

LEGISLATIVE BILL 683

Became law April 8, 1987, without approval
of the Governor.

Introduced by Warner, 25; Moore, 24; Scofield, 49;
Hannibal, 4; L. Johnson, 15; Abboud, 12;
Hartnett, 45; Langford, 36; Marsh, 29;
Wehrbein, 2

AN ACT relating to the State Energy Office; to create the Nebraska Energy Settlement Fund; to provide for a plan for disbursements from the fund; to provide for legislative hearings; to provide guidelines for projects; to provide for reports; to provide exceptions; to provide severability; and to declare an emergency.

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

Section 1. There is hereby established in the state treasury a fund, to be known as the Nebraska Energy Settlement Fund and referred to in this act as the fund, to be administered by the State Energy Office as the representative of the Governor. The fund shall consist of (1) money received by the State of Nebraska after February 15, 1986, from awards or allocations to the State of Nebraska on behalf of consumers of petroleum products as a result of judgments or settlements for overcharges to consumers of petroleum products sold during the period of time in which federal price controls on such products were in effect and (2) any investment interest earned on the fund. The Department of Administrative Services may for accounting purposes create subfunds of the fund to segregate awards or allocations received pursuant to different orders or settlements. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269. No money shall be transferred or disbursed from the fund except pursuant to this act.

Sec. 2. (1) The Governor or the State Energy Office as representative of the Governor shall develop a plan for the disbursement of the money credited to the fund. The plan shall be in accordance with the specifications and guidelines of the applicable federal court order, any applicable federal law or regulations, and the guidelines provided in subsection (2) of this section.

(2) Except when such guidelines are inconsistent with federal specifications and guidelines for the use of the money, in ranking and selecting projects to be recipients of funds, the Governor or the State Energy Office shall comply with the following guidelines:

(a) Primary consideration shall be given to:

(i) Projects which, for the amount of the allocation, provide maximum energy and resource conservation and efficiency benefits to the citizens of the state; and

(ii) Projects which are cost-effective and have long-term benefits for the citizens of the state;

(b) Projects selected shall in their totality reflect a generally equitable distribution of the benefits of the fund across the state considering both geographic and population factors;

(c) The benefits of any research or demonstration project using money allocated from the fund shall be available to the public at large; and

(d) No more than one-third of the funds in any plan or amendments thereto shall be allocated to private, nongovernmental entities, except that this restriction shall not apply to (i) any entity created by state statute or (ii) any entity which receives money from the fund through the federal Weatherization Assistance for Low-Income Persons program or the Institutional Conservation Program. Funds disbursed to public or governmental entities shall not be used to replace any public or tax funds which were or are being used on the project.

(3) The State Energy Office may adopt additional guidelines not inconsistent with federal law, regulations, or court orders or with subsection (2) of this section.

Sec. 3. The Governor shall submit the plan and any amendment to the plan to the Legislature by the sixtieth legislative day in the regular session held in an odd-numbered year or the thirtieth legislative day in the regular session held in an even-numbered year. The plan shall include (1)(a) broad categories of the types of proposed uses of the fund sufficiently described so as to allow the identification of the purpose and nature of the particular projects proposed or to be proposed for inclusion in each category and (b) within an applicable category, any project for which a single entity is proposed to be a direct or initial recipient of a total of more than fifty thousand dollars from the fund, except that this subdivision shall not apply to

any project funded through the federal Weatherization Assistance for Low-Income Persons program or the Institutional Conservation Program, (2) an indication of which particular award or settlement will fund each category or project included in the plan, and (3) a policy statement which shall indicate (a) a perception of the current and anticipated trends regarding energy availability, costs, and needs in the state, (b) assumptions regarding the impacts on energy needs of the state of current and anticipated state and federal policies and market forces affecting energy use, and (c) generally, how the types of projects selected or to be selected will address those trends and assumptions. The Appropriations Committee of the Legislature shall, in conjunction with its review of appropriations of the fund, conduct a public hearing on the plan or amendments within ten legislative days of receiving such plan or amendments, and the Legislature shall pass any appropriations therefor within thirty legislative days of the hearing or before the end of the legislative session, whichever comes first. In reviewing the plan for purposes of determining appropriations from the fund, the Legislature shall consider the guidelines in subsection (2) of section 2 of this act.

Sec. 4. The State Energy Office shall, as the representative of and under the direction of the Governor, be the administrative agency for the selection of projects, allocation of funds to the projects, and monitoring of the uses of the funds so allocated. The State Energy Office shall contract with any and all grantees of funds in and recipients of loans from the fund. The contracts shall include provisions for reporting on and accounting for the use of the funds by the grantee or loan recipient to the State Energy Office, and any contracts or agreements entered into before appropriations are made by the Legislature shall recite that they are subject to appropriations of the fund by the Legislature.

Sec. 5. No money shall be disbursed or expended from the fund unless:

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

(2) The provisions of section 2 of this act have been complied with in regard to the project for which funds are being disbursed;

(3) The project for which funds are being disbursed is within a category which is included in the plan or amendments to the plan submitted to the Legislature or, if required by section 3 of this act,

has been specifically included in such plan or amendments; and

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

Any appropriations of the fund shall be made for broad categories of projects, but no appropriation shall be made for any project not within a category which is included in the plan pursuant to section 3 of this act.

Sec. 6. On October 1 of each year for five years from the effective date of this act the Governor shall submit a report to the Legislature regarding the projects receiving money from the fund and the effectiveness of the uses of the money disbursed from the fund.

Sec. 7. This act shall apply to the disbursement of all funds which are subject to this act except for funds appropriated by Legislative Bill 432, Ninetieth Legislature, First Session, 1987.

Sections 2 and 3 of this act and subdivisions (2) and (3) of section 5 of this act shall not apply to any funds which are the subject of any written agreement or contract entered into by the State Energy Office or the Governor prior to the effective date of this act for the awarding of any funds received by the state from United States v. Exxon Corporation.

Sec. 8. 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. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.