-657, actions to preserve ground water from degradation, and remediation of soils or ground water; and

(d) Development of recycling markets and

reduction of solid waste volume and toxicity.

(4) The board may refine and clarify these initial priorities.

Sec. 54. (1) There is hereby established the Solid Waste Landfill Closure Assistance Fund which shall be a cash fund administered by the Department of Environmental Quality. The fund shall be used:

(a) To receive proceeds credited pursuant to section 9-812;

(b) To provide state aid to political subdivisions for landfill site closing assessment, closure, monitoring, and remediation costs related to landfills existing or already closed on the operative date of this section; and

(c) To provide funds to the department for expenses incurred in carrying out its duties under sections 55 and 56 of this act.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(2) The Environmental Quality Council shall adopt and promulgate rules and regulations regarding the form and procedure for applications for grants from the fund, procedures for determining claims for payment or reimbursement, procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund, procedures for determining priority among applicants, procedures for auditing persons who have received payments from the fund, and other provisions necessary to carry out sections 55 and 56 of this act.

Sec. 55. In order for political subdivisions to receive funding from the Solid Waste Landfill Closure Assistance Fund, the subdivisions shall:

(1) Agree to use the funds for landfill site closing assessment, closure, monitoring, or remediation costs relating to landfills existing or already closed on the operative date of this section;

(2) Provide the Department of Environmental Quality with documentation regarding the landfill closure site, including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(3) Provide a plan for the proposed project, including appropriate engineering, economic, and financial feasibility data and other data and information, including estimated costs, as may be required by the department; and

(4) Demonstrate the anticipated environmental and ecological benefits resulting from the proposed project.

Sec. 56. Upon receipt of an application for funds from the Solid Waste Landfill Closure Assistance Fund, the Department of Environmental Quality shall evaluate and investigate all aspects of the proposed project and the proposed schedule for completion, determine eligibility and priority of the project for funding, and make appropriate grants from the fund pursuant to rules and regulations adopted and promulgated by the Environmental Quality Council. If the department determines that an application is unsatisfactory or does not contain adequate information, the department shall return the application to the applicant and may make recommendations to the applicant which the department considers necessary to make the plan or the application satisfactory.

Sec. 57. That section 9-812, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-812. (1) All money received from the operation of lottery games conducted pursuant to the State Lottery Act shall be deposited in the State Lottery Operation Fund, which fund is hereby created. All payments of expenses of the operation of the lottery games shall be made from the State Lottery Operation Fund. All money necessary for the payment of lottery prizes shall be transferred from the State Lottery Operation Fund to the State Lottery Prize Fund, which fund is hereby created. The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold. Of the money remaining after the payment of prizes and operating expenses, forty-nine and one-half percent of such money shall be transferred to the Education Innovation Fund. Beginning on the operative date of this section and continuing through July 1, 1997, twenty-four, forty-nine and one-half percent of such money the money remaining after the payment of prizes and operating expenses shall be transferred to the Legislative Assistance Fund to be used as provided in subsection (4) of this section, the Solid Waste Landfill Closure Assistance Fund and twenty-five percent of the money remaining after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. After July 1, 1997, forty-nine and one-half percent of the money remaining

after the payment of prizes and operating expenses shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. One and one percent of such money the money remaining after the payment of prizes and operating expenses shall be transferred to the Gamblers Assistance Fund to be used as provided in subsection ~~(5)~~ (4) of this section.

(2) The Education Innovation Fund is hereby created. The Education Innovation Fund shall be allocated by the Governor through incentive grants to encourage the development of strategic plans by school districts for accomplishing high performance learning and to encourage schools to establish innovations in programs or practices that result in restructuring of school organization, school management, and instructional programs which bring about improvement in the quality of education. Such grants are intended to provide selected school districts, teachers or groups of teachers, educational foundations, educational service units, or cooperatives funding for the allowable costs of implementing pilot projects and model programs.

Minigrants shall be available to school districts to support the development of local strategic plans which shall include statements of purposes and goals for the districts. The plans shall also include the specific statement statements of improvement or strategic initiatives designed to improve quality learning for every student.

Major competitive grants shall be available to support innovative programs which are directly related to the local strategic plans. Annual reports shall be made by program recipients documenting the effectiveness of the program in improving the quality of education as designed in the local strategic plans. Purposes for which incentives would be offered shall include:

(a) The development of local strategic plans by school districts;

(b) Educational technology assistance to public schools for the purchase and operation of computers, telecommunications equipment and services, and other forms of technological innovation which may enhance classroom teaching, instructional management, and districtwide administration;

(c) Professional staff development programs to provide funds for teacher and administrator training and continuing education to upgrade teaching and administrative skills;

(d) An educational accountability program to

develop an educational indicators system to measure the performance and outcomes of public schools and to ensure efficiency in operations;

(e) Alternative programs for students, including underrepresented groups, at-risk students, and dropouts;

(f) Programs that demonstrate improvement of student performance against valid national and international achievement standards;

(g) Early childhood education and parent education which emphasize child development;

(h) Programs using decisionmaking models that increase involvement of parents, teachers, and students in school management;

(i) Increased involvement of the community in order to achieve increased confidence in and satisfaction with its schools;

(j) Development of magnet or model programs designed to facilitate desegregation;

(k) Programs that address family and social issues impairing the learning productivity of students;

(l) Programs enhancing critical and higher-order thinking capabilities;

(m) Programs which produce the quality of education necessary to guarantee a competitive work force; and

(n) Programs designed to increase productivity of staff and students through innovative use of time.

The Governor shall establish the Excellence in Education Council which shall have the following powers and duties:

(i) Develop and publish criteria for the awarding of grants for programs pursuant to this subsection;

(ii) Provide recommendations to the Governor regarding the selection of projects to be funded and the distribution and duration of project funding;

(iii) Establish standards, formats, procedures, and timelines for the successful implementation of approved programs funded by the Education Innovation Fund;

(iv) Assist school districts in determining the effectiveness of the innovations in programs and practices and measure the subsequent degree of improvement in the quality of education;

(v) Consider the reasonable distribution of funds across the state and all classes of school districts; and

(vi) Provide annual reports to the Governor

concerning programs funded by the fund. Each report shall include the number of applicants and approved applicants, an overview of the various programs, objectives, and anticipated outcomes, and detailed reports of the cost of each program.

(3) Recipients of grants from the Education Innovation Fund shall be required to provide, upon request, such data relating to the funded programs and initiatives as the Governor deems necessary.

(4) ~~The Legislative Assistance Fund is hereby created. The fund shall be distributed as directed by the Legislature, except that money in the fund shall not be used to finance programs which require more than a one-time expenditure, to supplement an existing budget, or to finance long-term or ongoing projects.~~

(5) ~~(4)~~ The Gamblers Assistance Fund is hereby created. The fund shall be administered by the Director of Social Services and shall be used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of other gamblers assistance programs.

(6) ~~(5)~~ Any money in the State Lottery Operation Fund, the State Lottery Prize Fund, the Education Innovation Fund, the Legislative Assistance Fund, or the Gamblers Assistance Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

(7) ~~(6)~~ Unclaimed prize money on a winning lottery ticket shall be retained by the Tax Commissioner in the State Lottery Prize Fund for payment to the person entitled thereto for one hundred eighty days after the drawing in which the prize was won. If no claim is made within such period, the prize money shall be used at the discretion of the Tax Commissioner for any of the purposes prescribed in this section.

Sec. 58. That section 9-823, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-823. The Tax Commissioner shall adopt and promulgate rules and regulations necessary to carry out the State Lottery Act. The rules and regulations shall include provisions relating to the following:

(1) The lottery games to be conducted subject to the following conditions:

(a) Any lottery game that has been conducted by any state-government-operated lottery in the United States or any other lottery game that will achieve the revenue objectives of the State Lottery Act consonant

with the public good may be authorized except for a video lottery game;

(b) No lottery game shall use the theme of dog racing or horseracing;

(c) In any lottery game utilizing tickets, each ticket in such game shall bear a unique number distinguishing it from every other ticket in such lottery game; and

(d) No name of an elected official shall appear on the tickets of any lottery game;

(2) The retail sales price for each ticket for each lottery game;

(3) The number and value of the prizes to be awarded for winning tickets in each lottery game, including cash prizes, prizes consisting of deferred payments or annuities, and prizes of tickets in the same lottery game or other lottery games, subject to the following conditions:

(a) In any instant-win game, the overall estimated odds of winning some prize shall be printed on each ticket; and

(b) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery game or the estimated odds of winning such prizes shall be available at the office of the division at the time such lottery game is offered for sale to the public;

(4) The rules of each lottery game;

(5) The method for determining winners, the frequency of drawings, if any, or other selection of winning tickets subject to the following conditions:

(a) Any existing or future method or technology for determining winners may be used as provided in subdivision (1)(a) of this section;

(b) No lottery game shall be based on the results of a dog race, horserace, or other sports event;

(c) If the lottery game utilizes the drawing of winning numbers, a drawing among entries, or a drawing among finalists (i) such drawings shall be witnessed by an independent certified public accountant, (ii) any equipment used in such drawings shall be inspected by the independent certified public accountant and an employee of the division or designated agent both before and after such drawing, and (iii) such drawing shall be recorded on both videotape and audiotape; and

(d) Drawings in an instant-win game, other than grand prize drawings or other runoff drawings, shall not be held more often than weekly. Drawings or selections in an on-line game shall not be held more

often than daily;

(6) The validation and manner of payment of prizes to the holders of winning tickets subject to the following conditions:

(a) The prize shall be given to the person who presents a winning ticket, except that for awards in excess of five thousand dollars, the winner shall also provide his or her social security number or tax identification number;

(b) A prize may be given to only one person per winning ticket, except that a prize shall be divided between the holders of winning tickets if there is more than one winning ticket per prize;

(c) For the convenience of the public, the director may authorize lottery game retailers to pay winners of up to five hundred dollars after performing validation procedures on their premises appropriate to the lottery game involved;

(d) No prize shall be paid to any person under nineteen years of age, and any prize resulting from a lottery ticket held by a person under nineteen years of age shall be awarded to the parent or guardian of such person under the Nebraska Uniform Gifts to Minors Act;

(e) No prize shall be paid for tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the division by acceptable deadlines, lacking in captions that confirm and agree with the lottery play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and regulations and public or confidential validation and security tests appropriate to the particular lottery game involved;

(f) No particular prize in any lottery game shall be paid more than once. In the event of a binding determination by the director that more than one claimant is entitled to a particular prize, the sole right of such claimants shall be the award to each of them of an equal share in the prize; and

(g) After the expiration of the claim period for prizes for each lottery game, the director shall make available a detailed tabulation of the total number of tickets actually sold in the lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the director;

(7) Requirements for eligibility for participation in grand-prize drawings or other runoff drawings, including requirements for submission of evidence of eligibility;

(8) The locations at which tickets may be sold except that no ticket may be sold at an en-sale a retail liquor establishment holding a license for the sale of alcoholic liquor at retail for consumption on the licensed premises;

(9) The method to be used in selling tickets;

(10) The contracting with persons as lottery game retailers to sell tickets and the manner and amount of compensation to be paid to such retailers;

(11) The form and type of marketing of informational and educational material;

(12) The apportionment of the total revenue accruing from the sale of lottery tickets and all other lottery games among (a) the payment of prizes to the holders of winning tickets, (b) the payment of costs incurred in the operation and administration of lottery games, including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, (c) the repayment to the General Fund of money appropriated to the State Lottery Operation Fund, (d) the Legislative Assistance Solid Waste Landfill Closure Assistance Fund, (e) the Gamblers Assistance Fund, (f) the Nebraska Environmental Trust Fund, and ~~(f)~~ (g) the Education Innovation Fund for use for educational purposes as the Governor deems appropriate, except that at least twenty-five percent of the total revenue accruing from lottery games shall be dedicated to educational or other community betterment purposes. Each year seventy-five percent of the revenue appropriated to the Education Innovation Fund shall be available for disbursement;

(13) Any arrangements or methods to be used in providing proper security in the storage and distribution of tickets or lottery games; and

(14) All other matters necessary or desirable for the efficient and economical operation and administration of lottery games and for the convenience of the purchasers of tickets and the holders of winning tickets.

Sec. 59. That section 13-1701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-1701. For purposes of sections 13-1701 to 13-1714 and 76-2,119:

(1) Applicant shall mean any person as defined in section 81-1502 who is required to obtain a permit from the department for a solid waste disposal area or a

solid waste processing facility but shall not include any person applying for renewal of such a permit or any person as defined in such section who proposes to dispose of waste which he or she generates on property which he or she owns as of January 1, 1991;

(2) Department shall mean the Department of Environmental ~~Control~~ Quality;

(3) Solid waste disposal area shall mean an area used for the disposal of solid waste from more than one residential premises or from one or more recreational, commercial, industrial, manufacturing, or governmental operations; and

(4) Solid waste processing facility shall mean an incinerator, or a compost plant, a transfer station, or any other location where solid waste is physically or chemically changed, temporarily stored, or salvaged prior to being transferred to a solid waste disposal area or to a secondary materials recovery facility receiving material, other than yard waste, in quantities greater than one thousand cubic yards annually.

Sec. 60. That section 13-1703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-1703. An applicant for siting approval shall submit information to the city council, village board of trustees, or county board of commissioners or supervisors to demonstrate compliance with the requirements of this section regarding a solid waste disposal area or solid waste processing facility. Siting approval shall be granted only if the proposed area or facility meets all of the following criteria:

(1) The solid waste disposal area or solid waste processing facility is necessary to accommodate the solid waste management needs of the area which the solid waste disposal area or solid waste processing facility is intended to serve;

(2) The solid waste disposal area or solid waste processing facility is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected. The applicant shall provide an evaluation of the potential for adverse health effects that could result from exposure to pollution, in any form, due to the proper or improper construction, operation, or closure of the proposed solid waste disposal area or solid waste processing facility;

(3) The solid waste disposal area or solid waste processing facility is located so as to minimize incompatibility with the character of the surrounding

area and to minimize the effect on the value of the surrounding property. The city council, village board, or county board shall consider the advice of the appropriate planning commission regarding the application;

(4) The plan of operations for the solid waste disposal area or solid waste processing facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

(5) The traffic patterns to or from the solid waste disposal area or solid waste processing facility are designed to minimize the impact on existing traffic flows; and

(6) Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council, village board, or county board. If a corporation, a parent company or subsidiary thereof, or any officer or board member of the corporation or the parent company or subsidiary applying for approval has been convicted of a felony within ten years of the date the application is filed, site approval shall not be granted, and

(7) The department has been notified by the city council, village board, or county board prior to the approval.

Sec. 61. That section 13-1704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-1704. No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request for siting approval to be served either in person or by registered or certified mail on the owners of all property within the proposed site area not solely owned by the applicant and on the owners of all property within one thousand feet in each direction of the lot line of the proposed site if the proposed site is inside or within three miles of the corporate limits of a city or village or on the owners of all property within two miles in each direction of the lot line of the proposed site if the for all other proposed sites, site is outside of such corporate limits. The owners shall be identified based upon the tax records of the county in which the proposed site is located.

Written notice shall be published in a newspaper of general circulation in the county in which the proposed site is located. The notice shall state

the name and address of the applicant, the location of the proposed site, the nature and size of the solid waste disposal area or solid waste processing facility, the probable life of the proposed solid waste disposal area or solid waste processing facility, the date when the request for siting approval will be submitted, and a description of the right of persons to comment on the request.

Failure to notify all landowners and failure to include all information in the publicized notice as required by this section shall not be considered noncompliance if a good faith effort at notice was made by the applicant which results in actual notice to substantially all parties required to be notified.

Sec. 62. That section 13-1709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-1709. The siting approval procedures, criteria, and appeal procedures provided for in sections 13-1701 to 13-1714 and 76-2,119 shall be the exclusive siting procedures and appeal procedures. Local zoning ordinances, other local land-use requirements, and other ordinances or resolutions shall be considered in such siting decisions.

Sec. 63. That section 14-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-102. In addition to the powers granted in section 14-101, cities of the metropolitan class shall have power by ordinance:

Taxes, special assessments.

(1) To levy any tax or special assessment authorized by law;

Corporate seal.

(2) To provide a corporate seal for the use of the city, and also any official seal for the use of any officer, board, or agent of the city, whose duties under this act or under any ordinance require an official seal to be used. Such corporate seal shall be used in the execution of municipal bonds, warrants, conveyances, and other instruments and proceedings as this act or the ordinances of the city require;

Regulation of public health.

(3) To provide all needful rules and regulations for the protection and preservation of health within the city; and for this purpose they may provide for the enforcement of the use of water from public water supplies when the use of water from other sources shall be deemed unsafe;

Appropriations for debts and expenses.

(4) To appropriate money and provide for the payment of debts and expenses of the city;

Protection of strangers and travelers.

(5) To adopt all such measures as they may deem necessary for the accommodation and protection of strangers and the traveling public in person and property;

Concealed weapons, firearms, fireworks, explosives.

(6) To punish and prevent the carrying of concealed weapons and the discharge of firearms, fireworks, or explosives of any description within the city;

Sale of foodstuffs.

(7) To regulate the inspection and sale of meats, flour, poultry, fish, milk, vegetables, and all other provisions or articles of food exposed or offered for sale in the city;

Official bonds.

(8) To require all officers or servants elected or appointed in pursuance of this act to give bond and security for the faithful performance of their duties; but no officer shall become security upon the official bond of another or upon any bond executed to the city;

Official reports of city officers.

(9) To require from any officer of the city at any time a report, in detail, of the transactions of his or her office or any matter connected therewith;

Cruelty to children and animals.

(10) To provide for the prevention of cruelty to children and animals;

Dogs; taxes and restrictions.

(11) To regulate, license, or prohibit the running at large of dogs and other animals within the city as well as in areas within three miles of the corporate limits of the city, to guard against injuries or annoyance from such dogs and other animals, and to authorize the destruction of the dogs and other animals when running at large contrary to the provisions of any ordinance;

Cleaning sidewalks.

(12) To provide for keeping sidewalks clean and free from obstructions and accumulations, to provide for the assessment and collection of taxes on real estate and for the sale and conveyance thereof, and to pay the expenses of keeping the sidewalk adjacent to such real estate clean and free from obstructions and accumulations as herein provided;

Planting and trimming of trees; protection of birds.

(13) To provide for the planting and protection of shade or ornamental and useful trees upon the streets or boulevards, to assess the cost thereof to the extent of benefits upon the abutting property as a special assessment, and to provide for the protection of birds and animals and their nests; to provide for the trimming of trees located upon the streets and boulevards or when the branches of trees overhang the streets and boulevards when in the judgment of the mayor and council such trimming is made necessary to properly light such street or boulevard or to furnish proper police protection and to assess the cost thereof upon the abutting property as a special assessment;

Naming and numbering streets and houses.

(14) To provide for, regulate, and require the numbering or renumbering of houses along public streets or avenues; to care for and control and to name and rename streets, avenues, parks, and squares within the city;

Weeds.

(15) To require weeds and worthless vegetation growing upon any lot or piece of ground within the city to be cut and destroyed so as to abate any nuisance occasioned thereby, to prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the city and to require the removal thereof so as to abate any nuisance occasioned thereby, and if the owner fails to cut and destroy weeds and worthless vegetation or remove litter, or both, after notice as required by ordinance, to assess the cost thereof upon the lots or lands as a special assessment. The notice required to be given may be by publication in the official newspaper of the city and may be directed in general terms to the owners of lots and lands affected without naming such owners;

Animals running at large.

(16) To prohibit and regulate the running at large or the herding or driving of domestic animals, such as hogs, cattle, horses, sheep, goats, fowls, or animals of any kind or description within the corporate limits and provide for the impounding of all animals running at large, herded, or driven contrary to such prohibition; and to provide for the forfeiture and sale of animals impounded to pay the expense of taking up, caring for, and selling such impounded animals, including the cost of advertising and fees of officers;

Use of streets.

(17) To regulate the transportation of

articles through the streets, to prevent injuries to the streets from overloaded vehicles, and to regulate the width of wagon tires and tires of other vehicles;

Playing on streets and sidewalks.

(18) To prevent or regulate the rolling of hoops, playing of ball, flying of kites, the riding of bicycles or tricycles, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks or to frighten teams or horses; to regulate the use of vehicles propelled by steam, gas, electricity, or other motive power, operated on the streets of the city;

Combustibles and explosives.

(19) To regulate or prohibit the transportation and keeping of gunpowder, oils, and other combustible and explosive articles;

Public sale of chattels on streets.

(20) To regulate, license, or prohibit the sale of domestic animals or of goods, wares, and merchandise at public auction on the streets, alleys, highways, or any public ground within the city;

Signs and obstruction in streets.

(21) To regulate and prevent the use of streets, sidewalks, and public grounds for signs, posts, awnings, awning posts, scales, or other like purposes; to regulate and prohibit the exhibition or carrying or conveying of banners, placards, advertisements, or the distribution or posting of advertisements or handbills in the streets or public grounds or upon the sidewalks;

Disorderly conduct.

(22) To provide for the punishment of persons disturbing the peace and good order of the city by clamor and noise, intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places or otherwise violating the public peace by indecent or disorderly conduct or by lewd and lascivious behavior;

Vagrants and tramps.

(23) To provide for the punishment of vagrants, tramps, common street beggars, common prostitutes, habitual disturbers of the peace, pickpockets, gamblers, burglars, thieves, or persons who practice any game, trick, or device with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves; and to punish trespassers upon private property;

Disorderly houses, gambling, offenses against public morals.

(24) To prohibit, restrain, and suppress tippling shops, houses of prostitution, opium joints, gambling houses, prize fighting, dog fighting, cock fighting, and other disorderly houses and practices, all games and gambling and desecration of the Sabbath, commonly called Sunday, and all kinds of indecencies; to regulate and license or prohibit the keeping and use of billiard tables, ten pins or ball alleys, shooting galleries, and other similar places of amusement; and to prohibit and suppress all lotteries and gift enterprises of all kinds under whatsoever name carried on, except that nothing in this subdivision shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act;

Police regulation in general.

(25) To make and enforce all police regulations for the good government, general welfare, health, safety, and security of the city and the citizens thereof in addition to the police powers expressly granted herein; and in the exercise of the police power, to pass all needful and proper ordinances and impose fines, forfeitures, penalties, and imprisonment at hard labor for the violation of any ordinance, and to provide for the recovery, collection, and enforcement thereof; and in default of payment to provide for confinement in the city or county prison, workhouse, or other place of confinement with or without hard labor as may be provided by ordinance;

Fast driving on streets.

(26) To prevent horseracing and immoderate driving or riding on the street and to compel persons to fasten their horses or other animals attached to vehicles while standing in the streets;

Libraries, art galleries, and museums.

(27) To establish and maintain public libraries, reading rooms, art galleries, and museums and to provide the necessary grounds or buildings therefor; to purchase books, papers, maps, manuscripts, works of art, and objects of natural or of scientific curiosity, and instruction therefor; to receive donations and bequests of money or property for the same in trust or otherwise and to pass necessary bylaws and regulations for the protection and government of the same; Hospitals, workhouses, jails, firehouses, etc.; garbage disposal.

(28) To erect, designate, establish, maintain,

and regulate hospitals or workhouses, houses of correction, jails, station houses, fire engine houses, asphalt repair plant plants, and other necessary buildings; also and to erect, designate, establish, maintain, and regulate plants for the removal, and disposal, or recycling of garbage, and refuse or to make contracts for the garbage and refuse removal, or disposal, or recycling, or of garbage, or for both all of the same, and to charge equitable fees for such removal, disposal, or recycling, or all of the same, except as hereinafter provided. The fees collected pursuant to this subdivision shall be credited to a single fund to be used exclusively by the city for the removal, disposal, or recycling of garbage and refuse, or all of the same, including any costs incurred for collecting the fee. Before any contract for such removal, disposal, or recycling the removal and disposal of garbage, or both, is let, the city council shall make specifications therefor, bids shall be advertised for as now provided by law, and the contract shall be let to the lowest and best bidder, who shall furnish bond to the city conditioned upon his or her carrying out the terms of the contract, the bond to be approved by the city council. Nothing in this act, and no contract or regulation made by the city council, shall be so construed as to prohibit any person, firm, or corporation engaged in any business in which garbage or refuse accumulates as a byproduct, from selling, recycling, or otherwise disposing of his, her, or its garbage or refuse or hauling such garbage or refuse through the streets and alleys under such uniform and reasonable regulations as the city council may by ordinance prescribe for the removal and hauling of garbage or refuse;

Market places.

(29) To erect and establish market houses and market places and to provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city; and such market houses and market places and buildings aforesaid may be located on any street, alley, or public ground or on land purchased for such purpose;

Cemeteries, registers of births and deaths.

(30) To prohibit the establishment of additional cemeteries within the limits of the city, to regulate the registration of births and deaths, to direct the keeping and returning of bills of mortality, and to impose penalties on physicians, sextons, and

others for any default in the premises;

Plumbing, etc., inspection.

(31) To provide for the inspection of steam boilers, electric light appliances, pipefittings, and plumbings, to regulate their erection and construction, to appoint inspectors, and to declare their powers and duties, except as herein otherwise provided;

Fire limits and fire protection.

(32) To prescribe fire limits and regulate the erection of all buildings and other structures within the corporate limits; to provide for the removal of any buildings or structures or additions thereto erected contrary to such regulations, to provide for the removal of dangerous buildings, and to provide that wooden buildings shall not be erected or placed or repaired in the fire limits; but such ordinance shall not be suspended or modified by resolution nor shall exceptions be made by ordinance or resolution in favor of any person, firm, or corporation or concerning any particular lot or building; to direct that all and any building within such fire limits, when the same shall have been damaged by fire, decay, or otherwise, to the extent of fifty percent of the value of a similar new building above the foundation, shall be torn down or removed; and to prescribe the manner of ascertaining such damages and to assess the cost of removal of any building erected or existing contrary to such regulations or provisions, against the lot or real estate upon which such building or structure is located or shall be erected, or to collect such costs from the owner of any such building or structure and enforce such collection by civil action in any court of competent jurisdiction;

Building regulations.

(33) To regulate the construction, use, and maintenance of party walls, to prescribe and regulate the thickness, strength, and manner of constructing stone, brick, wood, or other buildings and the size and shape of brick and other material placed therein, to prescribe and regulate the construction and arrangement of fire escapes and the placing of iron and metallic shutters and doors therein and thereon, and to provide for the inspection of elevators and hoist-way openings to avoid accidents; to prescribe, regulate, and provide for the inspection of all plumbing, pipefitting, or sewer connections in all houses or buildings now or hereafter erected; to regulate the size, number, and manner of construction of halls, doors, stairways, seats, aisles, and passageways of theaters, tenement

houses, audience rooms, and all buildings of a public character, whether now built or hereafter to be built, so that there may be convenient, safe, and speedy exit in case of fire; to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers, and heating appliances used in or about any building or a manufactory and to cause the same to be removed or placed in safe condition when they are considered dangerous; to regulate and prevent the carrying on of manufactures dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places and to cause such buildings and enclosures as may be in a dangerous state to be put in a safe condition; to prevent the disposing of and delivery or use in any building or other structure, of soft, shelly, or imperfectly burned brick or other unsuitable building material within the city limits and provide for the inspection of the same; to provide for the abatement of dense volumes of smoke; to regulate the construction of areaways, stairways, and vaults and to regulate partition fences; to enforce proper heating and ventilation of buildings used for schools, workhouses, or shops of every class in which labor is employed or large numbers of persons are liable to congregate;

Warehouses and street railways.

(34) To regulate levees, depots and depot grounds, and places for storing freight and goods and to provide for and regulate the laying of tracks and the passage of steam or other railways through the streets, alleys, and public grounds of the city;

Lighting railroad property.

(35) To require the lighting of any railway within the city, the cars of which are propelled by steam, and to fix and determine the number, size, and style of lamp posts, burners, lamps, and all other fixtures and apparatus necessary for such lighting and the points of location for such lamp posts; and in case any company owning or operating such railways shall fail to comply with such requirements, the council may cause the same to be done and may assess the expense thereof against such company, and the same shall constitute a lien upon any real estate belonging to such company and lying within such city and may be collected in the same manner as taxes for general purposes;

City publicity.

(36) To provide for necessary publicity and to appropriate money for the purpose of advertising the resources and advantages of the city;

Offstreet parking.

(37) To erect, establish, and maintain offstreet parking areas on publicly owned property located beneath any elevated segment of the National System of Interstate and Defense Highways or portion thereof, or public property title to which is in the city on May 12, 1971, or property owned by the city and used in conjunction with and incidental to city-operated facilities, and to regulate parking thereon by time limitation devises or by lease; and

Public passenger transportation systems.

(38) To acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain, operate, or contract for the operation of public passenger transportation systems, excluding taxicabs and railroad systems, including all property and facilities required therefor, within and without the limits of the city, to redeem such property from prior encumbrance in order to protect or preserve the interest of the city therein, to exercise all powers granted by the Constitution of Nebraska and laws of the State of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto, including but not limited to receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems and to administer, hold, use, and apply the same for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made, to negotiate with employees and enter into contracts of employment, to employ by contract or otherwise individuals singularly or collectively, to enter into agreements authorized under the Interlocal Cooperation Act, to contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems any city of the metropolitan class shall acquire under the provisions of this act, and to exercise such other and further powers as may be necessary, incident, or appropriate to the powers of such city.

Sec. 64. That section 14-1108, Reissue Revised Statutes of Nebraska, 1943, as amended by section 34, Legislative Bill 746, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

In addition to any and all powers granted to

cities of the metropolitan class and metropolitan utilities districts within and serving such cities, a city of the metropolitan class may enter into a contract with the metropolitan utilities district within its area in order to obtain the use of facilities and services of the water utility of such a district and in order to collect all or any part of a sewer use or rental fee or all or any part of a garbage and refuse removal, disposal, or recycling fee which such city may lawfully be entitled to charge and collect.

Sec. 65. That section 18-2528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2528. (1) The following measures shall not be subject to referendum or limited referendum:

(a) Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

(b) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(c) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

(d) Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous vote of those present and voting of the municipal subdivision's governing body and approved by its executive officer;

(e) Measures relating to projects for which notice has been given as provided for in subsection (4) of this section and for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(f) Resolutions directing the city clerk to cause measures to be submitted to a vote of the people at a special election as provided in sections 18-2524 and 18-2529; and

(g) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in section 18-2526; and

(h) Measures relating to any facility or

system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(2) The following measures shall be subject to limited referendum:

(a) Measures in furtherance of a policy of the municipal subdivision or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;

(b) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs, of public ways, public property, utility systems, and other capital projects and measures giving initial approval for industrial development projects; and

(c) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal subdivision employees other than the members of the governing body and the executive officer; and

(d) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(3) Measures subject to limited referendum shall ordinarily take effect thirty days after their passage by the governing body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited referendum shall be filed for signature verification pursuant to section 18-2518 within thirty days after such measure's passage by the governing body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (4)(c) of this section. If the necessary number of signatures as provided in section 18-2529 or 18-2530 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(4) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, a municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in sections 14-201, 14-204, 15-301, 16-302.01, 16-6,108, 18-2501 to 18-2537, 32-513, 32-713.01, and 71-3305 by the following procedure:

(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction;

(b) By passage of a measure approving the project, including an override of a veto if necessary, at a meeting held on any date subsequent to the date of hearing; and

(c) After passage of such measure, including an override of a veto if necessary, by giving notice as follows:

(i) For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum; and (ii) for projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by subdivision (c)(ii) of this subsection shall be published in at least one newspaper of general circulation within the municipal subdivision and shall

be published not later than fifteen days after passage by the governing body, including an override of a veto, if necessary, of a measure approving the project.

The right of a municipal subdivision to hold such a hearing prior to passage of the measure by the governing body and give such notice after passage of such measure by the governing body to obtain exemption for any particular project in a manner described in this subsection is optional and no municipal subdivision shall be required to hold such a hearing or give such notice for any particular project.

(5) All measures, except as provided in subsections (1), (2), and (4) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the governing body, including an override of a veto, if necessary, or enacted by the voters by initiative.

Sec. 66. That section 19-2111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-2111. Nothing in this section and sections section 19-2101 and ~~19-2107~~ shall be construed so as to apply to or affect existing garbage disposal facilities or existing county zoning.

Sec. 67. That section 58-202, Revised Statutes Supplement, 1991, be amended to read as follows:

58-202. (1) The Legislature hereby finds and declares that:

(a) The high cost of agricultural loans and the general unavailability of such loans at favorable rates and terms for farmers, particularly beginning farmers, and other agricultural enterprises have resulted in decreased crop, livestock, and business productivity and prevented farmers and other agricultural enterprises from acquiring modern agricultural equipment and processes. These problems have made it difficult for farmers and other agricultural enterprises to maintain or increase their present number of employees and have decreased the supply of agricultural commodities available to fulfill the needs of the citizens of this state; and

(b) There exists in this state an inadequate supply of and a pressing need for farm credit and agricultural loan financing at interest rates and terms which are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(2) The Legislature hereby finds and declares

that:

(a) From time to time the high rates of interest charged by mortgage lenders seriously restrict existing housing transfers and new housing starts and the resultant reduction in residential construction starts causes a condition of substantial unemployment and underemployment in the construction industry;

(b) Such conditions generally result in and contribute to the creation of slums and blighted areas in the urban and rural areas of this state and a deterioration of the quality of living conditions within this state and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities; and

(c) There exists in the urban and rural areas of this state an inadequate supply of and a pressing need for sanitary, safe, and uncrowded housing at prices at which low-income and moderate-income persons, particularly first-time homebuyers, can afford to purchase, construct, or rent and as a result such persons are forced to occupy unsanitary, unsafe, and overcrowded housing.

(3) The Legislature hereby finds and declares that:

(a) Adequate and reliable energy supplies are a basic necessity of life and sufficient energy supplies are essential to supplying adequate food and shelter;

(b) The cost and availability of energy supplies has been and will continue to be a matter of state and national concern;

(c) The increasing cost and decreasing availability of energy supplies for purposes of residential heating will limit the ability of many of Nebraska's citizens to provide the basic necessities of life and will result in a deterioration in living conditions and a threat to the health and welfare of the citizens of this state;

(d) Energy conservation through building modifications including, but not limited to, insulation, weatherization, and the installation of alternative energy devices has been shown to be a prudent means of reducing energy consumption costs and the need for additional costly facilities to produce and supply energy;

(e) Because of the high cost of available capital, the purchase of energy conservation devices is not possible for many Nebraskans. The prohibitively

high interest rates for private capital create a situation in which the necessary capital cannot be obtained solely from private enterprise sources and there is a need for the stimulation of investment of private capital, thereby encouraging the purchase of energy conservation devices and energy conserving building modifications;

(f) The increased cost per capita of supplying adequate life-sustaining energy needs has reduced the amount of funds, both public and private, available for providing other necessities of life, including food, health care, and safe, sanitary housing; and

(g) The continuing purchase of energy supplies results in the transfer of ever-increasing amounts of capital to out-of-state energy suppliers.

(4) The Legislature hereby finds and declares that:

(a) There exist within this state unemployment and underemployment especially in areas of basic economic activity, caused by economic decline and need for diversification of the economic base, needlessly increasing public expenditures for unemployment compensation and welfare, decreasing the tax base, reducing tax revenue, and resulting in economic and social liabilities to the entire state;

(b) Such unemployment and underemployment cause areas of the state to deteriorate and become substandard and blighted and such conditions result in making such areas economic or social liabilities harmful to the economic and social well-being of the entire state and the communities in which they exist, needlessly increasing public expenditures, imposing onerous state and municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of the state and the municipalities, depreciating general state and community-wide values, and contributing to the spread of disease and crime which necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(c) There exist within this state conditions resulting from the concentration of population of various counties, cities, and villages which require the construction, maintenance, and operation of adequate

hospital and nursing facilities for the care of the public health. Since these conditions cannot be remedied by the ordinary operations of private enterprises and since provision of adequate hospital, nursing, and medical care ~~are public uses~~ is a public use, it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the public health and welfare;

(d) Creation of basic economic jobs in the private sector and the promotion of health and welfare by the means provided under the Nebraska Investment Finance Authority Act and the resulting reduction of needless public expenditures, expansion of the tax base, provision of hospitals and health care and related facilities, and increase of tax revenue are needed within this state; and

(e) Stimulation of economic development throughout the state and the provision of health care at affordable prices are matters of state policy, public interest, and statewide concern and within the powers and authority inherent in and reserved to the state in order that the state and its municipalities shall not continue to be endangered by areas which consume an excessive proportion of their revenue, in order that the economic base of the state may be broadened and stabilized thereby providing jobs and necessary tax base, and in order that adequate health care services be provided to all residents of this state.

(5) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist municipalities, as defined in section 81-15,149, in providing wastewater treatment facilities. The federal funding provided for wastewater treatment facilities is extremely limited and scheduled to be eliminated while the need to provide and improve wastewater treatment facilities is great;

(b) The construction, development, rehabilitation, and improvement of modern and efficient sewer systems and wastewater treatment facilities are essential to protecting and improving the state's water quality, the provision of adequate wastewater treatment facilities is essential to economic growth and development, and new sources of financing for such projects are needed;

(c) The federal government has acted to end the system of federal construction grants for clean water projects and has instead provided for capitalization grants to capitalize state revolving

funds for wastewater treatment projects, and the state has created the Wastewater Treatment Facilities Construction Loan Fund within the Wastewater Treatment Facilities Construction Assistance Act. The state is required to provide matching funds for deposit into such fund, and there is a need for financing in excess of the amount which can be provided by the federal money and the state match; and

(d) Additional assistance can be provided to municipalities; as defined in section 81-15,149; to alleviate the problems of water pollution by providing for the issuance of revenue bonds, the proceeds of which shall be deposited into the Wastewater Treatment Facilities Construction Loan Fund. Nothing in this section shall prohibit the provision of loans, including loans made pursuant to the Conservation Corporation Act, to a municipality as defined in section 81-15,149 for the construction, development, rehabilitation, operation, maintenance, and improvement of wastewater treatment facilities.

(6) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist public school boards and school districts and private for-profit or not-for-profit schools in connection with removal of materials determined to be hazardous to the health and well-being of the residents of the state and that the federal funding provided for such projects is extremely limited and the need and requirement to remove such materials from school buildings is great;

(b) The financing of the removal of such environmental hazards is essential to protecting and improving the facilities in the state which provide educational benefits and services;

(c) The federal government has directed schools to remove such hazardous materials; and

(d) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and assist in the financing of the removal of environmental hazards in educational facilities in this state in order to provide for a clean environment to protect the health and welfare of the citizens and residents of this state.

(7) The Legislature hereby finds and declares that:

(a) The rapidly rising volume of waste

deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(b) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(c) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination have caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost;

(d) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(e) There is a need within this state for financing to assist counties, cities, villages, joint entities created under the Interlocal Cooperation Act, and private persons with the construction and operation of new solid waste disposal areas or facilities and with the closure, monitoring, and remediation of existing solid waste disposal areas and facilities;

(f) Financing the construction and operation of new solid waste disposal areas and facilities and financing the closure, monitoring, and remediation of existing and former waste disposal areas and facilities in the state is essential to protect the environment and the public health and welfare;

(g) The federal government has directed that effective October 1, 1993, all solid waste disposal areas and facilities shall be upgraded to meet stringent siting, design, construction, operation, closure, monitoring, and remediation requirements; and

(h) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and to assist in the financing of solid waste disposal areas and facilities and in the removal of environmental hazards in solid waste disposal areas and facilities in

this state in order to provide for a clean environment to protect the health and welfare of the citizens and residents of this state.

Sec. 68. That section 58-203, Revised Statutes Supplement, 1991, be amended to read as follows:

58-203. (1) The problems enumerated in section 58-202 cannot alone be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the creation of a quasi-governmental body to:

(a) Encourage the investment of private capital and stimulate the construction of sanitary, safe, and uncrowded housing for low-income and moderate-income persons, particularly first-time homebuyers, through the use of public financing as provided by the Nebraska Investment Finance Authority Act at reasonable interest rates and by coordinating and cooperating with private industry and local communities which are essential to alleviating the conditions described in section 58-202 and are in the public interest;

(b) Encourage the investment of private capital to provide financing for farmers, particularly beginning farmers, and other agricultural enterprises of usual and customary size for such farming operations within the community at interest rates lower than those available in conventional farm credit markets which is essential to alleviating the conditions described in section 58-202 and is in the public interest;

(c) Encourage the investment of private capital and stimulate the creation of basic economic activity, the creation of jobs, the provision of adequate health care, and the expansion of the tax base throughout the state through the use of public financing and by coordinating with private industry and local communities which are essential to alleviating the conditions described in section 58-202 and are in the public interest; and

(d) Encourage the investment of private capital and assist in the construction, development, rehabilitation, and improvement of wastewater treatment facilities in this state to provide for clean water to protect the health and welfare of the citizens and residents of this state and promote economic well-being which are essential to alleviating the conditions described in section 58-202 and are in the public interest; and

(e) Encourage the investment of private

capital and assist in financing the construction and operation of new solid waste disposal areas and facilities and the closure, monitoring, and remediation of former and existing solid waste disposal areas and facilities.

(2) Alleviating the conditions and problems enumerated in section 58-202 through encouragement of private investment by a quasi-governmental body is a public purpose and use for which public money provided by the sale of revenue bonds may be borrowed, expended, advanced, loaned, or granted. Such activities shall not be conducted for profit. Such activities are proper governmental functions and can best be accomplished by the creation of a quasi-governmental body vested with the powers and duties specified in the Nebraska Investment Finance Authority Act. The necessity for the provisions of the act to protect the health, safety, morals, and general welfare of all the people of this state is hereby declared to be a matter of legislative determination. The quasi-governmental body created by the act shall make financing available for new or existing housing to serve those people, particularly first-time homebuyers, whom private industry is unable to serve at current interest rates, shall make financing available for farmers, particularly beginning farmers, and shall make financing available for the construction, development, rehabilitation, and improvement of wastewater treatment facilities and for the construction, operation, closure, monitoring, and remediation of solid waste disposal areas and facilities in this state.

Sec. 69. That section 58-219, Revised Statutes Supplement, 1991, be amended to read as follows:

58-219. Project shall mean one or more of the following:

(1)(a) Rental housing;
 (b) Residential housing; and
 (c) Residential energy conservation devices;
 (2) Agriculture or agricultural enterprise;
 (3) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, suitable or used for or in connection with any of the following revenue-producing enterprises or two or more such enterprises engaged or to be engaged in:

(a) In all areas of the state, manufacturing or industrial enterprises, including assembling,

fabricating, mixing, processing, warehousing, distributing, or transporting any products of agriculture, forestry, mining, industry, or manufacturing; pollution control facilities; and facilities incident to the development of industrial sites, including land costs and the costs of site improvements such as drainage, water, storm, and sanitary sewers, grading, streets, and other facilities and structures incidental to the use of such sites for manufacturing or industrial enterprises;

(b) In all areas of the state, service enterprises if (i) such facilities constitute new construction or rehabilitation, including hotels or motels, sports and recreation facilities available for use by members of the general public either as participants or spectators, and convention or trade show facilities, (ii) such facilities do not or will not derive a significant portion of their gross receipts from retail sales or utilize a significant portion of their total area for retail sales, and (iii) such facilities are owned or to be owned by a nonprofit entity;

(c) In blighted areas of the state, service and business enterprises if such facilities constitute new construction, acquisition, or rehabilitation, including, but not limited to, those enterprises specified in subdivision (3)(b) of this section, office buildings, and retail businesses if such facilities are owned or to be owned by a nonprofit entity; and

(d) In all areas of the state, any land, building, or other improvement and all real or personal property, including furniture and equipment, and any undivided or other interest in any such property, whether or not in existence, suitable or used for or in connection with any hospital, nursing home, and facilities related and subordinate thereto.

Nothing in this subdivision shall be construed to include any rental or residential housing, residential energy conservation device, or agriculture or agricultural enterprise;

(4) Any land, building, or other improvement, any real or personal property, or any equipment and any undivided or other interest in any of the foregoing, whether or not in existence, used by a nonprofit entity as an office building, but only if (a) the principal long-term occupant or occupants thereof initially employ at least fifty people, (b) the office building will be used by the principal long-term occupant or occupants as a national, regional, or divisional office, (c) the

principal long-term occupant or occupants are engaged in a multistate operation, and (d) the authority makes the findings specified in subdivision (1) of section 58-251;

(5) Wastewater treatment project which shall include any project or undertaking which involves the construction, development, rehabilitation, and improvement of wastewater treatment facilities and is financed by a loan from or otherwise provided financial assistance by the Wastewater Treatment Facilities Construction Loan Fund; and

(6) Any cost necessary for abatement of an environmental hazard or hazards in school buildings upon a determination by the school that an actual or potential environmental hazard exists within the school buildings or grounds under its control; and

(7) Solid waste disposal project which shall include land, buildings, equipment, and improvements consisting of all or part of an area or a facility for the disposal of solid waste, including recycling of waste materials, either publicly or privately owned or operated, and any project or program undertaken by a county, city, village, or joint entity created pursuant to the Interlocal Cooperation Act for closure, monitoring, or remediation of an existing solid waste disposal area or facility and any undivided or other interest in any of the foregoing.

Sec. 70. That section 58-239, Revised Statutes Supplement, 1991, be amended to read as follows:

58-239. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes including:

(1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(2) To adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with the Nebraska Investment Finance Authority Act, to regulate its affairs, to carry into effect the powers and purposes of the authority, and to conduct its business;

(3) To sue and be sued in its own name;

(4) To have an official seal and alter it at will;

(5) To maintain an office at such place or places within the state as it may designate;

(6) To make and execute contracts and all other instruments as necessary or convenient for the performance of its duties and the exercise of its powers and functions under the act;

(7) To employ architects, engineers, attorneys, inspectors, accountants, building contractors, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation;

(8) To obtain insurance against any loss in connection with its bonds, property, and other assets in such amounts and from such insurers as it deems advisable;

(9) To borrow money and issue bonds as provided by the act;

(10) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the act subject to the conditions upon which the grants or contributions are made including gifts or grants from any department, agency, or instrumentality of the United States for any purpose consistent with the act;

(11) To enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders for the purpose of carrying out projects authorized under the act;

(12) To enter into contracts or agreements with lenders for the servicing and processing of mortgages or loans pursuant to the act;

(13) To provide technical assistance to local public bodies and to for-profit and nonprofit entities in the areas of housing for low-income and moderate-income persons, agricultural enterprises, and community or economic development, to distribute data and information concerning the needs of the state in these areas, and, at the discretion of the authority, to charge reasonable fees for such assistance;

(14) To the extent permitted under its contract with the holders of bonds of the authority, to consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, loan, loan note, loan note commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or agreement of any kind to which the authority is a party;

(15) To the extent permitted under its contract with the holders of bonds of the authority, to enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United

States of America or of the state, the reduction can be made without jeopardizing the economic stability of the project being financed;

(16) To acquire by construction, purchase, devise, gift, or lease or any one or more of such methods one or more projects located within this state, except that the authority shall not acquire any projects or parts of such projects by condemnation;

(17) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the act;

(18) To issue bonds for the purpose of paying the cost of financing any project or projects and to secure the payment of such bonds as provided in the act;

(19) To issue bonds for the purpose of financing the costs of construction of ethanol production facilities;

(20) To sell and convey any real or personal property and make such order respecting the same as it deems conducive to the best interest of the authority;

(21) To make and undertake commitments to make loans to lenders under the terms and conditions requiring the proceeds of the loans to be used by such lenders to make loans for projects. Loan commitments or actual loans shall be originated through and serviced by any bank, trust company, savings and loan association, mortgage banker, or other financial institution authorized to transact business in the state;

(22) To invest in, purchase, make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made by lenders for the construction, rehabilitation, or purchase of projects. No loan shall be eligible for investment in, purchase, or assignment by the authority if the loan was made more than one year prior to the date of investment, purchase, or assignment by the authority; and

(23) To enter into financing agreements with others with respect to projects to provide financing for such projects upon such terms and conditions as the authority deems advisable to effectuate the public purposes of the act, which projects shall be located within the state. The authority shall not operate any project referred to in this section as a business or in any manner except as the lessor or seller of such project; and

(24) To enter into financing agreements with any corporation, partnership, or individual or with any county, city, village, or joint entity created pursuant

to the Interlocal Cooperation Act for purposes of financing any solid waste disposal project.

Sec. 71. That section 58-253, Revised Statutes Supplement, 1991, be amended to read as follows:

58-253. The authority may issue from time to time bonds to renew or to pay bonds, including the interest on such bonds, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured and whether or not the project as originally financed with the bonds would at the time of the refunding qualify as a project, and ~~to~~ may issue bonds partly to refund outstanding bonds and partly for any other of its corporate purposes. The refunding bonds may be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded or exchanged for the bonds to be refunded.

Bonds originally issued by any municipality, county, hospital authority, housing authority, or other political subdivision may be subject to refunding pursuant to this section if the original issuer and beneficiary of the bonds request the authority to issue refunding bonds and the bonds to be refunded financed a project which would at the time of refunding qualify as a project.

Sec. 72. That section 69-2008, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2008. On and after January 1, 1991, a person shall not sell or offer for sale at retail any beverage for human consumption if the beverage container is connected to another beverage container by a device which is constructed of a material which is not biodegradable, ~~or~~ photodegradable, or recyclable.

Sec. 73. That section 69-2009, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-2009. On and after January 1, 1992, a person shall not sell or offer for sale at retail any bag used for or intended to be used for grass clippings, garbage, yard waste, or leaves which is constructed of a material which is not biodegradable, ~~or~~ photodegradable, or recyclable.

Sec. 74. That section 71-1631, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1631. The board of health of each county, district, or city-county health department organized

under sections 71-1626 to 71-1636 shall, immediately after appointment, meet and organize by the election of one of its own members as president, one as vice president, and another as secretary and, either from its own members or otherwise, a treasurer and shall have the power herein set forth. ~~It in this section.~~ The board may elect such other officers, as it may deem necessary, and make and adopt such rules for its own guidance, and for the government of such health department as may be necessary, not inconsistent with said such sections. The board of health ~~It~~ shall, with the approval of the board of county commissioners and the municipality, whenever a city is a party in such a city-county health department (1) select the health director of such department, who shall be (a) well-trained in public health work though he or she need not be a graduate of an accredited medical school, but if he or she is not such a graduate, he or she shall be assisted at least part time by at least one medical consultant who shall be a licensed physician, (b) qualified in accordance with the merit system regulations of the state, and (c) approved by the Department of Health; (2) hold an annual meeting each year, at which meeting officers shall be elected for the ensuing year; (3) hold meetings quarterly each year; (4) hold special meetings upon a written request signed by two of its members and filed with the secretary; (5) make provision for suitable offices, facilities, and equipment for the health director and assistants and their pay and traveling expenses in the performance of their duties, with mileage to be computed at the rate provided in section 23-1112; ~~for county officers and employees;~~ (6) publish, on or soon after the second Tuesday in July of each year, in pamphlet form for free distribution, an annual report showing (a) the condition of its trust for each year, (b) the sums of money received from all sources, giving the name of any donor, (c) how all money has been expended and for what purpose, and (d) such other statistics and information ~~in~~ with regard to the work of such health department as may be of general interest; (7) enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the State Board of Health; (8) make all necessary

sanitary and health investigations and inspections; (9) in counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except; PROVIDED, that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class; nor and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county; (10) investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health, to arrest the progress of the same; (11) distribute free, as the local needs may require, all vaccines, drugs, serums, and other preparations obtained from the Department of Health or purchased for public health purposes by the county board; (12) upon request, give professional advice and information to all city, village, and school authorities on all matters pertaining to sanitation and public health; (13) fix the salaries of all employees, including the health director. Such city-county health department may also establish an independent pension plan, retirement plan, or health insurance plan; or by agreement with any participating city or county, provide for the coverage of officers and employees of such city-county health department under such city or county pension plan, retirement plan, or health insurance plan. Officers and employees of a county health department shall be eligible to participate in the county pension plan, retirement plan, or health insurance plan of such county; and (14) establish fees for the costs of all services including those services for which third-party payment is available; and (15) exercise all other powers reasonably necessary to comply with or carry out the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

Sec. 75. That section 81-1501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1501. Whereas the water, land, and air of this state are among its most precious resources and the pollution thereof becomes a menace to the health and welfare of each person, and the public in general, in this state and whereas pollution of these resources in this state is likewise a concern in adjoining states, the public policy of this state is hereby declared to

be:

(1) To conserve the water in this state and to protect and improve the quality of water for human consumption, wildlife, fish and other aquatic life, industry, recreation, and other productive, beneficial uses;

(2) To achieve and maintain such a reasonable degree of purity of the natural atmosphere of this state that human beings and all other animals and plants which are indigenous to this state will flourish in approximately the same balance as they have in recent history and to adopt and promulgate laws, rules, and regulations and enforce uniformly the same in such a manner as to give meaningful recognition to the protection of each element of the environment, air, water, and land; and

(3) To cooperate with other states and the federal government to accomplish the objectives set forth in the Environmental Protection Act and in the Integrated Solid Waste Management Act.

Sec. 76. That section 81-1502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1502. For purposes of As used in the Environmental Protection Act, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental ~~Centre~~ Quality Council and council shall mean the Environmental ~~Centre~~ Quality Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the Environmental Protection Act or any rule or regulation of the department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or

water pollution;

(6) Department shall mean the Department of Environmental ~~Control~~ Quality, which department is hereby created;

(7) Director shall mean the Director of Environmental ~~Control~~ Quality, which position is hereby established;

(8) Disposal system shall mean a system for disposing of wastes, including hazardous wastes, either by surface or underground methods, and includes sewerage systems and treatment works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any individual, partnership, association, public or private corporation, trustee, receiver, assignee, agent, municipality or other governmental subdivision, public agency, officer or governing or managing body of any municipality, governmental subdivision, or public agency, or any other legal entity;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible

and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations thereof of contaminants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety, or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction, including a schedule of compliance, established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state, ~~including schedules of compliance.~~

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance

with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations; and from community activities, but ~~does~~ solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the ~~federal~~ Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923;

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste;

(28) Manifest shall mean the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(29) Processing shall mean to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council;

(30) Well shall mean a bored, drilled, or driven shaft, or a dug hole, ~~whose~~ the depth of which is greater than the largest surface dimension of such shaft or hole;

(31) Injection well shall mean a well into which fluids are injected;

(32) Fluid shall mean a material or substance which flows or moves whether in a semisolid, liquid,

sludge, gas, or any other form or state;

(33) Mineral production well shall mean a well drilled to promote extraction of mineral resources or energy, including, but not limited to, a well designed for (a) mining of sulfur by the Frasch process, (b) solution mining of sodium chloride, potash, phosphate, copper, uranium, or any other mineral which can be mined by this process, (c) in situ combustion of coal, tar sands, oil shale, or any other fossil fuel, or (d) recovery of geothermal energy for the production of electric power. Mineral production well shall not include any well designed for conventional oil or gas production, for use of fluids to promote enhanced recovery of oil or natural gas, or for injection of hydrocarbons for storage purposes;

(34) Mineral exploration hole shall mean a hole bored, drilled, driven, or dug in the act of exploring for a mineral other than oil and gas;

(35) Solution mining shall mean the use of an injection well and fluids to promote the extraction of mineral resources; and

(36) Uranium shall mean tri-uranium octoxide; and

(37) Solid waste management facility shall mean a facility as defined in section 10 of this act.

Sec. 77. That section 81-1503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1503. (1) The Environmental Control Council is hereby created. The council shall consist of sixteen members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(a) One representative of the food products manufacturing industry;

(b) One ; one representative of conservation;

(c) One ; one representative of the agricultural processing industry;

(d) One ; one representative of the automotive or petroleum industry;

(e) One ; one representative of the chemical industry;

(f) One ; one representative of heavy industry;

(g) One ; one representative of the power generating industry;

(h) One ; one representative of agriculture actively engaged in crop production;

(i) One ; one representative of labor;

(j) One ; one professional engineer experienced in control of air and water pollution and solid wastes;

(k) One ; one physician knowledgeable in the health aspects of air, water, and land pollution;

(l) One ; one representative from county government;

(m) Two ; two representatives from municipal government, one of whom shall represent cities other than those of the primary or metropolitan class;

(n) One ; one representative of the livestock industry; and

(o) One ; and one representative of the public at large.

(2) Within thirty days after May 26, 1971, the Governor shall appoint the initial sixteen members to be appointed by him or her. Members shall serve for terms of four years, ; except that of the members first appointed, eight shall be appointed for terms of two years and eight shall be appointed for terms of four years. All appointments shall be subject to confirmation by the Legislature when initially made. As the terms of the initial appointees to the council expire, succeeding appointees shall be representatives term of an appointee to the council expires, the succeeding appointee shall be a representative of the same segment of the public as the previous appointee. In the case of ; and such successors shall be appointed to four-year terms, except appointees to vacancies occurring from unexpired terms, in which case the each successor shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed. All members shall be citizens and residents of the State of Nebraska.

(3) Members may be removed by the Governor for inefficiency, neglect of duty, or misconduct in office, but only after delivering to the member a copy of the charges and affording him or her an opportunity to be publicly heard in person, or by counsel, in his or her own defense, upon not less than ten days' notice. Such hearing shall be held before the Governor. When a member is removed, the Governor shall file, in the office of the Secretary of State, a complete statement of all charges made against such member and the findings thereon, together with a complete record of the proceedings.

(4) The council shall elect from its members a chairperson and a vice-chairperson, who shall hold

office at the pleasure of the council. The vice-chairperson shall serve as chairperson in case of the absence or disability of the chairperson. The director shall serve as secretary of the council and shall keep all records of meetings of and actions taken by the council. He or she shall be promptly advised as to such actions by the chairperson.

(5) The members of the council, while engaged in the performance of their official duties, shall receive ~~compensation at the rate~~ a per diem of forty dollars ~~per day~~ while so serving, including travel time. In addition, members of the council shall receive reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177, ~~for state employees.~~

(6) The council shall hold at least four meetings, once each calendar quarter, at a time and place fixed by the council and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson. Such special meetings must be called by him or her upon receipt of a written request signed by two or more members of the council. Written notice of the time and place of all meetings shall be mailed in advance to the office of each member of the council by the secretary. ~~The~~ A majority of the members of the council shall constitute a quorum.

(7) The council shall submit to the Governor a list of names from which he or she shall appoint the Director of Environmental ~~Control~~, Quality who shall be experienced in air, water, and land pollution control, and who may be otherwise an employee of the state government. The director shall be responsible for administration of the department and all standards, rules, and regulations adopted pursuant to Chapter 81, article 15 and the Integrated Solid Waste Management Act. All such standards, rules, and regulations shall be adopted by the council, after consideration of the recommendations of the director. All grants to political subdivisions under the control of the department shall be made by the director in accordance with priorities established by the council. A majority of the members of the council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the council shall be necessary for the adoption of standards, rules, and regulations.

(8) Before the director ~~shall enter~~ enters upon the duties of his or her office, he or she shall

take and subscribe to the constitutional oath of office, and shall, in addition thereto, swear and affirm that he or she holds no other public office nor any position under any political committee or party, and that he or she has not during the two years immediately prior to his or her appointment received a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit under the Environmental Protection Act, and that he or she will not receive such income during his or her term as director, except that such requirements regarding income prior to the term of office shall not apply to employees of any agency of the State of Nebraska or any political subdivision which may be a permit holder under the Environmental Protection Act. Such oath and affirmation shall be filed with the Secretary of State.

Sec. 78. That section 81-1504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) To exercise exclusive general supervision of the administration and enforcement of the Environmental Protection Act and the Integrated Solid Waste Management Act and all rules and regulations and orders promulgated ~~thereunder~~ under such acts;

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

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

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

(5) To encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air, land, and water pollution and causes

and effects, prevention, control, and abatement thereof of such pollution as it may deem advisable and necessary for the discharge of its duties under the Environmental Protection Act and the Integrated Solid Waste Management Act, using its own staff or by using private research organizations under contract;

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

(7) To issue, modify, or revoke orders: (a) ~~Prohibiting prohibiting~~ or abating discharges of wastes into the air, waters, or land of the state; and (b) requiring the construction of new disposal systems or any parts thereof or the modification, extension, or adoption of other remedial measures to prevent, control, or abate pollution;

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

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

(10) To require submission of plans, specifications, and other data relative to, and to inspect construction of, disposal systems or any part thereof prior to issuance of such permits or approvals as are required by the Environmental Protection Act and the Integrated Solid Waste Management Act;

(11) To issue, continue in effect, revoke, modify, or deny permits, under such conditions as the director may prescribe, and consistent with the standards, rules, and regulations adopted by the council, (a) to prevent, control, or abate pollution, or (b) for the discharge of wastes into the air, land, or waters of the state, and (c) for the installation, modification, or operation of disposal systems or any parts thereof;

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

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

Act:

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

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

(b) To require, for purposes of developing or assisting the development of any regulation or enforcing any of the provisions of the Environmental Protection Act which pertain to hazardous waste, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste, upon request of any officer, employee, or representative of the department, to furnish information relating to such waste and any permit involved. Such person shall have access at all reasonable times to a copy of all results relating to such waste;

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

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

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

(19) To consult, ~~upon the request of~~ with any person proposing to construct, install, or otherwise acquire an air, land, or water contaminant source or a device or system for control ~~thereof~~, with of such source, upon request of such person, concerning the efficacy of such device or system; or ~~concerning~~ the air, land, or water pollution problem which may be related to the source, device, or system. Nothing in

any such consultation shall be construed to relieve any person from compliance with the Environmental Protection Act or the Integrated Solid Waste Management Act, rules and regulations in force pursuant ~~thereto~~ to the acts, or any other provision of law;

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

(21) To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence;

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

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

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

(25) To develop and enforce compliance schedules, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, to prevent, control, or abate pollution;

(26) To employ the Governor's Keep Nebraska Beautiful Committee for such special occasions and projects as the department may decide. Reimbursement and reimbursement of the committee shall be made from state and appropriate federal matching funds for each assignment of work by the department as provided in

sections 81-1174 to 81-1177, for state employees;

(27) To require the owners or operators of a major new or modified stationary air pollution source under the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., to pay a permit fee when the application therefor cannot be processed in a routine manner. Such fee shall not exceed the cost of the engineering review; any public hearings held; and any other nonroutine expenses in connection with the issuance or denial of such permit;

{28} To provide, to the extent determined by the council to be necessary and practicable, for areawide, selective, and periodic inspection and testing of motor vehicles to secure compliance with applicable exhaust emission standards for a fee not to exceed five dollars to offset the cost of inspection;

(28) {29} To enforce, when it is not feasible to prescribe or enforce any emission standard for control of air pollutants, the use of a design, equipment, a work practice, or an operational standard, or a combination thereof, which is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety;

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

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

Sec. 79. That section 81-1505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1505. (1) In order to carry out the purposes of the Environmental Protection Act and the Integrated Solid Waste Management Act, the council shall adopt and promulgate rules and regulations which shall set standards of air, water, and land quality to be applicable to the air, waters, and land of this state or portions thereof. Such standards of quality shall be such as to protect the public health and welfare. The council shall classify air, water, and land contaminant sources according to levels and types of discharges, emissions, and other characteristics which relate to air, water, and land pollution; and may require reporting for any such class or classes. Such classifications and standards made pursuant to this section may be made for application to the state as a

whole or to any designated area of the state, and shall be made with special reference to effects on health, economic, and social factors, and physical effects on property. Such standards and classifications may be amended as determined necessary by the council.

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

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

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

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

(d) ~~the~~ The extent of present pollution or contamination of such waters which has already occurred or resulted from past discharges therein; and

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

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

(4) In adopting standards of performance, the council shall give consideration to the discharge of pollutants which reflect the greatest degree of effluent

reduction which the council determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where when practicable, a standard permitting no discharge of pollutants.

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

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

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

(8) In adopting regulations pertaining to the disposal of domestic and industrial liquid wastes, the council shall give consideration to the minimum amount of biochemical oxygen demand, suspended solids, or equivalent in the case of industrial wastewaters, which must be removed from the wastewaters, the degree of disinfection necessary to meet water quality standards, the requirements of subdivisions (2) and ~~(3)~~ (4) of section 81-1506 with respect to construction, installation, or change of, alterations in, or additions to any wastewater treatment works or disposal systems, including issuance of permits and proper abandonment, and requirements necessary for proper operation and maintenance thereof.

(9)(a) The council shall adopt and promulgate rules and regulations for controlling mineral exploration holes and mineral production and injection wells. The rules and regulations shall include standards for the construction, operation, and abandonment of such holes and wells. The standards shall protect the public health and welfare and air, land, water, and subsurface resources so as to control,

minimize, and eliminate hazards to humans, animals, and the environment. Consideration shall be given to:

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

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

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

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

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

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

(c) With respect to mineral production wells, the council shall adopt and promulgate rules and regulations which require restoration of air, land, water, and subsurface resources and require mineral production well permit applications to include a restoration plan for the air, land, water, and subsurface resources affected. Such rules and regulations may provide for issuance of a research and development permit which authorizes construction and operation of a pilot plant by the permittee for the purpose of demonstrating the permittee's ability to inject and restore in a manner which meets the standards required by this subsection (9) of this section and the rules and regulations adopted pursuant to such

subsection-

The rules and regulations adopted and promulgated may also provide for issuance of a commercial permit after a finding by the department that the injection and restoration procedures authorized by the research and development permit have been successful in demonstrating the applicant's ability to inject and restore in a manner which meets the standards required by this subsection (9) of this section and the rules and regulations, adopted pursuant to such subsection-

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

(10) In adopting livestock waste control regulations, the council shall consider the discharge of livestock wastes into the waters of the state or onto land not owned by the livestock operator, conditions under which permits for such operations may be issued, including design, location, and proper management of such facilities, protection of ground water from such operations, and revocation, modification, or suspension of such permits for cause.

(11) In adopting regulations for the issuance of permits under the National Pollutant Discharge Elimination System created by the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider when such permits shall be required and exemptions, application and filing requirements, terms and conditions affecting such permits, notice and public participation, duration and review of such permits, and monitoring, recording, and reporting under the system.

(12) In adopting air pollution control regulations the council shall consider classification of air quality control regions, reporting of emissions, when permits shall be required for new and complex sources, limitations on emissions from existing process operations and existing fuel-burning equipment, incinerator emissions, and such other emissions restrictions as are necessary to protect the public health and welfare, when exceptions will be allowed, establishment of time schedules for compliance, measurement of emissions, and provisions for emergency

air episodes. The council shall also provide, to the extent it determines necessary and practicable, for areawide, selective, and periodic inspection and testing of motor vehicles to insure compliance with applicable emission standards for a fee not to exceed five dollars to offset the increased cost of inspection, and the council may, when it is not feasible to prescribe or enforce an emission standard for control of air pollutants, adopt a design, equipment, work practice, or operational standard, or any combination thereof, which is adequate to protect the public health from such pollutant or pollutants with an ample margin of safety. As part of such standard the council shall adopt such requirements as will assure the proper operation and maintenance of any element of design or equipment. (12) The council shall adopt and promulgate rules and regulations for air pollution control which shall include:

(a) A construction permit program which requires the owner or operator of an air contaminant source to obtain a permit prior to construction;

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

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

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

(e) Requirements for operating permits which may include such conditions as necessary to protect public health and welfare, including, but not limited to (i) monitoring and reporting requirements on all sources subject to the permit, (ii) payment of annual fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality permit program, (iii) retention of records, (iv) compliance with all air quality standards, (v) a permit term of no more than five years from date of issuance.

(vi) any applicable schedule of compliance leading to compliance with air quality regulations, (vii) site access to the department for inspection of the facility and records, (viii) emission limits or control technology requirements, (ix) periodic compliance certification, and (x) other conditions necessary to carry out the purposes of the Environmental Protection Act. For purposes of this subsection, control technology shall mean a design, equipment, a work practice, an operational standard which may include a requirement for operator training or certification, or any combination thereof;

(f) Classification of air quality control regions;

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

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

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

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

(h) Restrictions on open burning and fugitive emissions;

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

(j) Provisions for implementation of the sulfur dioxide allowance system of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., through the operating

permit program:

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

(l) Provisions for periodic reporting of emissions;

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

(n) Time schedules for compliance;

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

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

(q) Procedures and definitions necessary to carry out payment of the annual emission fee set in section 82 of this act.

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

In addition the council shall give consideration to (i) ground water monitoring, (ii) use and management of containers and tanks, (iii) surface impoundments, (iv) waste piles, (v) land treatment, (vi)

incinerators, (vii) chemical or biological treatment, (viii) landfills including the surveying thereof, and (ix) special requirements for ignitable, reactive, or incompatible wastes.

In considering closure and postclosure of hazardous waste treatment, storage, or disposal facilities, the council shall consider regulations that would result in the owner or operator closing his or her facility so as to minimize the need for future maintenance, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, postclosure escape of hazardous waste, hazardous waste constituents, and leachate to the ground water or surface waters, and to control, minimize, or eliminate, to the extent necessary to protect humans, animals, and the environment, waste decomposition to the atmosphere.

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

(b) In adopting regulations for hazardous waste management, the council shall consider, in addition to criteria in subdivision (a) of this subsection, establishing criteria for (i) identifying hazardous waste including extraction procedures, toxicity, persistence, and degradability in nature, potential for accumulation in tissue, flammability or ignitability, corrosiveness, reactivity, and generation of pressure through decomposition, heat, or other means, and other hazardous characteristics, (ii) listing all materials it deems hazardous and which should be subject to regulation, and (iii) locating treatment, storage, or disposal facilities for such wastes. In adopting criteria for flammability and ignitability of wastes pursuant to subdivision (b)(i) of this subsection, no regulation shall be adopted without the approval of the State Fire Marshal.

(c) In adopting regulations for hazardous waste management, the council shall consider establishing a schedule of fees to be paid to the director by licensees or permittees operating hazardous waste processing facilities or disposal areas on the basis of a monetary value per cubic foot of the hazardous wastes, sufficient but not exceeding the amount necessary to reimburse the department for the costs of monitoring such facilities or areas during and after operation of such facilities or areas. The

licensees may assess a cost against persons using the facilities or areas. The director shall remit any money collected from fees paid to him or her to the State Treasurer- Upon receipt of any such remittance, the State Treasurer shall deposit who shall credit the entire amount thereof in the state to the General Fund.

(d) In adopting regulations for solid waste disposal, the council shall consider storage, collection, transportation, processing, resource recovery, and disposal of solid waste, developmental and operational plans for solid waste disposal areas, conditions for licensing permitting of solid waste disposal areas, modification, suspension, or revocation of such licensees permits, regulations of operations of disposal areas, including site improvements, fire prevention, ground water protection, safety and restricted access, handling of liquid and hazardous materials, insect and rodent control, salvage operations, and the methods of disposing of accumulations of junk outside of solid waste disposal areas. Such regulations shall in all respects comply with the Environmental Protection Act, the Integrated Solid Waste Management Act, and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

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

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

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

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

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

(d) A term of five years for such permits, which shall not be transferable;

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

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

(g) Inspections of such compost sites at least semiannually followed by ratings, with a copy of such ratings to be given to the site management. Operations out of compliance with composting regulations, permit conditions, or operational plans shall be given a reasonable time for voluntary compliance, and failure to do so within the specified time shall result in a hearing after notice is given, at which time the owner or operator shall appear and show cause why his or her permit should not be revoked;

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

(i) Exemptions from permits of the department, and

(j) The Integrated Solid Waste Management Act.

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

(17) Prior to adopting, amending, or repealing standards and classifications of air, water, and land quality and rules and regulations under the Integrated Solid Waste Management Act, the council shall, after due notice, conduct public hearings thereon. Notice of public hearings shall specify the waters or the area of the state for which standards of air, water, or land are sought to be adopted, amended, or repealed and the time, date, and place of such hearing. Such hearing shall be held in the general area to be affected by such standards. Copies of such notice shall be:

(a) Published at least twice in a newspaper regularly published or circulated in a county or counties bordering or through which flow the waters or the atmosphere of which is affected, or the particular portion of land which is affected, for which standards

are sought to be adopted. The first date of publication shall not be more than thirty days nor less than twenty days before the date fixed for such hearing; and

(b) Mailed at least twenty days before such hearing to such persons and political subdivisions as the council has reason to believe may be affected by the proposed standards.

(18) Standards of quality of the air, water, or land of the state and rules and regulations adopted under the Integrated Solid Waste Management Act or any amendment or repeal thereof of such standards or rules and regulations shall become effective upon adoption by the council and filing in the office of the Secretary of State. In adopting standards of air, water, and land quality or making any amendment thereof, the council shall specify a reasonable time for persons discharging wastes into the air, water, or land of the state to comply with such standards and upon the expiration of any such period of time may revoke or modify any permit previously issued which authorizes the discharge of wastes into the air, water, or land of this state which result in reducing the quality of such air, water, or land below the standards established therefor by the council.

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

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

(21)(a) The council shall adopt and promulgate rules and regulations requiring all new or renewal permit or license applicants regulated under the Environmental Protection Act or the Integrated Solid Waste Management Act to establish proof of financial responsibility by providing funds in the event of abandonment, default, or other inability of the permittee or licensee to meet the requirements of its

permit or license or other conditions imposed by the department pursuant to the ~~act~~ acts. The council may exempt classes of permittees or licensees from the requirements of this subdivision when a finding is made that such exemption shall not result in a significant risk to the public health and welfare.

(b) Proof of financial responsibility shall include any of the following made payable to or held in trust for the benefit of the state and approved by the department:

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

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

(iii) ~~an~~ An established escrow account; or

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

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

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

(22) This section shall apply to hazardous

waste treatment, storage, or disposal facilities which have received interim status.

Sec. 80. That section 81-1505.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1505.01. There is hereby created the Department of Environmental ~~Control~~ Quality Cash Fund which shall be used to pay the expenses of the department and of the Small Business Compliance Advisory Panel. All fees collected by the department The department shall remit all fees collected pursuant to subsection (9) of section 81-1505, and section 81-1521.09, and section 82 of this act shall be paid into the state treasury and credited by to the State Treasurer for credit to the fund. Any fee collected pursuant to section 81-1521.09 shall be used to pay the expenses related to the notice of intent for which the fee was paid. Any fee collected pursuant to section 82 of this act shall be used solely to pay the reasonable direct and indirect costs required to develop and administer the air quality permit program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276.

Any money in the Department of Environmental Control Cash Fund on the operative date of this section shall be transferred to the Department of Environmental Quality Cash Fund on such date.

Sec. 81. There is hereby created the Small Business Compliance Advisory Panel. The panel shall consist of the following:

(1) Two members who are not owners or representatives of owners of small business stationary sources of air emissions selected by the Governor to represent the general public;

(2) Four members selected by the Legislature who are owners or who represent owners of small business stationary sources of air emissions; and

(3) One member selected by the director.

The panel shall be responsible for all requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The panel shall conduct its meetings in accordance with sections 84-1408 to 84-1414 and shall submit an annual report to the Governor no later than January 1 of each year. The panel shall receive necessary staff support from the department.

Sec. 82. The department shall collect an

annual emission fee from major sources of air pollution. Each major source shall pay the emission fee for regulated pollutants in the amount of twenty-five dollars per ton per pollutant or as adjusted pursuant to this section. The fee shall be based upon the amount of emissions of each regulated pollutant as reported or estimated by the source in the previous calendar year, but fees shall not be paid on amounts in excess of four thousand tons per year for any regulated pollutant. For the initial annual emission fee, which shall be due no later than November 15, 1995, reported or estimated emission levels shall be based on emissions in calendar year 1994.

The emission fee shall be increased or decreased annually by the department in each year beginning after 1991 by the percentage difference between the Consumer Price Index for the most recent year ending before the beginning of such year and the Consumer Price Index for the year 1989 or as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit program. For purposes of this section, Consumer Price Index shall mean the change in the price of goods and services for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year and reasonable direct and indirect costs of developing and administering the air quality permit program, as required under the Clean Air Act, as amended, 42 U.S.C. 7661a through f, shall include:

(1) Consideration of any associated overhead charges for personnel, equipment, buildings, and vehicles;

(2) Reviewing and acting on any application for a permit or permit revision;

(3) Implementing and enforcing the terms of any permit, not including any court costs or other costs associated with any formal enforcement action;

(4) Emissions and ambient monitoring, including adequate resources to audit and inspect source-operated monitoring programs;

(5) Preparing generally applicable regulations or guidance;

(6) Modeling, analyses, or demonstrations;

(7) Preparing inventories and tracking emissions; and

(8) Providing support to sources under the Small Business Compliance Advisory Panel.

The council shall establish procedures for the

method of calculation and payment of the emission fee in a manner consistent with this section and shall establish the definition of or a table listing the pollutants which are regulated pollutants and a definition of major source. Such definitions or listing shall comply with and not be more stringent than the requirements of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

The department shall, on or before January 1 of each year, submit a report to the Legislature documenting all direct and indirect costs incurred and emission fees assessed in carrying out the air quality permit program. The Appropriations Committee of the Legislature shall review such report in its analysis of executive programs in order to verify that revenue generated from emission fees was used solely to offset appropriate and reasonable costs associated with the air quality permit program.

Sec. 83. That section 81-1506, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1506. (1) It shall be unlawful for any person:

(a) To cause pollution of any air, waters, or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state; or

(b) To discharge or emit any wastes into any air, waters, or land of the state which reduce the quality of such air, waters, or land below the air, water, or land quality standards established therefor by the council. Any such action is hereby declared to be a public nuisance. A livestock operation is not a nuisance if:

(i) Reasonable techniques are employed to keep dust, noise, insects, and odor at a minimum;

(ii) It is in compliance with applicable regulations adopted by the council and zoning regulations of the local governing body having jurisdiction; and

(iii) The action is brought by or on behalf of a person whose date of lawful possession of the land claimed to be affected by a livestock operation is subsequent either to the issuance of an appropriate permit by the department for such operation, or to the operation of the feedlot and an onsite inspection by the department is made, before or after filing of the suit, and the inspection reveals that no permit is required for such operation.

(2) It shall be unlawful for any person to carry on any of the following activities unless he or she holds a current permit therefor from the department, as is required by it, for the disposal of all wastes which are or may be discharged or emitted thereby into the air, waters, or land of the state:

(a) Discharges for which a permit is required under the National Pollutant Discharge Elimination System created by the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended, in which case the issuance of such permits shall be according to rules and regulations adopted by the council pursuant to subsection (11) of section 81-1505 and to which other provisions of this section shall not apply;

(b) The construction, installation, modification, or operation of any disposal system or part thereof or any extension or addition thereto;

(c) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;

(d) The construction, installation, or operation of any industrial, commercial, or other establishment or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge or emission of wastes into the air, waters, or land of the state or would otherwise alter the physical, chemical, or biological properties of any air, waters, or land of the state in any manner not already lawfully authorized; or

(e) The construction or use of any new outlet for the discharge of any wastes into the air, waters, or land of the state.

The department, under such conditions as it may prescribe, shall, for the review, recommendations, and written approval of the director, require the submission of such plans, specifications, and other information as it deems necessary to carry out the Environmental Protection Act and the Integrated Solid Waste Management Act or to carry out the rules and regulations adopted pursuant to such act acts. When deemed necessary by the director, such plans and specifications shall be prepared and submitted by a professional engineer duly registered to practice in the State of Nebraska.

(3) It shall be unlawful for any person to:

(a) Construct or operate a solid waste management facility without first obtaining a permit required under the Environmental Protection Act or under

the Integrated Solid Waste Management Act and the rules and regulations adopted by the council pursuant to the acts;

(b) Violate any term or condition of a solid waste management facility permit;

(c) Violate any rule or regulation adopted by the council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act; and

(d) After October 1, 1993, dispose of any solid waste at any location other than a solid waste management facility holding a current permit issued by the department pursuant to the Integrated Solid Waste Management Act.

(4) It shall be unlawful to:

(a) Construct or operate an air pollution source without first obtaining a permit required under the Environmental Protection Act and the rules and regulations adopted by the council pursuant to subsection (12) of section 81-1505;

(b) Violate any term or condition of an air pollution permit or any emission limit set in the permit; or

(c) Violate any emission limit or air quality standard established by the council.

(a) Except in the case of underground injection control or hazardous waste facilities, if within thirty days of the receipt of plans, specifications, or other information required pursuant to this section the department determines that the proposed construction, installation, or establishment will not be in accordance with the requirements of the Environmental Protection Act or applicable rules and regulations, it shall issue a preliminary order prohibiting the construction, installation, or establishment of the air, water, or land contaminant source or sources. Failure of such an order to issue within the time prescribed in this subsection shall be deemed a determination that the construction, installation, or establishment may proceed, if it is in accordance with the plans, specifications, or other information, if any, required to be submitted.

(b) The council may adopt and promulgate rules and regulations setting out time periods for the processing of applications requesting permits for activities regulated pursuant to subsections (9), (13), and (14) of section 81-1505.

(4) In addition to any other remedies available on account of the issuance of a preliminary order disapproving construction, installation, or

establishment and prior to invoking any such remedies, the person aggrieved thereby shall, upon request and in accordance with rules of practice and procedure of the department, be entitled to a hearing on the order. Following such hearing, the preliminary order may be affirmed, modified, or withdrawn by a final order of the director which order shall be subject to review as provided in section 81-1509.

(5) Nothing in this section shall be construed to authorize the department to specify the type, design, method of installation, or type of construction of any equipment of manufacturing processes.

(6) Failure by the department to issue an order pursuant to this section shall not relieve any person from compliance with any emission or discharge control requirements or with any other provision of law. Sec. 84. That section 81-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1507. (1) Whenever the director has reason to believe that a violation of any provision of the Environmental Protection Act, the Integrated Solid Waste Management Act, a rule or regulation pursuant to either act, or any order of the department has occurred, he or she may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provision of the act, rule or regulation, or order alleged to be violated and the facts alleged to constitute a violation thereof and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named therein requests in writing a hearing before the director no later than thirty days after the date such order is served. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charges complained of. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection (5) of this section not less than thirty days before the time set for the hearing.

(2) The director shall afford an opportunity for a fair hearing, in accordance with the provisions of the Environmental Protection Act or the Integrated Solid Waste Management Act, to the alleged violator or violators at the time and place specified in the notice or any modification thereof. On the basis of the evidence produced at the hearing, the director or hearing officer shall make findings of fact and

conclusions of law and enter such order as in his or her opinion will best further the purposes of the ~~act~~ acts and shall give written notice of such order to the alleged violator and to such other persons as ~~shall have appeared~~ who appear at the hearing and ~~made~~ make written request for notice of the order. If the hearing is held before any person other than the director, such person shall transmit a record of the hearing together with findings of fact and conclusions of law to the director. The director, prior to entering his or her order on the basis of such record, shall provide opportunity to the parties to submit for his or her consideration exceptions to the findings or conclusions and supporting reasons for such exceptions. The order of the director shall become final and binding on all parties unless appealed to the courts as provided in section 81-1509 within thirty days after notice has been sent to the parties.

(3) Any person who is denied a permit by the director or who has such permit revoked or modified shall be afforded an opportunity for a fair hearing as provided in subsection (2) of this section in connection therewith upon written application to the director within thirty days after receipt of notice from the director of such denial, revocation, or modification. On the basis of such hearing the director shall affirm, modify, or revoke his or her previous determination.

(4) Whenever the director finds that an emergency exists requiring immediate action to protect the public health and welfare, the director may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (2) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but on application to the director shall be afforded a hearing as soon as possible and not later than ten days after such application by such affected person. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it.

(5) Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director shall be served on any person affected thereby in a manner provided for service of a summons in a civil action. Proof of service shall be filed in the office of the department.

Every certificate or affidavit of service made

and filed as provided in this section shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

(6) The hearings provided for in this section may be conducted by the director, or by any member of the department acting in his or her behalf, or the director may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the director at any time and place. A verbatim record of the proceedings of such hearings shall be taken and filed with the director, together with findings of fact and conclusions of law made by the director or hearing officer. Witnesses who are subpoenaed shall receive the same fees as in civil actions in the district court and mileage as provided in section 81-1176, ~~for state employees.~~ In case of contumacy or refusal to obey a notice of hearing or subpoena issued under the provisions of this section, the district court shall have jurisdiction, upon application of the director, to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.

If requested to do so by any party concerned with such hearing, the full stenographic notes, or tapes of an electronic transcribing device, of the testimony presented at such hearing shall be taken and filed. The stenographer shall, upon the payment of the stenographer's fee allowed by the court therefor, furnish a certified transcript of the whole or any part of the stenographer's notes to any party to the action requiring and requesting the same.

Sec. 85. That section 81-1508, Revised Statutes Supplement, 1991, be amended to read as follows:

81-1508. (1) Any person who violates any of the provisions of the Environmental Protection Act or the Integrated Solid Waste Management Act or who fails to perform any duty imposed by such either act shall:

(a) For any violation except of (i) a permit or permit condition or limitation pursuant to the National Pollutant Discharge Elimination System, created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., (ii) air pollution standards, rules, and regulations, (iii) hazardous waste standards, rules, and regulations, or (iv) mineral production or injection well control rules and regulations, be guilty of a misdemeanor and shall, upon conviction thereof, be fined

not less than one hundred dollars nor more than five hundred dollars and a further fine of ten dollars per day together with costs for each day he or she violates the provisions of or fails to perform any of the duties imposed by the Environmental Protection Act or the Integrated Solid Waste Management Act. In default of the payment of such fine and costs, the person or, if such person is a corporation, the officers of such corporation may be imprisoned in the county jail for a period of not more than sixty days and in addition thereto may be enjoined from continuing such violation. Each day upon which such violation occurs shall constitute a separate violation;

(b) For willful or negligent violation of water quality standards and effluent standards and limitations, for failure to obtain a permit or meet the filing requirements therefor, for discharging without a permit, or for violation of a permit or any permit condition or limitation under the National Pollutant Discharge Elimination System, created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars for each day of such violation or by imprisonment for not more than six months in the county jail, and in assessing the amount of the fine the court shall consider the size of the operation and the degree and extent of the pollution;

(c) For refusing the right of entry and inspection to any authorized departmental representative, for violation of any effluent standards and limitations, filing requirements, monitoring requirements, or water quality standards, for failure to obtain a permit, or for violation of a permit or any permit condition or limitation or any rules, regulations, or orders of the director under the National Pollutant Discharge Elimination System, created by the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., be subject to a civil penalty of not more than five thousand dollars per day, the amount of such penalty to be based on the size of the operation and the degree and extent of the pollution;

(d) For knowingly making any false statement, representation, or certification in any application, record, report, plan, or other document filed pursuant to the National Pollutant Discharge Elimination System, 33 U.S.C. 1342, or for falsifying, tampering with, or knowingly rendering inaccurate any monitoring device or method required under such system, be guilty of a

misdeameanor and shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars for each day that such violation occurs;

(e) For (i) failure to report emission data, (ii) failure to obtain a permit or pay any required fee for obtaining such permit, (iii) violation of an air pollution permit or any permit condition or limitation, (iv) violation of emission standards or limitations, except on motor vehicles, (v) failure to meet incremental dates in compliance schedules, or (vi) violation of any order issued under section 81-1507, be subject to a civil penalty of not more than five ten thousand dollars a per day per violation; 7 the amount of such penalty to be based on the size of the operation and the degree and extent of the pollution;

(f) For any knowing and willful violation of any air pollution control law, rule, or regulation, be guilty of a misdeameanor felony and shall, upon conviction thereof, be punished by a fine of not more than five ten thousand dollars per day; and each day the violation occurs shall be considered a separate offense. The court shall, in assessing the amount of the fine, consider the extent of the pollution and the size of the operation for each violation and may also be punished by a term of up to six months imprisonment;

(g) For violation of any hazardous waste permit or license, permit or license condition, limitation, law, rule, or regulation or for any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of program compliance (i) be guilty of a felony for any knowing and willful violation and shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars per day for each violation and may also be punished by a term of up to six months imprisonment or (ii) be subject to a civil penalty of not more than ten thousand dollars per day, and each day the violation occurs shall be considered a separate offense. If the violator is a corporation, the officers of such corporation may be imprisoned for the violation. Whether the punishment for violation of any hazardous waste permit or license, permit or license condition, limitation, law, rule, or regulation is criminal or civil, the court shall, in assessing the amount of the penalty, consider the size of the operation, the degree and extent of the pollution, and any injuries to humans, animals, or the environment; and

(h) For violation of any mineral production or

injection control permit, permit condition, limitation, law, rule, or regulation (i) be guilty of a felony for any knowing and willful violation and shall, upon conviction thereof, be punished by a fine of not more than ten thousand dollars per day for each violation and may also be punished by a term of up to six months imprisonment or (ii) be subject to a civil penalty of not more than ten thousand dollars per day, and each day the violation occurs shall be considered a separate offense. If the violator is a corporation, the officers of the corporation may be imprisoned for the violation, and

(i) For violation of the conditions or limitations of any permit for a solid waste management facility under the Environmental Protection Act or of any permit for a facility under the Integrated Solid Waste Management Act or for violation of subsection (3) of section 81-1506, be subject to a civil penalty of not more than five thousand dollars per day per violation, and each day the violation occurs shall be considered a separate offense.

(2) Any person who violates any of the provisions of the Environmental Protection Act or the Integrated Solid Waste Management Act, fails to perform any duty imposed by such either act or any rule or regulation issued under such act thereunder, or violates any order or determination of the director promulgated pursuant to either such act and causes the death of fish or other wildlife shall, in addition to the penalties provided in subsection (1) of this section, be liable to pay to the state an additional amount equal to the sum of money reasonably necessary to restock waters with fish or replenish such wildlife as determined by the director after consultation with the Game and Parks Commission. Such amount may be recovered by the director on behalf of the state in a civil action brought in the district court of the county in which such violation or failure to perform any duty imposed by the act acts occurred.

(3) Except as provided for in subsection (4) of this section for the handling, storage, treatment, transportation, or disposal of solid or hazardous waste, in addition to the penalties provided by this section, the director, whenever he or she has reason to believe that any person, firm, or corporation is violating or threatening to violate any provision of the act acts, any rule or regulation adopted and promulgated thereunder, or any order of the director, may petition the district court for an injunction. It shall be the

duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with the aet acts.

(4) Upon receipt of evidence that the handling, storage, treatment, transportation, or disposal of any solid waste or hazardous waste is presenting an imminent and substantial endangerment to the health of humans or animals or to the environment, the director may petition the district court for an injunction to immediately restrain any person from contributing to the alleged acts, to stop such handling, storage, treatment, transportation, or disposal, and to take such other action as may be necessary. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to assure compliance with the Environmental Protection Act and the Integrated Solid Waste Management Act.

Sec. 86. That section 81-1510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1510. (1) The director shall make every effort to obtain voluntary compliance through warning, conference, or any other appropriate means prior to initiating enforcement proceedings, except that such requirement shall not be construed to alter enforcement duties or requirements of the director and the department.

(2) The director may require the maintenance of records relating to the operation of disposal systems, and any authorized representative of the director may examine and copy any such records or memoranda pertaining to the operation of disposal systems. Copies of such records shall be submitted to the director upon request.

Sec. 87. That section 81-1511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1511. Any duly authorized officer, employee, or representative of the director may at any reasonable time, with the consent of the person or persons in control of an air, land, or water contaminant source, enter and inspect any property, premise, or place on or at which such a contaminant source is located or being constructed, installed, or established for the purpose of ascertaining the state of compliance with the Environmental Protection Act and the Integrated Solid Waste Management Act and rules and regulations in

force pursuant ~~thereto~~ to the acts. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath or affirmation, may be issued by the district court as provided by law to such officer, employee, or representative of the department for the purpose of enabling him or her to make such inspection. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials and warrants. ~~No person shall~~ any person shall obstruct, hamper, or interfere with any such inspection. Nothing in this section shall be construed to prevent prompt inspection without consent or appropriate warrant in acute and compelling emergency situations when there is neither sufficient time nor opportunity to obtain a search warrant. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Sec. 88. That section 81-1512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1512. Nothing in the Environmental Protection Act or the Integrated Solid Waste Management Act shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration if such power is conferred by statute or constitutional provision or inheres in the office.

Sec. 89. That section 81-1516, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1516. No person shall dispose of any refuse, garbage, or rubbish at any place except a disposal area licensed for which a permit has been issued as provided by the Environmental Protection Act or, on and after October 1, 1993, in a facility for which a permit has been issued under the Integrated Solid Waste Management Act. Nothing in the either act ~~nor any and no~~ act of the director shall usurp the legal right of a local governing body to develop and enforce local ordinances, codes, or rules and regulations on solid waste disposal equal to or more stringent than the provisions of the act acts as necessary to protect the public health and welfare and the environment, ~~nor shall~~ and the provisions of the act acts shall not relieve the applicant from obtaining a license permit from a local governing body when required or relieve the person owning or operating a disposal area from responsibility

for securing proper zoning permits or complying with all applicable local ordinances, codes, or rules and regulations not in conflict with the provisions of the set acts.

Sec. 90. That section 81-1527, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1527. (1) Any records or other information furnished to or obtained by the department concerning one or more air, water, or land contaminant sources, which records or information, as certified by the owner or operator and determined by the director to relate to methods or processes entitled to protection as trade secrets of such owner or operator, shall be only for the confidential use of the department in the administration of the Environmental Protection Act, and the Integrated Solid Waste Management Act unless such owner or operator shall expressly agree agrees to their publication or availability to the general public, except that emission data obtained under the federal Clean Air Act, as amended, 42 U.S.C. 7401 of 1970, 42 U.S.C. 1857 et seq., or effluent data, permit applications, draft permits, or permits as issued, all under the National Pollutant Discharge Elimination System, pursuant to the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended, shall be available to the public during business hours. Any ; and any information to be accorded confidential status in a national pollutant discharge elimination system form shall be forwarded to the Regional Administrator of the Environmental Protection Agency for concurrence with the director's determination of such status. Nothing in this section shall be construed to prevent the use of such records or information by the department in compiling or publishing analyses or summaries relating to the general condition of water or the land or the outdoor atmosphere as long as such analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

(2) The director shall permit the Administrator or Regional Administrator of the Environmental Protection Agency or his or her delegates to inspect the confidential records of the department concerning a given source.

Sec. 91. That section 81-1528, Revised Statutes Supplement, 1991, be amended to read as follows:

81-1528. (1) The Environmental Protection Act shall not apply in any political subdivision which

provides for the control of air, water, or land pollution by resolution, ordinance, or regulation not inconsistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act, except that no such resolution, ordinance, or regulation shall become effective until a certificate of exemption has been issued by the director. Such certificate of exemption shall be available for inspection in the office of the county, city, or village clerk as the case may be.

(2) If the director determines at any time after the issuance of such a certificate that a resolution, ordinance, or regulation is being enforced in a manner inconsistent with the Environmental Protection Act or any rule or regulation adopted pursuant to such act in any political subdivision holding a certificate of exemption, the director may suspend the certificate of exemption and the Environmental Protection Act shall apply in such political subdivision until such standards are met and a new certificate is issued.

(3) Any political subdivision desiring a certificate of exemption shall make application for such certificate by filing a petition for certificate of exemption with the director. The director or his or her designated representative shall promptly investigate such petition. If the recommendation of the director or his or her designated representative is against the granting of a certificate of exemption and he or she, in his or her discretion, concludes that a hearing would be advisable, a hearing shall be held as provided in section 81-1507 on the questions of whether the resolution, ordinance, or regulation is consistent with the substantive provisions of the Environmental Protection Act or any rule or regulation adopted pursuant to such act and whether adequate provisions have been made for enforcement. The burden of proof shall be upon the political subdivision. A like hearing shall be held upon any proposed suspension of a certificate of exemption.

(4) If the director finds that the location, character, or extent of particular concentrations of population, air, water, or land contaminant sources, the geographic, topographic, or meteorological considerations, or any combination thereof, are such as to make impracticable the maintenance of appropriate levels of air, water, or land quality without an areawide air, water, or land pollution control program, the director may determine the boundaries within which

such program is necessary and require it as the only acceptable alternative to direct state administration.

(5) Nothing in the Environmental Protection Act shall be construed to supersede or oust the jurisdiction of any local air, water, or land pollution control program in operation on May 26, 1971. Such program shall meet all requirements of the Environmental Protection Act for a local air, water, or land pollution control program. Any approval required from the department shall be deemed granted unless the department takes specific action to the contrary.

(6) ~~Until March 1, 1995~~ October 1, 1993, cities of the second class and villages shall be exempt from the provisions of ~~sections 19-4101 to 19-4121~~ and the Environmental Protection Act and the Integrated Solid Waste Management Act pertaining to ~~licensing permits for~~ and control of nonhazardous solid waste disposal systems if such cities and villages provide solid waste disposal systems which do not result in the pollution of waters of the state. The department shall act in an advisory capacity to such cities and villages and shall have the right to inspect solid waste disposal sites and evaluate them according to the site evaluation criteria promulgated pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. The department shall notify the community of the results of its evaluation. ~~Cities of the second class and villages shall prepare a plan by December 15, 1993, that will bring landfills previously exempted under this section into compliance with licensure requirements or provide for closure of such landfills. The plan shall be approved by the department and shall address the threat of air, water, and land pollution.~~

(7) The council shall, by July 1, 1992, adopt and promulgate rules and regulations which provide standards for the closure and postclosure care of all landfills, including landfills previously exempted under this section.

Sec. 92. That section 81-1532, Revised Statutes Supplement, 1991, be amended to read as follows:

81-1532. Sections 81-1501 to 81-1533 and sections 81 and 82 of this act shall be known and may be cited as the Environmental Protection Act.

Sec. 93. That section 81-1566, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1566. Sections 81-1534 to 81-1566 The Nebraska Litter Reduction and Recycling Act shall

terminate on October 30, 1992 ~~2002~~, unless extended by the Legislature. In order to determine whether such extension shall occur, the department shall review and evaluate the extent to which the purposes of ~~such sections the act~~ have been and are being achieved and the need for continuation of the program and requirements established by ~~such sections the act~~. Such review and evaluation shall be completed at least six months prior to the date established by this section for termination of ~~such sections the act~~.

Sec. 94. That section 81-15,159, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,159. (1) The Legislature hereby finds and declares that:

(a) Some ~~licensed and unlicensed~~ landfills operating with or without a permit in Nebraska exhibit numerous operational and management practices which are inconsistent with proper landfill management and ~~licensing~~ permit requirements, and the owners and operators of such landfills should be encouraged to cooperate and work with the Department of Environmental Control Quality to ensure that the air, land, and water of this state are not polluted;

(b) Some landfills in Nebraska are reaching capacity and the siting of a new location can be a financially expensive and socially disruptive process, and because of this situation all Nebraska citizens and businesses are encouraged to implement waste reduction measures that will result in a reduction of waste entering landfills by at least twenty-five percent;

(c) Recycling and waste reduction are necessary components of any well-managed waste management system and can extend the lifespan of a landfill and provide alternative waste management options; and

(d) The state can encourage recycling by the example of its own purchase and use of recycled and recyclable materials. The state can also encourage recycling and waste reduction by the creation of funding grants which support existing and future waste management systems.

(2) It is the intent of the Legislature that the state, as a major consumer and an example for others, should assist resource recovery by making a concerted effort to use recyclable and recycled products and encourage other levels of government and the private sector to follow its example. When purchasing products, materials, or supplies for use by the State of Nebraska,

the Department of Administrative Services, the University of Nebraska, and any other state agency making such purchases shall give preference to and purchase products, materials, and supplies which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use. Preference shall also be given to the purchase of corn-based biodegradable plastics and road deicers, depending on the availability and suitability of such products. Such preference shall not operate when it would result in the purchase of products, materials, or supplies which are of inadequate quality or substantially higher cost.

Sec. 95. That section 81-15,160, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,160. (1) There is hereby created a Waste Reduction and Recycling Incentive Fund to be administered by the Department of Environmental Control Quality. The fund shall consist of revenue from the following sources:

(a) Proceeds from the fee imposed on each new tire sold in the state and the fee imposed on each tire of each new motor vehicle sold in the state pursuant to section 81-15,162; and

(b) Proceeds from the annual fee imposed on businesses pursuant to section 81-15,163.

(2) The fund may be used for the following purposes, including, but not limited to:

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

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

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

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

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

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

(g) Programs to assist communities and counties to develop and implement household hazardous

waste management programs;

(h) Incentive grants to political subdivisions to assist and encourage the closure of unlicensed landfills operating without a permit, the regional consolidation of licensed solid waste disposal facilities operating with a permit, and the use of transfer stations. Grants awarded for programs involving land disposal shall include provisions for waste reduction and recycling; and

(i) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate waste to generate and recover energy resources.

(3) No grant shall be made under section 81-15,161 to a political subdivision which operates an unlicensed a landfill operating without a permit unless the grant will be used to meet licensee permit standards and the landfill is licensed issued a permit within two years after the award of the grant.

(4) The Department of Environmental Control Quality may receive gifts, bequests, and any other contributions for deposit in the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 96. That section 81-1602, Revised Statutes Supplement, 1990, be amended to read as follows:

81-1602. The State Energy Office shall have the following duties:

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

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

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

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

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

(6) To accept, expend, or disburse disburse funds, public or private, made available to it for research studies, demonstration projects, or other

activities which are related either to energy conservation or development;

(7) To study the impact and relationship of state energy policies to national and regional energy policies and engage in such activities as will reasonably insure that the State of Nebraska and its citizens receive an equitable share of energy supplies, including the administration of any ~~federal-~~ federally mandated or state-mandated energy allocation programs;

(8) To actively seek the advice of the citizens of Nebraska regarding energy policies and programs;

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

(10) To design a state program for conservation of energy;

(11) To provide technical assistance to local subdivisions of government; and

(12) To provide technical assistance to private persons desiring information on energy conservation techniques and the use of renewable energy technologies, and

~~(13) To administer and implement the State Government Recycling Management Act.~~

Sec. 97. That section 81-1645, Revised Statutes Supplement, 1990, be amended to read as follows:

~~81-1645-~~ A program for the collection for recycling and sale of state government refuse shall be designed and implemented by the State Energy Office Department of Administrative Services in all state-operated buildings.

Sec. 98. That section 81-1646, Revised Statutes Supplement, 1990, be amended to read as follows:

~~81-1646-~~ The State Energy Office Department of Administrative Services shall obtain pricing information and shall contract to sell recyclable state government refuse for the best terms available in the marketplace. If the office department is unable to locate a purchaser for the refuse or such sale would not be in the best economic interests of the state and the office department is unable to locate a nonpaying contractee to recycle the refuse, the office department shall make such other disposition of the refuse as is most practical and in the best interests of the state.

Sec. 99. That section 81-1647, Revised Statutes Supplement, 1991, be amended to read as

follows:

81-1647- All proceeds from the program required by section 81-1645 97 of this act and fifteen percent of all proceeds from the sale of surplus property sold to be remanufactured or reprocessed shall be deposited in the Resource Recovery Fund, which fund is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. The fund shall be used for the administration and implementation of the program. Any excess funds, as determined by the Director of the State Energy Office Administrative Services, not necessary for implementation of the program shall be remitted to the State Treasurer for credit to the General Fund.

Sec. 100. That section 81-1648, Revised Statutes Supplement, 1990, be amended to read as follows:

81-1648- The State Energy Office Department of Administrative Services may adopt and promulgate all rules and regulations necessary to carry out the State Government Recycling Management Act.

Sec. 101. It is the intent of the Legislature that the phrase Environmental Quality be substituted wherever the phrase Environmental Control appears in sections 2-1504.02, 2-15,100, 2-3241, 2-4215, 2-4604, 46-2,109, 46-656, 46-657, 46-658, 46-663, 46-665, 46-673.03, 46-673.05, 46-674.02 to 46-674.07, 46-674.10 to 46-674.16, 46-674.18, 46-1102, 46-1107, 46-1108, 46-1109, 46-1217, 46-1227, 46-1302, 46-1303, 49-506, 60-2201, 60-2205, 66-1105, 66-1504, 66-1518, 66-1522, 66-1529.02, 69-2011, 77-27,150, 77-27,151, 77-27,152, 77-27,154, 81-1504.01, 81-1533, 81-1537, 81-1538, 81-1540, 81-1561, 81-1584, 81-1586, 81-1587, 81-15,118, 81-15,120, 81-15,123, 81-15,124, 81-15,124.01, 81-15,124.02, 81-15,125, 81-15,126, 81-15,127, 81-15,129, 81-15,145, 81-15,146, 81-15,149, 81-15,151, 81-15,153, 81-15,161, 81-15,166, 81-2602, and 88-550.

The Revisor of Statutes shall prepare legislation for introduction in the next regular session of the Legislature to carry out the intent of this section.

Sec. 102. Sections 96 to 100 and 104 of this act shall become operative on July 1, 1992. Sections 102 and 106 of this act shall become operative on their effective date. The other sections of this act shall become operative three months after adjournment of this legislative session.

Sec. 103. If any section in this act or any

part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 104. That original sections 81-1602, 81-1645, 81-1646, and 81-1648, Revised Statutes Supplement, 1990, and section 81-1647, Revised Statutes Supplement, 1991, and also Laws 1991, LB 429A, section 1, are repealed.

Sec. 105. That original sections 9-812, 9-823, 13-1701, 13-1703, 13-1704, 13-1709, 14-102, 18-2528, 19-2111, 69-2008, 69-2009, 71-1631, 81-1501, 81-1502, 81-1503, 81-1504, 81-1505, 81-1505.01, 81-1506, 81-1507, 81-1510, 81-1511, 81-1512, 81-1516, 81-1527, 81-1566, and 81-1572 to 81-1574, Reissue Revised Statutes of Nebraska, 1943, sections 81-15,159 and 81-15,160, Revised Statutes Supplement, 1990, sections 58-202, 58-203, 58-219, 58-239, 58-253, 81-1508, 81-1528, and 81-1532, Revised Statutes Supplement, 1991, and section 14-1108, Reissue Revised Statutes of Nebraska, 1943, as amended by section 34, Legislative Bill 746, Ninety-second Legislature, Second Session, 1992, and also sections 19-2107, 19-2112, 19-2113, 19-4101 to 19-4121, 81-1517 to 81-1520, 81-1522, and 81-1571, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 106. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.