

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 921**

Introduced by Dubas, 34; Schimek, 27.

Read first time January 14, 2008

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to energy; to amend sections 13-1205,  
2 57-705, 58-221, 66-1004, 66-1009, 66-1337, 66-1701,  
3 70-1003, 81-1108.55, 81-1601, 81-1602, 81-1603, 81-1606,  
4 81-1607.01, 81-1626, 81-1635, 81-1636, 81-1637, 81-1638,  
5 81-1639, 81-1640, 81-1641, and 84-166, Reissue Revised  
6 Statutes of Nebraska, sections 2-5302, 72-804, 72-805,  
7 81-1608, 81-1609, 81-1611, 81-1612, 81-1613, 81-1614,  
8 81-1615, 81-1616, 81-1617, 81-1618, 81-1620, 81-1622,  
9 81-1625, and 81-1634, Revised Statutes Cumulative  
10 Supplement, 2006, and sections 81-1201.04 and 81-1316,  
11 Revised Statutes Supplement, 2007; to adopt the Nebraska  
12 Energy Independence Act; to create the Nebraska Energy  
13 Council; to rename the State Energy Office; to transfer  
14 powers and duties to the Nebraska Office of Energy

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1 Independence; to harmonize provisions; to provide  
2 operative dates; to repeal the original sections; to  
3 outright repeal sections 81-1605, 81-1607, and 81-1623,  
4 Reissue Revised Statutes of Nebraska; and to declare an  
5 emergency.

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

1           Section 1. Sections 1 to 10 of this act shall be known  
2 and may be cited as the Nebraska Energy Independence Act.

3           Sec. 2. For purposes of the Nebraska Energy Independence  
4 Act:

5           (1) Council means the Nebraska Energy Council;

6           (2) Director means the Director of the Nebraska Office of  
7 Energy Independence; and

8           (3) Office means the Nebraska Office of Energy  
9 Independence.

10          Sec. 3. (1) The Nebraska Energy Council is created.  
11 The purpose of the council is to bring together government  
12 entities related to energy policy to communicate, coordinate,  
13 and collaborate efforts to meet the goals of advancing energy  
14 efficiency in the State of Nebraska. The council shall consist of  
15 the following members:

16           (a) One member of the Legislature, appointed by the  
17 Executive Board of the Legislative Council, who shall be a  
18 nonvoting member of the council;

19           (b) The Director of Natural Resources or his or her  
20 designee;

21           (c) The Director of Economic Development or his or her  
22 designee;

23           (d) The Director of Agriculture or his or her designee;

24           (e) The director of the Nebraska Center for Energy  
25 Science Research or his or her designee;

1           (f) The executive director of the Nebraska Ethanol Board  
2 or his or her designee; and

3           (g) The following members appointed by the Governor with  
4 the approval of a majority of the Legislature:

5           (i) One member of the Nebraska Power Review Board;

6           (ii) One representative of commodity organizations;

7           (iii) A person who is actively engaged in a business  
8 related to production of alternative fuel;

9           (iv) A person who is actively engaged in research and  
10 development of alternative fuel;

11           (v) A person actively engaged in livestock production;

12           (vi) A person who is knowledgeable in environmental  
13 issues relating to energy use and practices.

14           (2) The terms of the members appointed by the Governor  
15 shall be three years, except that the Governor may stagger the  
16 initial terms. The Governor shall make the initial appointment  
17 by June 15, 2008. The member appointed by the executive board  
18 shall serve at the pleasure of the executive board. An appointed  
19 member may not serve for more than three consecutive terms. Members  
20 shall be reimbursed for their actual and necessary expenses as  
21 provided in sections 81-1174 to 81-1177. In the event of a vacancy  
22 in an appointed member's position, the Governor shall appoint an  
23 individual with similar qualifications for the remainder of the  
24 term.

25           (3) The council shall biennially elect from its

1 membership a chairperson and other officers as the council deems  
2 necessary. The officers shall hold their offices for two years and  
3 until their successors are elected.

4 (4) The council shall have quarterly meetings, but may  
5 meet as many times as the council deems necessary. A quorum shall  
6 be two-thirds of the members.

7 Sec. 4. The council shall have the following powers and  
8 duties:

9 (1) Review the federal Energy Independence and Security  
10 Act of 2007 and make recommendations to the office, the  
11 Legislature, and the Governor for the development of standards,  
12 programs, rules, and regulations that are consistent with the  
13 federal act;

14 (2) Evaluate the organizational structure of the office  
15 and make recommendations to the Legislature regarding any necessary  
16 reorganization within the office taking into consideration the  
17 mission of the office;

18 (3) Hire the director of the office;

19 (4) Oversee activities of the office;

20 (5) Approve the office's annual report and submit it to  
21 the Clerk of the Legislature and the Governor by November 1 each  
22 year;

23 (6) Act as a forum for discussing key issues, problems,  
24 and solutions regarding energy efficiency and renewable energy; and

25 (7) Share ideas for best practices on environmental and

1 energy issues in government.

2           Sec. 5. Section 81-1601, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~81-1601 (1) There is hereby created an agency of state  
5 government to be known as the State Energy Office. The office may  
6 be a separate division within an existing executive department.~~

7           ~~(2) The Nebraska Office of Energy Independence is  
8 created. The chief executive officer shall be known as the Director  
9 of the ~~State Energy Office~~ Nebraska Office of Energy Independence  
10 and shall be appointed by the ~~Governor~~ council with the advice  
11 and consent of the Legislature. The director shall administer the  
12 affairs of the office and shall serve at the pleasure of the  
13 ~~Governor.~~ council. The director shall be selected primarily for  
14 administrative ability and knowledge concerning renewable energy,  
15 renewable fuels, and energy efficiency.~~

16           The director may employ such assistants, professional  
17 staff, and other employees as may be deemed necessary to  
18 effectively carry out the provisions of ~~sections 81-1601 to 81-1605~~  
19 the Nebraska Energy Independence Act within such appropriations as  
20 the Legislature may provide. ~~The salary of the director shall be~~  
21 ~~fixed by the Governor unless otherwise expressly provided for by~~  
22 ~~law.~~

23           Sec. 6. Section 81-1602, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~81-1602~~ The State Energy Office office shall have the

1 following duties:

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

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

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

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

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

16 (6) To accept, expend, or disburse funds, public or  
17 private, made available to it for research studies, demonstration  
18 projects, or other activities which are related either to energy  
19 conservation or development;

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

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

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

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

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

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

13           Sec. 7. Section 81-1603, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           ~~81-1603~~ The office shall have the power to do such things  
16 as are necessary to carry out ~~sections 81-1601 to 81-1605,~~ the  
17 Nebraska Energy Independence Act, including, but not limited to,  
18 the following:

19           (1) To adopt rules and regulations, pursuant to the  
20 Administrative Procedure Act; ~~to carry out the purposes of~~  
21 ~~sections 81-1601 to 81-1605,~~

22           (2) To make all contracts pursuant to ~~sections 81-1601 to~~  
23 ~~81-1605~~ the act and do all things to cooperate with the federal  
24 government, and to qualify for, accept, expend, and dispense  
25 public or private funds intended for the implementation of ~~sections~~

1 ~~81-1601 to 81-1605, the act;~~

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

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

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

10 (6) To cooperate and participate with the approval  
11 of the ~~Governor~~ council in the activities of organizations of  
12 states relating to the availability, conservation, development, and  
13 distribution of energy;

14 (7) To engage in such activities as will seek to insure  
15 that the State of Nebraska and its citizens receive an equitable  
16 share of energy supplies at a fair price; and

17 (8) To form advisory committees of citizens of Nebraska  
18 to advise the director of the energy office on programs and  
19 policies relating to energy and to assist in implementing such  
20 programs. Such committees shall be of a temporary nature and no  
21 member shall receive any compensation for serving on any such  
22 committee but, with the approval of the ~~Governor~~, council, members  
23 shall receive reimbursement for actual and necessary expenses as  
24 provided in sections 81-1174 to 81-1177 for state employees. The  
25 minutes of meetings of and actions taken by each committee shall

1 be kept and a record shall be maintained of the name, address,  
2 and occupation or vocation of every individual serving on any  
3 committee. Such minutes and records shall be maintained in the  
4 State Energy Office office and shall be available for public  
5 inspection during regular office hours.

6 Sec. 8. The director shall have the following powers and  
7 duties:

8 (1) Direct, oversee, and administer the functions of the  
9 office;

10 (2) Coordinate and collaborate efforts between boards and  
11 commissions involved with energy policy;

12 (3) Lead outreach and public education efforts concerning  
13 renewable energy, renewable fuels, and energy efficiency;

14 (4) Pursue new research and investment funds from federal  
15 and private sources;

16 (5) Advise the council, the Governor, and the Legislature  
17 concerning renewable energy, renewable fuels, and energy efficiency  
18 policy and legislation;

19 (6) Establish performance measures for determining  
20 effectiveness of renewable energy, renewable fuels, and energy  
21 efficiency efforts;

22 (7) Ensure that the state is in compliance with the  
23 federal Energy Independence and Security Act of 2007 in conjunction  
24 with the council; and

25 (8) Submit an annual report to the council for approval.

1 The report shall detail the activities and programs of the office  
2 and the other state agencies, boards, and commissions related  
3 to renewable energy, renewable fuels, and energy efficiency. The  
4 report shall include, but not be limited to, an assessment of  
5 needs with respect to renewable energy, renewable fuels, and  
6 energy efficiency efforts and policy and fiscal recommendations  
7 for renewable energy, renewable fuels, and energy efficiency.  
8 In addition, the director shall review issues relating to the  
9 infrastructure needs for transporting biofuels and explore leading  
10 and participating in multistate efforts relating to renewable  
11 energy and energy efficiency.

12           Sec. 9. Section 81-1606, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           ~~81-1606~~ The Director of the State Energy Office director  
15 shall develop and maintain a program of collection, compilation,  
16 and analysis of energy statistics and information. Existing  
17 information reporting requests, maintained at the state and  
18 federal levels, shall be utilized whenever possible in any data  
19 collection. ~~required under the provisions of sections 81-1601~~  
20 ~~to 81-1607.~~ A central state repository of energy data shall be  
21 developed and coordinated with other governmental data-collection  
22 and record-keeping programs. The director shall, on at least an  
23 annual basis, with monthly compilations, submit to the council, the  
24 Governor, and the Clerk of the Legislature a report identifying  
25 state energy consumption by fuel type and by use to the extent

1 that such information is available. Nothing in this section  
2 shall be construed as permitting or authorizing the revealing  
3 of confidential information. For purposes of this section,  
4 confidential information shall mean any process, formula, pattern,  
5 decision, or compilation of information which is used, directly or  
6 indirectly, in the business of the producer, refiner, distributor,  
7 transporter, or vendor, and which gives such producer, refiner,  
8 distributor, transporter, or vendor an advantage or an opportunity  
9 to obtain an advantage over competitors who do not know or use it.

10 Sec. 10. Section 81-1607.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~81-1607.01~~ The State Energy Office Nebraska Office of  
13 Energy Independence Cash Fund is hereby created. The fund shall  
14 consist of funds received pursuant to section 57-705. The fund  
15 shall be used for the administration of ~~sections 81-1601 to~~  
16 ~~81-1607,~~ Nebraska Energy Independence Act, for energy conservation  
17 activities, ~~and~~ for providing technical assistance to communities  
18 in the area of natural gas other than assistance regarding  
19 ownership of regulated utilities, for purposes of sections 66-1001  
20 to 66-1011 and 84-162 to 84-167, and for any other purpose  
21 designated by the council. Any money in the fund available for  
22 investment shall be invested by the state investment officer  
23 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
24 State Funds Investment Act.

25 Sec. 11. Section 2-5302, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2           2-5302 (1) The Carbon Sequestration Advisory Committee  
3 is created. The committee shall consist of the following members  
4 appointed by the Governor:

5           (a) The Director of Agriculture or his or her designee;

6           (b) The Director of Natural Resources or his or her  
7 designee;

8           (c) The Director of Environmental Quality or his or her  
9 designee;

10           (d) One member representing the Natural Resources  
11 Conservation Service of the United States Department of  
12 Agriculture;

13           (e) One member representing the University of Nebraska  
14 Institute of Agriculture and Natural Resources;

15           (f) One member representing the Nebraska ~~Energy Office,~~  
16 Office of Energy Independence;

17           (g) One member representing an entity which generates  
18 electrical energy;

19           (h) Two members who are producers of field crops at least  
20 one of whom actively employs a minimum tillage management system in  
21 his or her farming operation;

22           (i) Two members who are producers of livestock at least  
23 one of whom is actively involved in range management;

24           (j) One member with expertise in greenhouse emissions  
25 marketing or trading;

1 (k) One member representing natural resources districts;  
2 and

3 (l) One member representing the ethanol industry.

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

11 Sec. 12. Section 13-1205, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 13-1205 The department shall have the following powers,  
14 duties, and responsibilities:

15 (1) To collect and maintain data on the level of  
16 public transportation services and needs in the state and identify  
17 areas not being adequately served by existing public or private  
18 transportation services;

19 (2) To assess the regional and statewide effect of  
20 changes, improvement, and route abandonments in the state's public  
21 transportation system;

22 (3) To develop a six-year statewide transit plan and  
23 programs for public transportation in coordination with local plans  
24 and programs developed by municipalities, counties, and transit  
25 authorities;

1           (4) To provide planning and technical assistance to  
2 agencies of the state, political subdivisions, or groups seeking to  
3 improve public transportation;

4           (5) To advise, consult, and cooperate with agencies of  
5 the state, the federal government, and other states, interstate  
6 agencies, political subdivisions, and groups concerned with public  
7 transportation;

8           (6) To cooperate with the Public Service Commission  
9 by providing periodic assessments to the commission when  
10 determining the effect of proposed regulatory decisions on public  
11 transportation;

12           (7) To administer federal and state programs providing  
13 financial assistance to public transportation, except those  
14 federal and state programs in which a municipality, county,  
15 transit authority, or other state agency is designated as the  
16 administrator;

17           (8) To prepare and submit a biennial report to the  
18 Governor, the ~~State Energy Office~~, Nebraska Office of Energy  
19 Independence, and the Clerk of the Legislature detailing its  
20 activities under the Nebraska Public Transportation Act. The report  
21 shall make recommendations to strengthen, expand, and improve  
22 public transportation in the state; and

23           (9) To exercise all other powers necessary and proper  
24 for the discharge of its duties, including the adoption and  
25 promulgation of reasonable rules and regulations to carry out the

1 act.

2 Each member of the Legislature shall receive a copy of  
3 the report required by subdivision (8) of this section by making a  
4 request for such report to the director.

5 Sec. 13. Section 57-705, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 57-705 (1) All severance taxes levied by Chapter 57,  
8 article 7, shall be paid to the Tax Commissioner. He or she shall  
9 remit all such money received to the State Treasurer. All such  
10 money received by the State Treasurer shall be credited to a  
11 fund to be known as the Severance Tax Fund. An amount equal to  
12 one percent of the gross severance tax receipts, excluding those  
13 receipts from tax derived from oil and natural gas severed from  
14 school lands, credited to the fund shall be credited by the State  
15 Treasurer, upon the first day of each month, and shall inure to the  
16 Severance Tax Administration Fund to be used for the expenses of  
17 administering Chapter 57, article 7. The balance of the Severance  
18 Tax Fund received from school lands shall be credited by the State  
19 Treasurer, upon the first day of each month, and shall inure to the  
20 permanent school fund.

21 (2) Of the balance of the Severance Tax Fund received  
22 from other than school lands (a) the Legislature may transfer  
23 an amount to be determined by the Legislature through the  
24 appropriations process up to three hundred thousand dollars for  
25 each year to the ~~State Energy Office~~ Nebraska Office of Energy

1 Independence Cash Fund, (b) the Legislature may transfer an amount  
2 to be determined by the Legislature through the appropriations  
3 process up to thirty thousand dollars for each year to the  
4 Public Service Commission for administration of the Municipal Rate  
5 Negotiations Revolving Loan Fund, and (c) the remainder shall be  
6 credited and inure to the permanent school fund.

7           Sec. 14. Section 58-221, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           58-221 Residential energy conservation device shall mean  
10 any prudent means of reducing the demands for conventional fuels or  
11 increasing the supply or efficiency of these fuels in residential  
12 housing and shall include, but not be limited to:

13           (1) Caulking and weatherstripping of doors and windows;

14           (2) Furnace efficiency modifications, including:

15           (a) Replacement burners, furnaces, heat pumps, or boilers  
16 or any combination thereof which, as determined by the ~~Director~~ of  
17 the State Energy Office, Nebraska Office of Energy Independence,  
18 substantially increases the energy efficiency of the heating  
19 system;

20           (b) Any device for modifying flue openings which will  
21 increase the energy efficiency of the heating system; and

22           (c) Any electrical or mechanical furnace ignition system  
23 which replaces a standing gas pilot light;

24           (3) A clock thermostat;

25           (4) Ceiling, attic, wall, and floor insulation;

1 (5) Water heater insulation;

2 (6) Storm windows and doors, multiglazed windows and  
3 doors, and heat-absorbed or heat-reflective glazed window and door  
4 materials;

5 (7) Any device which controls demand of appliances and  
6 aids load management;

7 (8) Any device to utilize solar energy, biomass, or wind  
8 power for any residential energy conservation purpose including  
9 heating of water and space heating or cooling; and

10 (9) Any other conservation device, renewable energy  
11 technology, and specific home improvement necessary to insure the  
12 effectiveness of the energy conservation measures as the ~~Director~~  
13 ~~of the State Energy Office~~ Nebraska Office of Energy Independence  
14 by rule or regulation identifies.

15 Sec. 15. Section 66-1004, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 66-1004 Energy conservation measure shall mean installing  
18 or using any:

19 (1) Caulking or weatherstripping of doors or windows;

20 (2) Furnace efficiency modifications involving electric  
21 service;

22 (3) Clock thermostats;

23 (4) Water heater insulation or modification;

24 (5) Ceiling, attic, wall, or floor insulation;

25 (6) Storm windows or doors, multiglazed windows or doors,

1 or heat absorbing or reflective glazed window and door material;

2 (7) Devices which control demand of appliances and aid  
3 load management;

4 (8) Devices to utilize solar energy, biomass, or wind  
5 power for any energy conservation purpose, including heating of  
6 water and space heating or cooling, which have been identified by  
7 the ~~State Energy Office~~ Nebraska Office of Energy Independence as  
8 an energy conservation measure for the purposes of sections 66-1001  
9 to 66-1011;

10 (9) High-efficiency lighting and motors;

11 (10) Devices which are designed to increase energy  
12 efficiency, the utilization of renewable resources, or both; and

13 (11) Such other conservation measures as the ~~State Energy~~  
14 Office office shall identify.

15 Sec. 16. Section 66-1009, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 66-1009 (1) A customer borrowing from a utility under  
18 a plan adopted pursuant to sections 66-1001 to 66-1011 shall be  
19 allowed to contract with the utility for a repayment plan and shall  
20 be offered a repayment period of not less than three years and not  
21 more than twenty years.

22 (2) Upon default on a loan by a customer, after expending  
23 reasonable efforts to collect, a utility may treat the entire  
24 unpaid contract amount as due, but services to a residential,  
25 agricultural, or commercial customer may not be terminated as

1 a result of such default. Default occurs when any amount due  
2 a utility under a plan adopted pursuant to the Nebraska Energy  
3 Independence Act, sections 25 to 38 of this act, and sections  
4 66-1001 to 66-1011, 70-625, 70-704, 81-161, ~~81-1602, 81-1606 to~~  
5 ~~81-1626,~~ and 84-162 to 84-167 is not paid within sixty days of the  
6 due date.

7 (3) Any customer obtaining a loan pursuant to section  
8 66-1007 shall only use the funds to accomplish the purposes agreed  
9 upon at the time of the loan. If the borrower of any funds obtained  
10 pursuant to sections 66-1001 to 66-1011 uses such funds in a manner  
11 or for a purpose not authorized by this section, the total amount  
12 of the loan shall immediately become due and payable.

13 (4) Any amount due a utility on a loan pursuant to  
14 sections 66-1001 to 66-1011 which is not paid in full within  
15 sixty days of the due date shall become a lien as provided in  
16 this section on the real property concerned as to the full unpaid  
17 balance. No lien under this section shall be valid unless (a) the  
18 loan was signed by the party or parties shown on the indexes of  
19 the register of deeds to be the owners of record of such real  
20 property on the date of the loan and (b) the lien is filed not  
21 more than four months after the date of default, in the same  
22 office and in the same manner as mortgages in the county in which  
23 the real property is located. Such lien shall take effect and  
24 be in force from and after the time of delivering the same to  
25 the register of deeds for recording, and not before, as to all

1 creditors and subsequent purchasers in good faith without notice,  
2 and such lien shall be adjudged void as to all such creditors  
3 and subsequent purchasers without notice whose deeds, mortgages,  
4 or other instruments shall be first recorded, except that such  
5 lien shall be valid between the parties. A publicly owned utility  
6 shall not maintain possession of any property which it may acquire  
7 pursuant to a lien authorized by this section for a period of time  
8 longer than is reasonably necessary to dispose of such property.

9 (5) Any loan made under a plan adopted pursuant to  
10 sections 66-1001 to 66-1011 shall not exceed fifteen thousand  
11 dollars, subject to any existing limitations under federal law. Any  
12 loan to be made by a utility which exceeds ten thousand dollars  
13 shall only be made in participation with a bank pursuant to a  
14 contract. The utility and the participating bank shall determine  
15 the terms and conditions of the contract.

16 (6) The ~~State Energy Office~~ Nebraska Office of Energy  
17 Independence may adopt and promulgate rules and regulations to  
18 carry out sections 66-1001 to 66-1011.

19 Sec. 17. Section 66-1337, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 66-1337 The board may rent office space and employ such  
22 personnel as may be necessary for the performance of its duties.  
23 The board may employ the services of experts and consultants and  
24 expend funds necessary to acquire title to commodities pursuant  
25 to section 66-1340, to promote air quality improvement programs,

1 or to otherwise carry out the board's duties under the Ethanol  
2 Development Act. The board shall have an advisory committee of four  
3 persons, one representing each of the following: The Department of  
4 Economic Development, the University of Nebraska, the Department of  
5 Agriculture, and the ~~State Energy Office~~. Nebraska Office of Energy  
6 Independence.

7           Sec. 18. Section 66-1701, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           66-1701 The Biopower Steering Committee is established.  
10 The committee may study the feasibility of generating electricity  
11 from the use of biomass and agricultural crops and of supporting a  
12 demonstration project which may include a gasification component.  
13 The project would include, but not be limited to, use of biomass  
14 fuel which is farm-grown biomass or residue from agricultural  
15 or wood-product activities. The committee may collect information  
16 which may be used by all of Nebraska's public utilities to  
17 develop biopower electricity projects, including, but not limited  
18 to, the exploration of how the use of instate resources for  
19 electricity production might benefit the rural economy, an economic  
20 analysis of benefits to Nebraska from the use of instate rather  
21 than out-of-state resources, and the potential to reduce gaseous  
22 emissions.

23           The committee shall consist of: (1) Three representatives  
24 from the Nebraska Power Association, one public interest  
25 representative, and one environmental interest representative, all

1 appointed by the Governor; (2) two agricultural representatives  
2 appointed by the Governor; (3) a representative of the ~~State Energy~~  
3 ~~Office~~ Nebraska Office of Energy Independence appointed by the  
4 Governor; (4) the Director of Economic Development or his or her  
5 designee; (5) a representative of the Game and Parks Commission  
6 appointed by the Governor; (6) the chairperson of the Committee  
7 on Agriculture as an ex officio, nonvoting member; and (7) the  
8 chairperson of the Committee on Natural Resources as an ex officio,  
9 nonvoting member. Committee members shall be reimbursed for actual  
10 and necessary expenses as provided in sections 81-1174 to 81-1177.

11           The Biopower Steering Committee shall seek federal and  
12 other grant funds and resources from Nebraska's public utilities  
13 and from other public and private sources to carry out any study  
14 and to implement any demonstration project which may be undertaken.  
15 The Biopower Development Cash Fund is created. Funds received by  
16 the committee shall be remitted to the State Treasurer for credit  
17 to the Biopower Development Cash Fund. Any money in the fund  
18 available for investment shall be invested by the state investment  
19 officer pursuant to the Nebraska Capital Expansion Act and the  
20 Nebraska State Funds Investment Act.

21           The committee shall report its findings to the Committee  
22 on Natural Resources by December 1 each year.

23           The Biopower Steering Committee terminates on December  
24 31, 2008.

25           Sec. 19. Section 70-1003, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           70-1003 (1) There is hereby established an independent  
3 board to be known as the Nebraska Power Review Board to consist of  
4 five members, one of whom shall be an engineer, one an attorney,  
5 one an accountant, and two laypersons. No person who is or who  
6 has within four years preceding his or her appointment been either  
7 a director, officer, or employee of any electric utility or an  
8 elective state officer shall be eligible for membership on the  
9 board. Members of the board shall be appointed by the Governor  
10 subject to the approval of the Legislature. Members of the board  
11 first appointed shall be appointed within thirty days of May 16,  
12 1963. Of the members initially appointed, two shall serve until  
13 January 1, 1965, two until January 1, 1966, and one until January  
14 1, 1967. Upon expiration of such terms, the successors shall be  
15 appointed for terms of four years. No member of the board shall  
16 serve more than two consecutive terms. Any vacancy on the board  
17 arising other than from the expiration of a term shall be filled by  
18 appointment for the unexpired portion of the term, and any person  
19 appointed to fill a vacancy on the board shall be eligible for  
20 reappointment for two more consecutive terms. No more than three  
21 members of the board shall be registered members of that political  
22 party represented by the Governor. Each member of the board shall  
23 receive sixty dollars per day for each day actually and necessarily  
24 engaged in the performance of his or her duties, but not to exceed  
25 six thousand dollars in any one year, and shall be reimbursed

1 for his or her actual and necessary expenses while so engaged  
2 as provided in sections 81-1174 to 81-1177. The board shall have  
3 jurisdiction as provided in Chapter 70, article 10.

4 (2) The board shall meet promptly after its members have  
5 been appointed. They shall elect from their members a chairperson  
6 and a vice-chairperson. Decisions of the board shall require the  
7 approval of a majority of the members of the board.

8 (3) The board shall employ an executive director and  
9 may employ such other staff necessary to carry out the duties  
10 pursuant to Chapter 70, article 10. The executive director shall  
11 serve at the pleasure of the board and shall be solely responsible  
12 to the board. The executive director shall be responsible for  
13 the administrative operations of the board and shall perform such  
14 other duties as may be delegated or assigned to him or her by the  
15 board. The board may obtain the services of experts and consultants  
16 necessary to carry out the board's duties pursuant to Chapter 70,  
17 article 10.

18 (4) The board shall publish and submit a biennial report  
19 with annual data to the Governor, with copies to be filed with the  
20 Clerk of the Legislature and with the ~~State Energy Office.~~ Nebraska  
21 Office of Energy Independence. ~~The State Energy Office~~ Nebraska  
22 Office of Energy Independence shall consider the information in  
23 the Nebraska Power Review Board's report when ~~the State Energy~~  
24 ~~Office~~ it prepares its own reports, ~~pursuant to sections 81-1606~~  
25 ~~and 81-1607.~~ The report of the board shall include:

1           (a) The assessments for the fiscal year imposed pursuant  
2 to section 70-1020;

3           (b) The gross income totals for each category of the  
4 industry and the industry total;

5           (c) The number of suppliers against whom the assessment  
6 is levied, by category and in total;

7           (d) The projected dollar costs of generation,  
8 transmission, and microwave applications, approved and denied;

9           (e) The actual dollar costs of approved applications upon  
10 completion, and a summary of an informational hearing concerning  
11 any significant divergence between the projected and actual costs;

12           (f) A description of Nebraska's current electric system  
13 and information on additions to and retirements from the system  
14 during the fiscal year, including microwave facilities;

15           (g) A statistical summary of board activities and an  
16 expenditure summary;

17           (h) A roster of power suppliers in Nebraska and the  
18 assessment each paid; and

19           (i) Appropriately detailed historical and projected  
20 electric supply and demand statistics, including information on the  
21 total generating capacity owned by Nebraska suppliers and the total  
22 peak load demand of the previous year, along with an indication of  
23 how the industry will respond to the projected situation.

24           (5) The board shall annually hold one or more public  
25 hearings concerning the conditions that may indicate that retail

1 competition in the electric industry would benefit Nebraska's  
2 citizens and what steps, if any, should be taken to prepare for  
3 retail competition in Nebraska's electricity market.

4 (6) The board shall submit an annual report to the  
5 Governor with copies to be filed with the Clerk of the Legislature  
6 and the Natural Resources Committee of the Legislature. The report  
7 shall include:

8 (a) Whether or not a viable regional transmission  
9 organization and adequate transmission exist in Nebraska or in a  
10 region which includes Nebraska;

11 (b) Whether or not a viable wholesale electricity market  
12 exists in a region which includes Nebraska;

13 (c) To what extent retail rates have been unbundled in  
14 Nebraska;

15 (d) A comparison of Nebraska's wholesale electricity  
16 prices to the prices in the region; and

17 (e) Any other information the board believes to be  
18 beneficial to the Governor, the Legislature, and Nebraska's  
19 citizens when considering whether retail electric competition  
20 would be beneficial, such as, but not limited to, an update on  
21 deregulation activities in other states and an update on federal  
22 deregulation legislation.

23 (7) The board may submit periodic reports on the  
24 information set out in subsection (6) of this section if the  
25 board determines that significant changes to those conditions have

1 occurred of which the Governor and the Legislature should be  
2 apprised prior to the submission of the next annual report.

3 (8) The board is authorized to establish working groups  
4 of interested parties to assist the board in carrying out the  
5 duties set forth in subsections (5) and (6) of this section.

6 Sec. 20. Section 72-804, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 72-804 (1) Any new state building shall meet or exceed  
9 the requirements of the 2003 International Energy Conservation  
10 Code.

11 (2) Any new lighting, heating, cooling, ventilating, or  
12 water heating equipment or controls in a state-owned building and  
13 any new building envelope components installed in a state-owned  
14 building shall meet or exceed the requirements of the 2003  
15 International Energy Conservation Code.

16 (3) The State Building Administrator of the Department  
17 of Administrative Services, in consultation with the State Energy  
18 ~~Office~~, Nebraska Office of Energy Independence, may specify:

19 (a) A more recent edition of the International Energy  
20 Conservation Code;

21 (b) Additional energy efficiency or renewable energy  
22 requirements for buildings; and

23 (c) Waivers of specific requirements which are  
24 demonstrated through life-cycle cost analysis to not be in the  
25 state's best interest. The agency receiving the funding shall

1 be required to provide a life-cycle cost analysis to the State  
2 Building Administrator.

3           Sec. 21. Section 72-805, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           72-805 The 2003 International Energy Conservation Code  
6 applies to all new buildings constructed in whole or in part  
7 with state funds after July 1, 2005. The ~~State Energy Office~~  
8 Nebraska Office of Energy Independence shall review building plans  
9 and specifications necessary to determine whether a building will  
10 meet the requirements of this section. The ~~State Energy Office~~  
11 office shall provide a copy of its review to the agency receiving  
12 funding. The agency receiving the funding shall verify that the  
13 building as constructed meets or exceeds the code. The verification  
14 shall be provided to the ~~State Energy Office.~~ office. The ~~State~~  
15 ~~Energy Office~~ office shall, in consultation with the State Building  
16 Administrator of the Department of Administrative Services, adopt  
17 and promulgate rules and regulations to carry out this section.

18           Sec. 22. Section 81-1108.55, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           81-1108.55 All purchases, leases, or contracts which by  
21 law are required to be based on competitive bids pursuant to  
22 section 81-1108.16 shall be made to the lowest responsible bidder,  
23 taking into consideration the best interests of the state, the  
24 quality or performance of the property proposed to be supplied, its  
25 conformity with specifications, the purposes for which required,

1 and the times of delivery. In determining the lowest responsible  
2 bidder, in addition to price, the following elements shall be given  
3 consideration:

4 (1) The ability, capacity, and skill of the bidder to  
5 perform the contract required;

6 (2) The character, integrity, reputation, judgment,  
7 experience, and efficiency of the bidder;

8 (3) Whether the bidder can perform the contract within  
9 the time specified;

10 (4) The quality of performance of previous contracts;

11 (5) The previous and existing compliance by the bidder  
12 with laws relating to the contract;

13 (6) The life-cost of the property in relation to the  
14 purchase price and specific use of the item;

15 (7) The performance of the property, taking into  
16 consideration any commonly accepted tests and standards of product  
17 usability and user requirements;

18 (8) Energy efficiency ratio as stated by the bidder for  
19 alternative choices of appliances or equipment;

20 (9) The information furnished by each bidder, when  
21 deemed applicable by the State Building Administrator, concerning  
22 life-cycle costs between alternatives for all classes of equipment,  
23 evidence of expected life, repair and maintenance costs, and energy  
24 consumption on a per-year basis; and

25 (10) Such other information as may be secured having a

1 bearing on the decision to award the contract.

2 Reports regarding procurements made pursuant to this  
3 section shall be provided to the ~~State Energy Office~~ Nebraska  
4 Office of Energy Independence. Such reports shall be in the form  
5 and contain such information as the ~~State Energy Office~~ office may  
6 require.

7 All political subdivisions may follow the procurement  
8 principles set forth in this section if they are deemed applicable  
9 by the official authorized to make purchases for such political  
10 subdivision.

11 Sec. 23. Section 81-1201.04, Revised Statutes Supplement,  
12 2007, is amended to read:

13 81-1201.04 The commission shall consist of nine voting  
14 members appointed by the Governor. The chairperson of the  
15 commission shall be one of the appointed members and shall be  
16 chosen by the commission. Each congressional district in Nebraska  
17 shall be represented by three members, and the Governor shall  
18 solicit nominations for appointments to the commission from  
19 recognized economic development groups in Nebraska. The members of  
20 the commission shall be representative, to the extent possible, of  
21 the various geographic areas of the state and of both the urban and  
22 rural population. The director shall serve as an ad hoc nonvoting  
23 member of the commission. In appointing the members, the Governor  
24 shall seek to create a broad-based commission representative of  
25 the Nebraska economy. To achieve this objective the Governor shall

1 appoint individuals from the following private industry sectors:

2 (1) Production agriculture;

3 (2) At least two individuals from manufacturing, one such  
4 individual shall represent a company with no more than seventy-five  
5 employees;

6 (3) Transportation and logistics;

7 (4) Travel and tourism;

8 (5) Financial services and insurance;

9 (6) Information technology and communications; and

10 (7) Biotechnology.

11 The commission and department are encouraged to involve  
12 other essential groups in the work of the commission, including,  
13 but not limited to, the (a) University of Nebraska, (b) Department  
14 of Agriculture, (c) ~~State Energy Office~~, Nebraska Office of Energy  
15 Independence, (d) educational institutions, (e) Department of  
16 Labor, and (f) Nebraska Investment Finance Authority. No more  
17 than five voting members of the commission shall belong to the same  
18 political party.

19 The commission shall provide programmatic policy guidance  
20 and oversight to the Nebraska Manufacturing Extension Partnership.

21 Sec. 24. Section 81-1316, Revised Statutes Supplement,  
22 2007, is amended to read:

23 81-1316 (1) All agencies and personnel of state  
24 government shall be covered by sections 81-1301 to 81-1319 and  
25 shall be considered subject to the State Personnel System, except

1 the following:

2 (a) All personnel of the office of the Governor;

3 (b) All personnel of the office of the Lieutenant  
4 Governor;

5 (c) All personnel of the office of the Secretary of  
6 State;

7 (d) All personnel of the office of the State Treasurer;

8 (e) All personnel of the office of the Attorney General;

9 (f) All personnel of the office of the Auditor of Public  
10 Accounts;

11 (g) All personnel of the Legislature;

12 (h) All personnel of the court systems;

13 (i) All personnel of the Board of Educational Lands and  
14 Funds;

15 (j) All personnel of the Public Service Commission;

16 (k) All personnel of the Nebraska Brand Committee;

17 (l) All personnel of the Commission of Industrial  
18 Relations;

19 (m) All personnel of the State Department of Education;

20 (n) All personnel of the Nebraska state colleges and the  
21 Board of Trustees of the Nebraska State Colleges;

22 (o) All personnel of the University of Nebraska;

23 (p) All personnel of the Coordinating Commission for  
24 Postsecondary Education;

25 (q) All personnel of the Governor's Policy Research

1 Office; ~~but not to include personnel within the State Energy~~  
2 ~~Office;~~

3 (r) All personnel of the Commission on Public Advocacy;

4 (s) All agency heads;

5 (t) (i) The Director of Behavioral Health of the Division  
6 of Behavioral Health; (ii) the Director of Children and Family  
7 Services of the Division of Children and Family Services; (iii)  
8 the Director of Developmental Disabilities of the Division of  
9 Developmental Disabilities; (iv) the Director of Medicaid and  
10 Long-Term Care of the Division of Medicaid and Long-Term Care; (v)  
11 the Director of Public Health of the Division of Public Health; and  
12 (vi) the Director of Veterans' Homes of the Division of Veterans'  
13 Homes;

14 (u) The chief medical officer established under section  
15 81-3115, the Administrator of the Office of Juvenile Services, and  
16 the chief executive officers of the Beatrice State Developmental  
17 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings  
18 Regional Center, Grand Island Veterans' Home, Norfolk Veterans'  
19 Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans'  
20 Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth  
21 Rehabilitation and Treatment Center-Geneva;

22 (v) All personnel employed as pharmacists, physicians,  
23 psychiatrists, psychologists, service area administrators, or  
24 facility operating officers of the Department of Health and Human  
25 Services; and

1                   (w) Deputies and examiners of the Department of Banking  
 2 and Finance and the Department of Insurance as set forth in  
 3 sections 8-105 and 44-119, except for those deputies and examiners  
 4 who remain in the State Personnel System.

5                   (2) At each agency head's discretion, up to the following  
 6 number of additional positions may be exempted from the State  
 7 Personnel System, based on the following agency size categories:

8	Number of Agency	Number of Noncovered
9	Employees	Positions
10	less than 25	0
11	25 to 100	1
12	101 to 250	2
13	251 to 500	3
14	501 to 1000	4
15	1001 to 2000	5
16	2001 to 3000	8
17	3001 to 4000	11
18	4001 to 5000	14
19	over 5000	25

20                   The purpose of having such noncovered positions shall  
 21 be to allow agency heads the opportunity to recruit, hire,  
 22 and supervise critical, confidential, or policymaking personnel  
 23 without restrictions from selection procedures, compensation rules,  
 24 career protections, and grievance privileges. Persons holding the  
 25 noncovered positions shall serve at the pleasure of the agency head

1 and shall be paid salaries set by the agency head.

2 (3) No changes to this section or to the number of  
3 noncovered positions within an agency shall affect the status  
4 of personnel employed on the date the changes become operative  
5 without their prior written agreement. A state employee's career  
6 protections or coverage by personnel rules and regulations shall  
7 not be revoked by redesignation of the employee's position as a  
8 noncovered position without the prior written agreement of such  
9 employee.

10 Sec. 25. Section 81-1608, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 ~~81-1608~~ The Legislature finds that consumers have an  
13 expectation that newly built houses or buildings they buy meet  
14 uniform energy efficiency standards. Therefor, the Legislature  
15 finds that there is a need to adopt the 2003 International Energy  
16 Conservation Code in order (1) to ensure that a minimum energy  
17 efficiency standard is maintained throughout the state, (2) to  
18 harmonize and clarify energy building code statutory references,  
19 (3) to ensure compliance with the National Energy Policy Act of  
20 1992, (4) to increase energy savings for all Nebraska consumers,  
21 especially low-income Nebraskans, (5) to reduce the cost of state  
22 programs that provide assistance to low-income Nebraskans, (6) to  
23 reduce the amount of money expended to import energy, (7) to reduce  
24 the growth of energy consumption, (8) to lessen the need for new  
25 power plants, and (9) to provide training for local code officials

1 and residential and commercial builders who implement the 2003  
2 International Energy Conservation Code.

3 Sec. 26. Section 81-1609, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5 ~~81-1609~~ For purposes of section 25 to 38 of this act: As  
6 used in sections 81-1608 to 81-1626, unless the context otherwise  
7 ~~requires:~~

8 (1) Office means the ~~State Energy Office;~~ Nebraska Office  
9 of Energy Independence;

10 (2) Contractor means the person or entity responsible for  
11 the overall construction of any building or the installation of any  
12 component which affects the energy efficiency of the building;

13 (3) Architect or engineer means any person licensed as  
14 an architect or professional engineer under the Engineers and  
15 Architects Regulation Act;

16 (4) Building means any new structure, renovated building,  
17 or addition which provides facilities or shelter for public  
18 assembly, educational, business, mercantile, institutional,  
19 warehouse, or residential occupancies, as well as those portions  
20 of factory and industrial facilities which are used primarily  
21 for human occupancy, such as office space, but not including any  
22 structure which has a consumption of traditional energy sources for  
23 all purposes not exceeding the energy equivalent of one watt per  
24 square foot;

25 (5) Residential building means a building three stories

1 or less that is used primarily as one or more dwelling units;

2 (6) Renovation means alterations on an existing building  
3 which will cost more than fifty percent of the replacement cost  
4 of such building at the time work is commenced or which was  
5 not previously heated or cooled, for which a heating or cooling  
6 system is now proposed, except that the restoration of historical  
7 buildings shall not be included;

8 (7) Addition means an extension or increase in the  
9 height, conditioned floor area, or conditioned volume of a building  
10 or structure;

11 (8) Floor area means the total area of the floor or  
12 floors of a building, expressed in square feet, which is within the  
13 exterior faces of the shell of the structure which is heated or  
14 cooled;

15 (9) Nebraska Energy Code means the 2003 International  
16 Energy Conservation Code;

17 (10) Traditional energy sources means electricity,  
18 petroleum-based fuels, uranium, coal, and all nonrenewable forms  
19 of energy; and

20 (11) Equivalent or equivalent code means standards that  
21 meet or exceed the requirements of the Nebraska Energy Code.

22 Sec. 27. Section 81-1611, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 ~~81-1611~~ The Legislature hereby adopts the 2003  
25 International Energy Conservation Code as the Nebraska Energy Code.

1 The ~~State Energy Office~~ office may adopt regulations specifying  
2 alternative standards for building systems, techniques, equipment  
3 designs, or building materials that shall be deemed equivalent  
4 to the Nebraska Energy Code. Regulations specifying alternative  
5 standards may be deemed equivalent to the Nebraska Energy Code  
6 and may be approved for general or limited use if the use of  
7 such alternative standards would not result in energy consumption  
8 greater than would result from the strict application of the  
9 Nebraska Energy Code.

10 Sec. 28. Section 81-1612, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12 ~~81-1612~~ The ~~State Energy Office~~ office shall adopt  
13 and promulgate rules and regulations for implementation and  
14 administration of sections ~~81-1608 to 81-1626~~. 25 to 38 of this  
15 act. Rules, regulations, or amendments thereto shall be adopted  
16 pursuant to the Administrative Procedure Act.

17 Sec. 29. Section 81-1613, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 ~~81-1613~~ The ~~State Energy Office~~ office shall produce  
20 manuals for use by architects, engineers, prime contractors, and  
21 owners. Such manuals shall be furnished upon request at a price  
22 sufficient to cover the costs of production. Such manuals shall  
23 contain, but not be limited to:

24 (1) The Nebraska Energy Code;

25 (2) Forms, charts, tables, and other data to assist

1 architects, engineers, and prime contractors in meeting the  
2 Nebraska Energy Code; and

3 (3) Any other information which the office determines  
4 will assist local code officials in enforcing the code.

5 Sec. 30. Section 81-1614, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 ~~81-1614~~ The Nebraska Energy Code shall apply to all  
8 new buildings, or renovations of or additions to any existing  
9 buildings, on which construction is initiated on or after July 1,  
10 2005.

11 Sec. 31. Section 81-1615, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 ~~81-1615~~ The following shall be exempt from sections  
14 ~~81-1608 to 81-1626~~ 25 to 38 of this act:

15 (1) Any building which has a peak design rate of energy  
16 usage for all purposes of less than one watt, or three and  
17 four-tenths British Thermal Units per hour, per square foot of  
18 floor area;

19 (2) Any building which is neither heated nor cooled;

20 (3) Any building or portion thereof which is owned by the  
21 United States of America;

22 (4) Any manufactured home as defined by section 71-4603;

23 (5) Any modular housing unit as defined by subdivision  
24 (1) of section 71-1557; and

25 (6) Any building (a) listed on the National Register of

1 Historic Places, (b) determined to be eligible for the National  
2 Register of Historic Places by the State Historic Preservation  
3 Officer, or (c) designated as an individual landmark or heritage  
4 preservation site by a municipality or located within a designated  
5 landmark or heritage preservation district.

6 Sec. 32. Section 81-1616, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 ~~81-1616~~ For purposes of insuring compliance with section  
9 ~~81-1614+~~ 30 of this act:

10 (1) The office, or its authorized agent, may conduct  
11 such inspections and investigations as are necessary to make a  
12 determination pursuant to section ~~81-1625~~ 37 of this act and may  
13 issue an order containing and resulting from the findings of such  
14 inspections and investigations; and

15 (2) A building owner may submit a written request that  
16 the office undertake a determination pursuant to subdivision (1) of  
17 this section. Such request shall include a list of reasons why the  
18 building owner believes such a determination is necessary.

19 A building owner aggrieved by the office's determination,  
20 or refusal to make such determination, may appeal such  
21 determination or refusal as provided in the Administrative  
22 Procedure Act.

23 The office may charge an amount sufficient to recover the  
24 costs of providing such determinations.

25 Buildings located in a county, city, or village which has

1 adopted the Nebraska Energy Code or equivalent code pursuant to  
2 section ~~81-1618~~, 34 of this act, and constructed after the adoption  
3 of such code, shall be exempt from the provisions of this section.

4 Sec. 33. Section 81-1617, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 ~~81-1617~~ The ~~State Energy Office~~ office and any local code  
7 authority may conduct inspections and investigations necessary to  
8 enforce the Nebraska Energy Code or equivalent code and may, at  
9 reasonable hours, enter into any building and upon any premises  
10 within its jurisdiction for the purpose of examination to determine  
11 compliance with sections ~~81-1608 to 81-1626~~. 25 to 38 of this  
12 act. Inspections shall be conducted only after permission has been  
13 granted by the owner or occupant or after a warrant has been issued  
14 pursuant to sections 29-830 to 29-835.

15 Sec. 34. Section 81-1618, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 ~~81-1618~~ Any county, city, or village may adopt and  
18 enforce a lighting and thermal efficiency ordinance, resolution,  
19 code, or standard. Such ordinance, resolution, code, or standard  
20 shall be deemed equivalent to the Nebraska Energy Code if it does  
21 not result in energy consumption greater than would result from the  
22 strict application of the Nebraska Energy Code and is reasonably  
23 consistent with the intent of sections ~~81-1608 to 81-1626~~. 25 to  
24 38 of this act. Any building or portion thereof subject to the  
25 jurisdiction of and inspected by such county, city, or village

1 shall be deemed to comply with such sections ~~81-1608 to 81-1626~~  
2 if it meets the standards of such ordinance, resolution, code,  
3 or standards. Such county, city, or village may by ordinance or  
4 resolution prescribe a schedule of fees sufficient to pay the costs  
5 incurred pursuant to ~~sections 81-1608 to 81-1626.~~ such sections.

6 Any county, city, or village which adopts and enforces  
7 a lighting and thermal efficiency ordinance, resolution, code, or  
8 standard may waive a specific requirement of the Nebraska Energy  
9 Code when meeting such requirement is not economically justified.  
10 The local code authority shall submit to the ~~State Energy Office~~  
11 office its analysis for determining that a specific requirement is  
12 not justified. The ~~State Energy Office~~ office shall review such  
13 analysis and transmit its findings and conclusions to the local  
14 code authority within a reasonable time. The local code authority  
15 shall submit to the ~~State Energy Office~~ office its explanation as  
16 to how the original code or any revised code addresses the issues  
17 raised by the ~~State Energy Office.~~ office. After a local code  
18 authority has submitted such explanation, the authority may proceed  
19 to enforce its ordinance, resolution, code, or standard.

20 Sec. 35. Section 81-1620, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 ~~81-1620~~ The ~~State Energy Office~~ office shall establish  
23 a continuing program to provide technical assistance to local  
24 code officials and residential and commercial builders. The  
25 program shall include the training of local code officials in

1 building technology and local enforcement procedure related to  
2 implementation of the Nebraska Energy Code and the development of  
3 training programs suitable for presentation by local governments,  
4 educational institutions, and other public or private entities.

5 Sec. 36. Section 81-1622, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 ~~81-1622~~ Prior to the construction, renovation, or  
8 addition to any existing building after the dates specified in  
9 section ~~81-1614~~ 30 of this act the following requirements shall be  
10 met where a county, city, or village has not adopted an ordinance,  
11 resolution, code, or standard pursuant to section ~~81-1618~~ 34 of  
12 this act:

13 (1) When no architect or engineer is retained, the prime  
14 contractor shall build or cause to be built, to the best of his or  
15 her knowledge, according to the Nebraska Energy Code; and

16 (2) When an architect or engineer is retained: (a) The  
17 architect or engineer shall place his or her state registration  
18 seal on all construction drawings which shall indicate that the  
19 design meets the Nebraska Energy Code and (b) the prime contractor  
20 responsible for the actual construction shall build or cause to be  
21 built in accordance with the construction documents prepared by the  
22 architect or engineer.

23 Sec. 37. Section 81-1625, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 ~~81-1625~~ If the Director of the State Energy Office office

1 or the local code authority finds, within two years from the date  
2 a building is first occupied, that the building, at the time of  
3 construction, did not comply with the Nebraska Energy Code or  
4 equivalent code adopted by a county, city, or village in effect  
5 at such time, the director or code authority may order the owner  
6 or prime contractor to take those actions necessary to bring the  
7 building into compliance. This section does not limit the right of  
8 the owner to bring civil action against the contractor, architect,  
9 or engineer for the cost of bringing the building into compliance.

10           Sec. 38. Section 81-1626, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           ~~81-1626~~ Failure to comply with sections ~~81-1608~~ ~~to~~  
13 ~~81-1626~~ 25 to 38 of this act or ordering, instructing, or directing  
14 another not to comply with such sections ~~81-1608~~ ~~to~~ ~~81-1626~~ shall  
15 be a Class IV misdemeanor.

16           Sec. 39. Section 81-1634, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18           ~~81-1634~~ Funds received in repayment for energy efficiency  
19 loans from the School Weatherization Fund shall be credited to  
20 the General Fund. For each fiscal year in which there are any  
21 outstanding loans, the Legislature shall designate a portion of the  
22 funds received in repayment for energy efficiency loans for use by  
23 the ~~State Energy Office~~ Nebraska Office of Energy Independence to  
24 cover the actual cost of administering outstanding loans.

25           Sec. 40. Section 81-1635, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           ~~81-1635~~ There is hereby established in the state treasury  
3 a fund, to be known as the Nebraska Energy Settlement Fund and  
4 referred to in sections ~~81-1635~~ ~~to~~ ~~81-1641~~ 40 to 46 of this  
5 act as the fund, to be administered by the ~~State Energy Office~~  
6 Nebraska Office of Energy Independence as the representative of the  
7 Governor. The fund shall consist of (1) money received by the State  
8 of Nebraska after February 15, 1986, from awards or allocations  
9 to the State of Nebraska on behalf of consumers of petroleum  
10 products as a result of judgments or settlements for overcharges to  
11 consumers of petroleum products sold during the period of time in  
12 which federal price controls on such products were in effect and  
13 (2) any investment interest earned on the fund. The Department of  
14 Administrative Services may for accounting purposes create subfunds  
15 of the fund to segregate awards or allocations received pursuant to  
16 different orders or settlements. Any money in the fund available  
17 for investment shall be invested by the state investment officer  
18 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
19 State Funds Investment Act. No money shall be transferred or  
20 disbursed from the fund except pursuant to sections ~~81-1635~~ ~~to~~  
21 ~~81-1641.~~ 40 to 46 of this act.

22           Sec. 41. Section 81-1636, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~81-1636~~ The Governor or the ~~State Energy Office~~ Nebraska  
25 Office of Energy Independence as representative of the Governor

1 shall develop a plan for the disbursement of the money credited  
2 to the fund for submission to the United States Department of  
3 Energy. The plan shall be in accordance with the specifications and  
4 guidelines of the applicable federal court order and any applicable  
5 federal law or regulations.

6           Sec. 42. Section 81-1637, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           ~~81-1637~~ (1) The Governor shall submit a predisbursement  
9 plan to the Legislature if in session or the Executive Board of the  
10 Legislative Council if the Legislature is not in session.

11           (2) The predisbursement plan shall generally outline the  
12 uses and beneficiaries of proposed disbursements from the fund, as  
13 well as the expected benefits to the state as a whole.

14           (3) The predisbursement plan shall also include a policy  
15 statement which shall indicate (a) a perception of the current and  
16 anticipated trends regarding energy availability, costs, and needs  
17 in the state, (b) assumptions regarding the impacts on energy needs  
18 of the state of current and anticipated state and federal policies  
19 and market forces affecting energy use, and (c) generally, how the  
20 types of projects to be selected will address those trends and  
21 assumptions.

22           (4) The Legislature may hold a public hearing within  
23 thirty days of receipt of the predisbursement plan to solicit  
24 testimony on such plan. The Legislature may, no later than fifteen  
25 days following such hearing, make recommendations to the State

1 ~~Energy Office~~ Nebraska Office of Energy Independence concerning the  
2 plan. No disbursement of or obligation to disburse any money in  
3 the fund shall be made after July 9, 1988, until forty-five days  
4 after the predisbursement plan referring to such disbursement has  
5 been submitted to the Legislature or the Executive Board of the  
6 Legislative Council, as the case may be.

7           Sec. 43. Section 81-1638, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           ~~81-1638~~ (1) The State ~~Energy Office~~ Nebraska Office of  
10 Energy Independence shall, as the representative of and under the  
11 direction of the Governor, be the administrative agency for the  
12 selection of projects pursuant to section ~~81-1636~~, 41 of this act,  
13 allocation of funds to the projects, and monitoring of the uses of  
14 the funds so allocated.

15           (2) The State ~~Energy Office~~ office shall contract with  
16 any and all grantees of funds in and recipients of loans from  
17 the fund. The contracts shall include provisions for reporting on  
18 and accounting for the use of the funds by the grantee or loan  
19 recipient to the State ~~Energy Office~~, office, and any contracts  
20 or agreements entered into before appropriations are made by the  
21 Legislature shall recite that they are subject to appropriations of  
22 the fund by the Legislature.

23           (3) Any political subdivision of this state may apply  
24 for, and shall be eligible to receive, a disbursement for a  
25 project pursuant to section ~~81-1636~~, 41 of this act, including a

1 disbursement of loan proceeds.

2           Sec. 44. Section 81-1639, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           ~~81-1639~~ No money shall be disbursed or expended from the  
5 fund unless:

6           (1) The disbursement is pursuant to an appropriation by  
7 the Legislature;

8           (2) The provisions of section ~~81-1636~~ 41 of this act have  
9 been complied with in regard to the project for which funds are  
10 being disbursed; and

11           (3) The use for which funds are being disbursed meets  
12 any applicable federal law, regulation, or court order and has  
13 been approved by any and all state and federal authorities as may  
14 be required to meet the applicable court order and any applicable  
15 federal law or regulations.

16           Sec. 45. Section 81-1640, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           ~~81-1640~~ The State Energy Office Nebraska Office of Energy  
19 Independence shall conduct a public hearing on the proposed uses of  
20 the fund in the manner and to the extent required by specifications  
21 and guidelines of the applicable federal court order and any  
22 applicable federal law or regulations.

23           Sec. 46. Section 81-1641, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           ~~81-1641~~ Sections ~~81-1635~~ to 81-1641 40 to 46 of this act

1 shall apply to the disbursement of all funds which are subject to  
2 such sections 81-1635 to 81-1641 except for funds appropriated by  
3 Legislative Bill 432, Ninetieth Legislature, First Session, 1987.

4 Sections ~~81-1636 and 81-1637~~ 40 to 46 of this act shall  
5 not apply to any funds which are the subject of any written  
6 agreement or contract entered into by the State Energy Office or  
7 the Governor prior to April 9, 1987, for the awarding of any funds  
8 received by the state from United States v. Exxon Corporation.

9 Sec. 47. Section 84-166, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 84-166 Pursuant to the proclamation of a vital resource  
12 emergency issued as provided in section 84-164, the Governor by  
13 executive order may:

14 (1) Regulate the operating hours of vital resource  
15 consuming instrumentalities including state government, political  
16 subdivisions, private institutions, and business facilities to the  
17 extent that the regulation is not hazardous or detrimental to the  
18 health, safety, or welfare of the people of this state;

19 (2) Establish a system for the distribution of the supply  
20 of energy or vital resource;

21 (3) Curtail, regulate, or direct the public and private  
22 transportation and use of the vital resource which is in short  
23 supply, to the extent necessary, so long as such regulation is not  
24 hazardous or detrimental to the health, safety, or welfare of the  
25 people of this state;

1           (4) Delegate any administrative authority vested in him  
2 or her to ~~the State Energy Office or any other~~ state agency or its  
3 ~~respective~~ director; and

4           (5) Provide for the temporary transfer of directors,  
5 personnel, or functions of state departments and agencies for the  
6 purpose of carrying out any emergency measures taken pursuant to  
7 sections 84-162 to 84-167.

8           Sec. 48. Section 3 of this act becomes operative on its  
9 effective date. The other sections of this act become operative on  
10 July 1, 2008.

11           Sec. 49. Original sections 13-1205, 57-705, 58-221,  
12 66-1004, 66-1009, 66-1337, 66-1701, 70-1003, 81-1108.55, 81-1601,  
13 81-1602, 81-1603, 81-1606, 81-1607.01, 81-1626, 81-1635, 81-1636,  
14 81-1637, 81-1638, 81-1639, 81-1640, 81-1641, and 84-166, Reissue  
15 Revised Statutes of Nebraska, sections 2-5302, 72-804, 72-805,  
16 81-1608, 81-1609, 81-1611, 81-1612, 81-1613, 81-1614, 81-1615,  
17 81-1616, 81-1617, 81-1618, 81-1620, 81-1622, 81-1625, and 81-1634,  
18 Revised Statutes Cumulative Supplement, 2006, and sections  
19 81-1201.04 and 81-1316, Revised Statutes Supplement, 2007, are  
20 repealed.

21           Sec. 50. The following sections are outright repealed:  
22 Sections 81-1605, 81-1607, and 81-1623, Reissue Revised Statutes of  
23 Nebraska.

24           Sec. 51. Since an emergency exists, this act takes effect  
25 when passed and approved according to law.