

LEGISLATIVE BILL 1003

Approved by the Governor April 19, 2002

Introduced by Schrock, 38; Bromm, 23; Brown, 6; Bruning, 3; Preister, 5

AN ACT relating to the environment; to amend sections 2-1576, 37-101, 37-102, 37-453, 37-491, 37-4,105, 37-4,106, 37-528, 37-608, and 37-806, Reissue Revised Statutes of Nebraska, sections 2-1575, 2-1579, 37-201, 37-202, 37-406, 37-440, 37-525, 37-724, 54-2302, 54-2305, 54-2322, 72-2005, 72-2006, 72-2008, 72-2010, 72-2011, 81-15,167, 81-15,170, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2000, and sections 37-407, 37-426, 37-455, 49-1401, 49-1493, and 66-1519, Revised Statutes Supplement, 2001; to create the Water Policy Task Force; to state findings; to provide powers and duties; to create a fund; to provide for payments from the Nebraska Soil and Water Conservation Fund; to provide for fund transfers; to change provisions relating to membership on the Game and Parks Commission, licenses, permits, and stamps required under the Game Law, authorized weapons for hunting certain wildlife, training and running dogs, paddlefish, property posting requirements, procedures for determination of a species to be endangered or threatened, the Nebraska Environmental Trust Board, and cervine animals and diseases; to authorize and change fees; to authorize the enforcement of federal orders on federal lands as prescribed; to name the Niobrara Scenic River Act; to define terms; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

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

Section 1. The Legislature finds that there are significant issues relating to the laws of Nebraska governing the management and use of Nebraska surface water and ground water. The issues to be examined are: (1) A review of Laws 1996, LB 108, to determine what, if any, changes are needed to adequately address Nebraska's conjunctive use management issues; (2) an evaluation of the utility of allowing temporary water transfers and, if deemed useful, development of draft legislation and procedures for authorizing and implementing a temporary water transfer law; (3) an evaluation of the utility of authorizing additional types of permanent water transfers and, if deemed useful, development of draft legislation and procedures for authorizing and implementing additional types of permanent water transfers; (4) a determination as to the usefulness of water leasing or transfers and development of a potential water banking system that would facilitate the temporary or permanent transfer of water uses; and (5) a determination as to what other ways, if any, inequities between surface water users and ground water users need to be addressed and potential actions the state could take to address any such inequities. To address such issues, the Governor shall appoint a Water Policy Task Force as provided in section 2 of this act.

Sec. 2. (1) The members of the Water Policy Task Force shall include: (a) Twenty irrigators, with at least one irrigator from each of the state's thirteen river basins, giving consideration to maintaining a balance between surface water users and ground water users. Three irrigators shall be selected from the Republican River Basin, two irrigators shall be selected from the North Platte River Basin, two irrigators shall be selected from the middle Platte River Basin, two irrigators shall be selected from the Loup River Basin, two irrigators shall be selected from the Elkhorn River Basin, two irrigators shall be selected from the Big Blue River Basin, one irrigator shall be selected from the South Platte River Basin, one irrigator shall be selected from the lower Platte River Basin, one irrigator shall be selected from the Little Blue River Basin, one irrigator shall be selected from the Nemaha River Basin, one irrigator shall be selected from the Niobrara River Basin, one irrigator shall be selected from the White Hat River Basin, and one irrigator shall be selected from the Missouri tributaries basin; (b) three representatives from differing agricultural organizations; (c) three representatives from differing environmental organizations; (d) two representatives from differing recreational organizations; (e) three representatives to represent the state at large; (f) five representatives suggested for the Governor's consideration by the Nebraska Association of Resources Districts; (g) four representatives suggested for the Governor's consideration by the Nebraska Power Association; (h) five representatives suggested for the Governor's consideration by the League of Nebraska

Municipalities, with consideration given to maintaining a balance between larger and smaller municipalities; and (i) such other members as the Governor deems appropriate to provide the task force with adequate and balanced representation. The Governor shall notify the Legislature upon completion of the appointments.

(2) Additional members of the task force shall be: (a) One representative from the Department of Natural Resources to coordinate as appropriate with other state agencies; (b) one representative from the Attorney General's office; (c) the chairperson of the Natural Resources Committee of the Legislature; and (d) the vice chairperson of the Natural Resources Committee of the Legislature. Other members of the Legislature may participate as desired.

Sec. 3. On behalf of the Water Policy Task Force, the Natural Resources Committee of the Legislature shall contract for the services of a meeting facilitator and such other assistance as the task force deems necessary within the limits of the funds appropriated. Such contract shall have the approval of the Executive Board of the Legislative Council. In making its selection for facilitator, the Natural Resources Committee shall consult with the Attorney General's office and the Department of Natural Resources.

Sec. 4. The Water Policy Task Force shall select an executive committee. The executive committee shall consist of three representatives from irrigation interests; one representative from an agricultural organization; one representative from an environmental organization; one representative from a recreational organization; one representative of the state at large; one representative of natural resources districts; one representative of the Nebraska Power Association; one representative of municipalities; one representative of the Department of Natural Resources; one representative of the Attorney General's office; and the chairperson and vice chairperson of the Natural Resources Committee of the Legislature. Each executive committee member shall be responsible for representing the rest of his or her interest group on the executive committee. The executive committee shall be responsible for developing the operating rules of the task force and for developing proposals and recommendations to be considered by the entire task force. The executive committee shall apply for a grant of a minimum of three hundred fifty thousand dollars from the Nebraska Environmental Trust Fund prior to the application deadline of September 9, 2002, for grants to be awarded and funded in 2003.

Sec. 5. The Water Policy Task Force shall meet at least four times each year to consider the proposals and recommendations of the executive committee and any other additional times as the executive committee determines to be necessary to accomplish the objectives established in section 1 of this act.

Sec. 6. The Water Policy Task Force shall discuss the issues described in section 1 of this act and such related issues as it deems appropriate, shall identify options for resolution of such issues, and shall make recommendations to the Legislature and the Governor relating to any water policy changes the task force deems desirable.

The task force shall complete its work within eighteen months after the Governor notifies the Legislature that all members of the task force have been appointed and a meeting facilitator has been selected.

Sec. 7. The Water Policy Task Force Cash Fund is created. The fund shall be administered by the Department of Natural Resources and expended at the direction of the Water Policy Task Force. The fund shall consist of funds appropriated by the Legislature, money received as gifts, grants, and donations, and transfers authorized under sections 2-1579 and 66-1519. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Section 2-1575, Revised Statutes Supplement, 2000, is amended to read:

2-1575. Sections 2-1575 to 2-1585 and section 10 of this act shall be known and may be cited as the Nebraska Soil and Water Conservation Act.

Sec. 9. Section 2-1576, Reissue Revised Statutes of Nebraska, is amended to read:

2-1576. The Legislature recognizes and hereby declares that it is the public policy of this state to properly conserve, protect, and utilize the water and related land resources of the state, to better utilize surface waters and available precipitation, to encourage ground water recharge to protect the state's dwindling ground water supply, to protect the quality of surface water and ground water resources, and to reduce soil erosion and sediment damages. The Legislature further declares that it is in the public

interest of this state to financially assist in encouraging water and related land resource conservation and protection measures on privately owned ~~agricultural, horticultural, or silvicultural~~ land and that this will produce long-term benefits for the general public.

Sec. 10. Payments may be made from the Nebraska Soil and Water Conservation Fund to owners of private land which is being converted to urban use for the purpose of controlling erosion and sediment loss from construction and development. As a condition for receiving any funds pursuant to this section, the landowner shall agree in writing that the erosion and sediment control practices will be installed prior to the land-disturbing activity, when possible, and that the practices will be adequately maintained or replaced at the landowner's expense until ninety-five percent of the site is permanently stabilized. Payments made pursuant to this section shall be in accordance with and conditional upon such terms as are established by the commission. Such terms may be different from those established by section 2-1579 for payments relating to other types of projects and practices.

Sec. 11. Section 2-1579, Revised Statutes Supplement, 2000, is amended to read:

2-1579. (1) Except as provided in subsection (2) of this section, expenditures may be made from the Nebraska Soil and Water Conservation Fund as grants to individual landowners of not to exceed seventy-five percent of the actual cost of eligible projects and practices for soil and water conservation or water quality protection, with priority given to those projects and practices providing the greatest number of public benefits.

(2) The department shall reserve at least two percent of the funds credited to the fund for grants to landowners ordered by a natural resources district pursuant to the Erosion and Sediment Control Act to install permanent soil and water conservation practices. Such funds shall be made available for ninety percent of the actual cost of the required practices and shall be granted on a first-come, first-served basis until exhausted. Applications not served shall receive priority in ensuing fiscal years.

(3) The commission shall determine which specific projects and practices are eligible for the funding assistance authorized by this section and shall adopt, by reference or otherwise, appropriate standards and specifications for carrying out such projects and practices. A natural resources district assisting the department in the administration of the program may, with commission approval, further limit the types of projects and practices eligible for funding assistance in that district.

(4) As a condition for receiving any cost-share funds pursuant to this section, the landowner shall be required to enter into an agreement that if a conservation practice is terminated or a project is removed, altered, or modified so as to lessen its effectiveness, without prior approval of the department or its delegated agent, for a period of ten years after the date of receiving payment, the landowner shall refund to the fund any public funds used for the practice or project. When deemed necessary by the department or its delegated agent, the landowner may as a further condition for receiving such funds be required to grant a right of access for the operation and maintenance of any eligible project constructed with such assistance. Acceptance of money from the fund shall not in any other manner be construed as affecting land ownership rights unless the landowner voluntarily surrenders such rights.

(5) To the extent feasible, the department and the commission shall administer the fund so that federal funds available within the state for the same general purposes are supplemented and not replaced with state funds.

(6) Within five days after the effective date of this act, the State Treasurer shall transfer two hundred fifty thousand dollars from the General Fund to the Water Policy Task Force Cash Fund. It is the intent of the Legislature that the General Fund appropriation to the Department of Natural Resources, Program 304, for fiscal year 2002-03 be reduced by two hundred fifty thousand dollars.

Sec. 12. Section 37-101, Reissue Revised Statutes of Nebraska, is amended to read:

37-101. (1) The Game and Parks Commission shall consist of ~~seven~~ eight members, one from each of the ~~seven~~ eight districts provided for by section 37-102, and shall be appointed by the Governor with the consent of a majority of all members of the Legislature. Members of the commission shall be legal residents and citizens of Nebraska and shall be well informed on wildlife conservation and restoration. At ~~Until~~ January 1, 2006, at least two members of the commission shall be actually engaged in agricultural pursuits and shall reside on a farm or ranch. On and after January 1, 2006, at least three members of the commission shall be actually engaged in agricultural pursuits and at least two of such members shall reside on a farm or ranch.

~~Not~~ ~~7~~ ~~and~~ ~~not~~ more than four of the members of the commission shall be affiliated with the same political party.

(2) When the term of any member of the commission expires, ~~the Governor shall appoint~~ a successor shall be appointed as provided in subsection (1) of this section for a term of five years from the same district as the member whose term has expired. Beginning with appointments made for terms beginning after January 1, 2008, in districts which contain more than one county, the Governor shall not appoint a person from the same county as his or her predecessor. Each member shall serve until the appointment and qualification of his or her successor. In case of a vacancy occurring prior to the expiration of the term of a member, the appointment shall be made only for the remainder of the term.

(3) All members of the commission shall be citizens and bona fide residents of the district from which they are appointed. When a member ceases to be a bona fide resident of the district, from which he or she was appointed, the office shall be immediately vacated.

(4) If the Legislature is not in session when members of the commission are appointed by the Governor, they shall take office and act as recess appointees until the Legislature next thereafter convenes.

(5) 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 an opportunity of being 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.

(6) If such 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 his or her findings thereon, together with a complete record of the proceedings. No person who has served a full five-year term shall be eligible for reappointment as a member of the commission until at least five years have elapsed between any previous term which he or she might have served and the effective date of his or her new appointment.

Sec. 13. Section 37-102, Reissue Revised Statutes of Nebraska, is amended to read:

37-102. For purposes of section 37-101, the state is hereby divided into ~~seven~~ eight districts. The limits and designations of the ~~seven~~ eight districts shall be as follows:

(1) District No. 1. The counties of Richardson, Pawnee, Nemaha, Johnson, Otoe, Cass, ~~Lancaster~~ Sarpy, Saunders, Butler, Gage, Seward, Saline, and Jefferson;

(2) District No. 2. ~~The counties of Sarpy and Douglas County;~~

(3) District No. 3. The counties of Washington, Dodge, Colfax, Platte, Merrick, Nance, Boone, Madison, Stanton, Cuming, Burt, Thurston, Wayne, Pierce, Antelope, Knox, Cedar, Dixon, and Dakota;

(4) District No. 4. The counties of Thayer, Nuckolls, Webster, Adams, Clay, Fillmore, York, Polk, Hamilton, Hall, Buffalo, Kearney, and Franklin;

(5) District No. 5. The counties of Harlan, Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Gosper, Phelps, Dawson, Lincoln, and Perkins;

(6) District No. 6. The counties of Howard, Greeley, Wheeler, Sherman, Valley, Garfield, Holt, Boyd, Keya Paha, Rock, Brown, Loup, Blaine, Custer, Logan, McPherson, Arthur, Grant, Hooker, Thomas, and Cherry; ~~and~~

(7) District No. 7. The counties of Deuel, Garden, Keith, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball; and

(8) District No. 8. Lancaster County.

Sec. 14. Section 37-201, Revised Statutes Supplement, 2000, is amended to read:

37-201. Sections 37-201 to 37-811 and sections 16, 17, 28, and 30 of this act shall be known and may be cited as the Game Law.

Sec. 15. Section 37-202, Revised Statutes Supplement, 2000, is amended to read:

37-202. For purposes of the Game Law, unless the context otherwise requires, the definitions found in sections 37-203 to 37-247 and sections 16 and 17 of this act are used.

Sec. 16. Captive, as it pertains to captive wildlife, captive wild birds, or captive wild mammals, means the condition of captivity.

Sec. 17. Captivity means a condition which limits or restricts the free egress or free range of wild birds, wild mammals, or wildlife by the use of fences, barriers, or restraints.

Sec. 18. Section 37-406, Revised Statutes Supplement, 2000, is amended to read:

37-406. (1) Licenses, permits, and stamps required under the Game Law shall be issued by the commission and may be procured from the secretary of the commission. The commission may provide for the electronic issuance of any license, permit, or stamp required under the Game Law and may enter into contracts to procure necessary services and supplies for the electronic issuance of licenses, permits, and stamps. The commission may designate other persons, firms, and corporations as agents to issue licenses, permits, and stamps and collect the prescribed fees. Any person, firm, or corporation, other than the secretary of the commission or an employee of the commission, authorized by the commission to issue licenses, permits, and stamps shall be entitled to collect and retain an additional fee of not less than fifty cents and not more than one dollar, as established by the commission pursuant to section 37-327, for each license, permit, or stamp issued as reimbursement for the clerical work of issuing the license, permit, or stamp and collecting and remitting the fees.

(2) The commission shall adopt and promulgate rules and regulations regarding electronic issuance of licenses, permits, and stamps, including electronic issuance devices, deposits by agents, and remittance of fees. The commission may provide for the electronic issuance of a stamp by acknowledging the purchase of such stamp without requiring a physical stamp or facsimile of such.

(3) It shall be unlawful for any person to duplicate any electronically issued license, permit, or stamp. Any person violating this subsection shall be guilty of a Class III misdemeanor and shall be fined at least seventy-five dollars, and any license, permit, or stamp involved in such violation shall be confiscated by the court.

Sec. 19. Section 37-407, Revised Statutes Supplement, 2001, is amended to read:

37-407. The commission shall establish fees pursuant to section 37-327 to be paid to the state for resident and nonresident hunting permits, annual fishing permits, three-day fishing permits, combined fishing and hunting permits, and fur-harvesting permits, as follows:

(1) Resident fees shall be (a) not less than eight dollars and fifty cents and not more than eleven dollars for hunting, (b) not less than eleven dollars and fifty cents and not more than fifteen dollars for fishing, (c) not less than seven dollars and fifty cents and not more than ten dollars for a three-day fishing permit, (d) not less than nineteen dollars and fifty cents and not more than twenty-five dollars for both fishing and hunting, and (e) not less than fifteen dollars and not more than twenty dollars for fur harvesting; and

(2) Nonresident fees shall be (a) not less than ~~two hundred dollars~~ resident fees and not more than two hundred sixty dollars for a period of time specified by the commission for fur harvesting one thousand or less fur-bearing animals and not less than ten dollars additional and not more than fifteen dollars additional for each one hundred or part of one hundred fur-bearing animals harvested, (b) (i) for persons sixteen years of age and older, not less than fifty-five dollars and not more than seventy-two dollars for hunting and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision (1) (a) of this section for hunting, (c) not less than ten dollars and seventy-five cents and not more than fourteen dollars for a three-day fishing permit, and (d) not less than thirty-five dollars and not more than forty-five dollars for an annual fishing permit.

Sec. 20. Section 37-426, Revised Statutes Supplement, 2001, is amended to read:

37-426. (1) Except as provided in subsection (3) of this section:

(a) No resident of Nebraska sixteen years of age or older and no nonresident of Nebraska regardless of age shall hunt, harvest, or possess any game bird, upland game bird, game animal, or fur-bearing animal unless, at the time of such hunting, harvesting, or possessing, such person carries on or about his or her person an unexpired habitat stamp validated as prescribed by the rules and regulations of the commission prior to the time of hunting, harvesting, or possessing such bird or animal; and

(b) No resident or nonresident of Nebraska eighteen years of age or older shall take or possess any aquatic organism requiring a Nebraska fishing permit, including any fish, bullfrog, snapping turtle, tiger salamander, or mussel unless, at the time of such taking or possessing, such person carries on or about his or her person an unexpired aquatic habitat stamp validated as prescribed by the rules and regulations of the commission prior to the time of taking or possessing a fish, bullfrog, snapping turtle, tiger salamander, or mussel.

(2) The commission may issue to any Nebraska resident a lifetime habitat stamp upon application and payment of the appropriate fee. The fee

for a lifetime habitat stamp shall be twenty times the fee required in subsection (4) of this section for annual habitat stamps. Payment of such fee shall be made in a lump sum at the time of application. A lifetime habitat stamp shall not be made invalid by reason of the holder subsequently residing outside the state. A replacement lifetime habitat stamp may be issued if the original is lost or destroyed. The fee for a replacement shall be not less than one dollar and fifty cents and not more than five dollars, as established by the commission.

(3) Habitat stamps are not required for holders of limited permits issued under section 37-455. Aquatic habitat stamps are not required (a) when a fishing permit is not required, (b) for holders of permits pursuant to section 37-424, or (c) for holders of lifetime fishing permits or lifetime combination hunting and fishing permits. For purposes of this section, a showing of proof of the electronic issuance of a stamp by the commission shall fulfill the requirements of this section.

(4) Any person to whom a stamp has been issued shall, immediately upon request, exhibit the stamp to any officer. Any person hunting, fishing, harvesting, or possessing any game bird, upland game bird, game animal, or fur-bearing animal or any aquatic organism requiring a fishing permit in this state without the appropriate stamp attached to or printed on a valid hunting or fur-harvesting permit or fishing permit and not actually on or about his or her person shall be deemed to be without such stamp. A habitat stamp shall be issued upon the payment of a fee of not less than ten dollars and not more than fifteen dollars per stamp. An aquatic habitat stamp shall be issued upon the payment of a fee of not less than five and not more than six dollars and fifty cents per stamp. The commission shall establish the fees pursuant to section 37-327.

Sec. 21. Section 37-440, Revised Statutes Supplement, 2000, is amended to read:

37-440. (1) The commission shall prescribe the type and design of permits and the method of display of permits for motor vehicles. The commission may provide for the electronic issuance of permits and may enter into contracts to procure necessary services and supplies for the electronic issuance of permits.

(2) The permits may be procured from the central and district offices of the commission, at areas of the Nebraska state park system where commission offices are maintained, from self-service vending stations at designated park areas, from designated commission employees, through Internet sales from the commission's web site, from appropriate offices of county government, and from various private persons, firms, or corporations designated by the commission as permit agents. ~~Such county~~ County offices or private persons, firms, or corporations designated by the commission as permit agents shall be entitled to collect and retain a fee of not less than twenty-five cents and not more than thirty-five cents, as established by the commission pursuant to section 37-327, for each permit as reimbursement for the clerical work of issuing the permits and remitting therefor. The commission shall be entitled to collect and retain a fee of one dollar for each permit sold through its web site as reimbursement for the clerical work and postage associated with issuing the permit.

Sec. 22. Section 37-453, Reissue Revised Statutes of Nebraska, is amended to read:

37-453. Applications for the special permits provided for in section 37-447, 37-449, or 37-450 shall be made individually or on a unit basis. If such application is made on a unit basis, not more than ~~two~~ five applicants may apply for such permit in one application. If such application is granted, such special permits shall be issued to the persons so applying. If any one of the persons so applying shall be ineligible to receive such special permit, the entire group so applying shall be disqualified. No person applying for such special permit on a unit basis shall also apply individually.

Sec. 23. Section 37-455, Revised Statutes Supplement, 2001, is amended to read:

37-455. (1) The commission may issue a limited permit for deer, antelope, wild turkey, or elk to a person who is a qualifying landowner or leaseholder and his or her immediate family as described in this section. A permit shall be valid during the predetermined period established by the commission pursuant to sections 37-447 to 37-450, 37-452, 37-456, or 37-457. Upon receipt of an application in proper form as prescribed by the rules and regulations of the commission, the commission may issue (a) a limited deer, antelope, or wild turkey permit valid for hunting on all of the land which is owned or leased by the qualifying landowner or leaseholder if such lands are identified in the application or (b) a limited elk permit valid for hunting on

the entire elk management unit of which the land of the qualifying landowner or leaseholder included in the application is a part.

(2) (a) The commission shall adopt and promulgate rules and regulations prescribing procedures and forms and create requirements for documentation by an applicant or permittee to determine whether the applicant or permittee is a Nebraska resident and is a qualifying landowner or leaseholder of the described property or is a member of the immediate family of and residing in the same household as such qualifying landowner or leaseholder. Only a person who is a qualifying landowner or leaseholder and such person's immediate family residing in the same household as such qualifying landowner or leaseholder may apply for a limited permit. For purposes of this section, immediate family means and is limited to a husband and wife and their children.

(b) The conditions applicable to permits issued pursuant to sections 37-447 to 37-450, 37-452, 37-456, or 37-457, whichever is appropriate, shall apply to limited permits issued pursuant to this section, except that the commission may adopt and promulgate rules and regulations for species harvest allocation pertaining to the sex and age of the species harvested which are different for a limited permit than for other hunting permits. For purposes of this section, white-tailed deer and mule deer shall be treated as one species.

(3) (a) To qualify for a limited permit to hunt deer or antelope, the applicant shall be a Nebraska resident who owns or leases eighty acres or more of farm or ranch land for agricultural purposes or a member of such person's immediate family residing in the same household. The number of limited permits issued annually per species for each farm or ranch shall not exceed the total acreage of the farm or ranch divided by eighty. An applicant may apply for no more than one permit per species per year. The fee for a limited permit to hunt deer or antelope shall be one-half the fee for the regular permit for such species.

(b) The commission may adopt and promulgate rules and regulations providing for the issuance of an additional limited deer permit to a qualified individual for the taking of a deer without antlers at a fee equal to or less than the fee for the original limited permit.

(4) To qualify for a limited permit to hunt wild turkey, the applicant shall be a Nebraska resident who owns or leases eighty acres or more of farm or ranch land for agricultural purposes or a member of such person's immediate family residing in the same household. The number of limited permits issued annually per season for each farm or ranch shall not exceed the total acreage of the farm or ranch divided by eighty. An applicant may apply for no more than one limited permit per season. The fee for a limited permit to hunt wild turkey shall be one-half the fee for the regular permit to hunt wild turkey.

(5) To qualify for a limited permit to hunt elk, (a) the applicant shall be (i) a Nebraska resident who owns three hundred twenty acres or more of farm or ranch land for agricultural purposes, (ii) a Nebraska resident who leases three hundred twenty acres or more of farm or ranch land for agricultural purposes and resides on such property, or (iii) a member of such owner or lessee's immediate family residing in the same household and (b) the qualifying farm or ranch land of the applicant shall be within an area designated as an elk management zone by the commission in its rules and regulations. An applicant shall not be issued a limited elk permit more than once every three years, and the commission may give preference to a person who did not receive a limited elk permit or specified type of limited elk permit during the previous years. The fee for a limited permit to hunt elk shall be one-fifth the fee for the regular permit to hunt elk. ~~(1)(a) A Nebraska resident who owns or leases eighty acres or more of farm or ranch land for agricultural purposes or a member of such person's immediate family residing in the same household may apply for a limited deer, antelope, wild turkey, or elk permit.~~

(b) A nonresident of Nebraska who owns three hundred twenty acres or more of farm or ranch land in the State of Nebraska for agricultural purposes or a member of such person's immediate family residing in the same household may apply for a limited deer permit. Only one limited deer permit per three hundred twenty acres may be issued annually under this subdivision.

(2) The limited permit is valid during the predetermined period established by the commission pursuant to any provision of sections 37-447 to 37-452 and 37-457. To qualify for a limited elk permit the farm or ranch land of the applicant must be within an area designated as an elk zone by the commission in its regulations. Except as provided in subdivision (1)(b) of this section, only one limited permit for each species shall be issued annually for the farm or ranch land described in the application, except that

both a spring and a fall turkey permit may be issued. Upon receipt of an application in proper form as prescribed by the commission, the commission may issue a limited permit which shall restrict (a) the limited deer, antelope, or wild turkey permit to hunting only on the farm or ranch land included in the application and shall not apply to the land of other persons and (b) the limited elk permit to hunting on the entire elk management unit of which the farm or ranch land included in the application is a part. For purposes of this section, immediate family means and is limited to husband and wife and their children. The conditions applicable to permits issued pursuant to section 37-447, 37-448, 37-449, 37-450, 37-452, or 37-457, whichever is appropriate, shall apply to limited permits issued pursuant to this section, except that the commission may adopt regulations for species harvest allocation pertaining to the sex and age of the species harvested which are different for this permit than for other hunting permits.

(3) Except as provided in subsection (4) of this section, receipt of a limited permit or a permit issued pursuant to section 37-447, 37-448, 37-449, 37-450, 37-452, or 37-457 for any one-year or open season shall not bar receipt of a limited permit in any subsequent year or for any subsequent open season.

(4) A limited elk permit issued pursuant to this section shall not be issued to any applicant more than once every three years.

(5) The fee for a limited permit to hunt elk shall be one-fifth the fee for the regular permit to hunt elk. The fee for a limited permit to hunt deer, antelope, or wild turkey shall be one-half the fee for the regular permit for these species, except that the fee for a nonresident limited deer permit shall be one-half the fee for a nonresident permit to hunt deer.

(6) The commission may by rule and regulation prescribe forms to be filled out by the applicant for a limited permit as prescribed in this section to determine whether the applicant is a Nebraska resident and is the owner or lessee of the described property or is a member of the family or household of such person.

Sec. 24. Section 37-491, Reissue Revised Statutes of Nebraska, is amended to read:

37-491. Every individual hunting game birds upon a licensed game breeding and controlled shooting area shall secure a hunting permit and a habitat stamp in accordance with the laws of the State of Nebraska, except that nonresidents of the State of Nebraska shall in addition to securing a habitat stamp pay a license fee of not less than five dollars and not more than seven dollars, as established by the commission pursuant to section 37-327 are not required to secure a hunting permit but are required to secure a habitat stamp and pay a license fee, not less than the cost of a resident hunting permit, as established by the commission pursuant to section 37-327.

Sec. 25. Section 37-4,105, Reissue Revised Statutes of Nebraska, is amended to read:

37-4,105. ~~(1) Individuals~~ It shall be unlawful for individuals, either resident or nonresident, over sixteen years of age selling to sell baitfish or salamanders as bait for profit shall be required to purchase from amphibians except according to rules and regulations established by the commission. The commission may require a bait dealer's permit for a fee of not less than twenty-five dollars and not more than thirty-two dollars for residents and not less than one hundred fifty dollars and not more than two hundred dollars for nonresidents, as established by the commission pursuant to section 37-327.

~~(2) Individuals over sixteen years of age and residents of this state selling crayfish or leopard or striped frogs shall purchase from the commission a resident bait dealer's permit for a fee of not less than twenty-five dollars and not more than thirty-two dollars, as established by the commission pursuant to section 37-327, except that if such individual holds a permit for baitfish or salamanders as provided in this section, such permit shall include crayfish and leopard or striped frogs.~~

~~(3) The applications for such permits~~ If such permits are required by the commission, the application shall include the social security number of the applicants applicant.

Sec. 26. Section 37-4,106, Reissue Revised Statutes of Nebraska, is amended to read:

37-4,106. Nonresidents holding a valid nonresident fish dealer's permit may possess, buy, sell, transport, and ship live baitfish, live fish, ~~all frogs,~~ and ~~crayfish~~ other bait species as specified in commission rules and regulations legally obtained from outside this state or from a licensed aquaculture facility in accordance with rules and regulations adopted and promulgated by the commission. The application for the permit shall include the applicant's social security number. The fee for a nonresident fish

dealer's permit shall be not less than fifty dollars and not more than sixty-five dollars, as established by the commission pursuant to section 37-327.

Sec. 27. Section 37-525, Revised Statutes Supplement, 2000, is amended to read:

37-525. (1) ~~It~~ Except as provided in section 37-483 and rules and regulations established by the commission, it shall be unlawful for any person to kill or capture take game birds or game animals during any closed season while training or running a dog. except as provided in section 37-483, except that game birds obtained from the holder of a captive wildlife permit which have been marked according to commission regulations may be pursued and taken at any time, according to rules and regulations established by the commission, on privately owned lands, during a dog trial which is conducted under written authority of the commission as required in section 37-412, or for purposes of novice hunter education under authority of a permit issued by the commission. Game animals may be pursued but not taken under such authority, except that this restriction shall not apply to novice hunter education provided under authority of a permit issued by the commission.

(2) The commission shall adopt and promulgate rules and regulations which regulate taking game birds or game animals for the purpose of training bird or hunting dogs on public and private land, the licensing of dog training areas, and the administration of novice hunter education activities in which game birds or game animals may be taken. Such rules and regulations may limit dog training to noncommercial activities and shall include, but not be limited to, the following: Administration of a novice hunter education program and the issuance of a permit to conduct such a program, limitations on dog training activities, requirements for dog training areas, possession requirements, open areas, seasons, methods, time periods in which taking is authorized, species to be taken, and requirements for dog trials as specified in section 37-412. to carry out and administer the novice hunter education program and permit issuance under such program. A person who purchases game birds from the holder of a captive wildlife permit shall have in his or her possession a receipt from the permitholder listing the species and number of birds purchased.

(2) ~~Any person in legal possession of game birds marked according to commission regulations may pursue and take such game birds on publicly owned lands that have been approved by the commission and posted with authorized dog training area signs.~~

(3) No dog shall be run upon private property under this section at any time without the express permission of the landowner or tenant.

(4) Any person violating this section shall be guilty of a Class III misdemeanor and shall be fined at least fifty dollars.

Sec. 28. The commission shall adopt and promulgate rules and regulations relating to the appropriate weapons which may be used for hunting wildlife. The rules and regulations shall take effect beginning January 1, 2004.

Sec. 29. Section 37-528, Reissue Revised Statutes of Nebraska, is amended to read:

37-528. (1) During any season which permits hunting deer with rifles using center-fire cartridges, wild animals other than deer may be hunted only with a shotgun, .22 rimfire rifle, ~~or~~ .22 rimfire handgun, or a smaller caliber rimfire rifle or handgun, except that this section does not apply to a holder of a valid deer permit or a limited deer permit under section 37-455 or to a bona fide farmer or rancher who owns, leases, or resides upon farm or ranch land or a member of the immediate family of such farmer or rancher while hunting on such farm or ranch land.

(2) Any person violating this section shall be guilty of a Class II misdemeanor and shall be fined at least forty dollars.

Sec. 30. The commission may adopt and promulgate rules and regulations to permit the taking of paddlefish. The commission may, pursuant to section 37-327, establish and charge a nonrefundable application fee of not less than five dollars and not more than ten dollars. Permits, as authorized by the commission, shall be awarded by random drawing to eligible applicants. No permit fee shall be charged in addition to the nonrefundable application fee.

Sec. 31. Section 37-608, Reissue Revised Statutes of Nebraska, is amended to read:

37-608. Any law enforcement official, including any conservation officer, may enforce sections 37-305 to 37-313, ~~and~~ the rules and regulations established under the authority of sections 60-680 and 60-6,190, and federal orders restricting access to federal lands under a memorandum of understanding or cooperative agreement with a federal agency. When a violation has occurred

in or on any area under the ownership or control of the commission or federal lands as authorized under this section, any conservation officer may arrest and detain any person committing such violation or committing any misdemeanor or felony as provided by the laws of this state or federal orders as authorized under this section until a legal warrant can be obtained.

Sec. 32. Section 37-724, Revised Statutes Supplement, 2000, is amended to read:

37-724. The landowner or tenant who is the principal operator of a farm or ranch may post such property with to allow for hunting, by written permission only, in the following ways:

(1) With signs reading Hunting By Written Permission Only. The ~~7~~ which signs shall be at least eleven by fourteen inches with letters at least one and one-half inches high, and which shall be placed at each field entrance and at intervals of not more than four hundred forty yards and at all property corners. The name and address of the owner or tenant shall be on each sign; or

(2) By placing identifying red paint marks on trees or posts in the following manner:

(a) The identifying red paint marks shall be vertical lines of at least eight inches in length and three inches in width on trees or on any post which is not metal, or if metal posts are used, the identifying red paint marks shall completely surround the post and extend down at least eight inches from the top of the metal post. The bottom edge of the identifying red paint marks shall be not less than three feet and not more than five feet off the ground;

(b) The identifying red paint marks shall be readily visible to any person approaching the property; and

(c) The identifying red paint marks shall be placed at each field entrance and shall not be more than one hundred yards apart.

Sec. 33. Section 37-806, Reissue Revised Statutes of Nebraska, is amended to read:

37-806. (1) Any species of wildlife or wild plants determined to be an endangered species pursuant to the Endangered Species Act shall be an endangered species under the Nongame and Endangered Species Conservation Act, and any species of wildlife or wild plants determined to be a threatened species pursuant to the Endangered Species Act shall be a threatened species under the Nongame and Endangered Species Conservation Act. The commission may determine that any such threatened species is an endangered species throughout all or any portion of the range of such species within this state.

(2) In addition to the species determined to be endangered or threatened pursuant to the Endangered Species Act, the commission shall by regulation determine whether any species of wildlife or wild plants normally occurring within this state is an endangered or threatened species as a result of any of the following factors:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, sporting, scientific, educational, or other purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence within this state.

(3)(a) The commission shall make determinations required by subsection (2) of this section on the basis of the best scientific, commercial, and other data available to the commission.

(b) Except with respect to species of wildlife or wild plants determined to be endangered or threatened species under subsection (1) of this section, the commission may not add a species to nor remove a species from any list published pursuant to subsection (5) of this section unless the commission has first:

~~(a) Published a~~ (i) Provided public notice of such proposed action by publication in a newspaper of general circulation in each county in that portion of the subject species' range in which it is endangered or threatened or, if the subject species' range extends over more than five counties, in a newspaper of statewide circulation distributed in the county;

(ii) Provided notice of such proposed action to and allowed comment from the Department of Agriculture, the Department of Environmental Quality, and the Department of Natural Resources;

(iii) Provided notice of such proposed action to and allowed comment from each natural resources district and public power district located in that portion of the subject species' range in which it is endangered or threatened;

~~(b)~~ (iv) Notified the Governor of any state sharing a common border

with this state, in which the subject species is known to occur, that such action is being proposed; and

~~(e)~~ (v) Allowed at least ~~thirty~~ sixty days following publication for comment from the public and other interested parties;

(vi) Held at least one public hearing on such proposed action in each game and parks commissioner district of the subject species' range in which it is endangered or threatened;

(vii) Submitted the scientific, commercial, and other data which is the basis of the proposed action to scientists or experts outside and independent of the commission for peer review of the data and conclusions. If the commission submits the data to a state or federal fish and wildlife agency for peer review, the commission shall also submit the data to scientists or experts not affiliated with such an agency for review. For purposes of this section, state fish and wildlife agency does not include a postsecondary educational institution; and

(viii) For species proposed to be added under this subsection but not for species proposed to be removed under this subsection, developed an outline of the potential impacts, requirements, or regulations that may be placed on private landowners, or other persons who hold state-recognized property rights on behalf of themselves or others, as a result of the listing of the species or the development of a proposed program for the conservation of the species as required in subsection (1) of section 37-807.

The inadvertent failure to provide notice as required by subdivision (3)(b) of this section shall not prohibit the listing of a species and shall not be deemed to be a violation of the Administrative Procedure Act or the Nongame and Endangered Species Conservation Act.

(c) When the commission is proposing to add or remove a species under this subsection, public notice under subdivision (3)(b)(i) of this section shall include, but not be limited to, (i) the species proposed to be listed and a description of that portion of its range in which the species is endangered or threatened, (ii) a declaration that the commission submitted the data which is the basis for the listing for peer review and developed an outline if required under subdivision (b)(viii) of this subsection, and (iii) a declaration of the availability of the peer review, including an explanation of any changes or modifications the commission has made to its proposal as a result of the peer review, and the outline required under subdivision (b)(viii) of this subsection, if applicable, for public examination.

(d) In cases when the commission determines that an emergency situation exists involving the continued existence of such species as a viable component of the wild fauna or flora of the state, the commission may add species to such lists after having first published a public notice that such an emergency situation exists together with a summary of facts which support such determination.

(4) In determining whether any species of wildlife or wild plants is an endangered or threatened species, the commission shall take into consideration those actions being carried out by the federal government, by other states, by other agencies of this state or political subdivisions thereof, or by any other person which may affect the species under consideration.

(5) The commission shall issue regulations containing a list of all species of wildlife and wild plants normally occurring within this state which it determines, in accordance with subsections (1) through (4) of this section, to be endangered or threatened species and a list of all such species. Each list shall refer to the species contained therein by scientific and common name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(6) Except with respect to species of wildlife or wild plants determined to be endangered or threatened pursuant to the Endangered Species Act, the commission shall, upon the petition of an interested person, conduct a review of any listed or unlisted species proposed to be removed from or added to the lists published pursuant to subsection (5) of this section, but only if the commission publishes a public notice that such person has presented substantial evidence which warrants such a review.

(7) Whenever any species of wildlife or wild plants is listed as a threatened species pursuant to subsection (5) of this section, the commission shall issue such regulations as are necessary to provide for the conservation of such species. The commission may prohibit, with respect to any threatened species of wildlife or wild plants, any act prohibited under subsection (8) or (9) of this section.

(8) With respect to any endangered species of wildlife, it shall be unlawful, except as provided in subsection (7) of this section, for any person subject to the jurisdiction of this state to:

(a) Export any such species from this state;
 (b) Take any such species within this state;
 (c) Possess, process, sell or offer for sale, deliver, carry, transport, or ship, by any means whatsoever except as a common or contract motor carrier under the jurisdiction of the Public Service Commission or the Interstate Commerce Commission, any such species; or

(d) Violate any regulation pertaining to the conservation of such species or to any threatened species of wildlife listed pursuant to this section and promulgated by the commission pursuant to the Nongame and Endangered Species Conservation Act.

(9) With respect to any endangered species of wild plants, it shall be unlawful, except as provided in subsection (7) of this section, for any person subject to the jurisdiction of this state to:

(a) Export any such species from this state;
 (b) Possess, process, sell or offer for sale, deliver, carry, transport, or ship, by any means whatsoever, any such species; or
 (c) Violate any regulation pertaining to such species or to any threatened species of wild plants listed pursuant to this section and promulgated by the commission pursuant to the act.

(10) Any endangered species of wildlife or wild plants which enters this state from another state or from a point outside the territorial limits of the United States and which is being transported to a point within or beyond this state may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(11) The commission may permit any act otherwise prohibited by subsection (8) of this section for scientific purposes or to enhance the propagation or survival of the affected species.

(12) Any law, regulation, or ordinance of any political subdivision of this state which applies with respect to the taking, importation, exportation, possession, sale or offer for sale, processing, delivery, carrying, transportation other than under the jurisdiction of the Public Service Commission, or shipment of species determined to be endangered or threatened species pursuant to the Nongame and Endangered Species Conservation Act shall be void to the extent that it may effectively (a) permit that which is prohibited by the act or by any regulation which implements the act or (b) prohibit that which is authorized pursuant to an exemption or permit provided for in the act or in any regulation which implements the act. The Nongame and Endangered Species Conservation Act shall not otherwise be construed to void any law, regulation, or ordinance of any political subdivision of this state which is intended to conserve wildlife or wild plants.

Sec. 34. Section 49-1401, Revised Statutes Supplement, 2001, is amended to read:

49-1401. Sections 49-1401 to 49-14,141 and section 36 of this act shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act. Any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-1499.01 and 49-14,103.01 to 49-14,103.07. After August 25, 1989, any reference to sections 49-1401 to 49-14,138 shall be construed to include sections 49-14,123.01 and 49-14,140.

Sec. 35. Section 49-1493, Revised Statutes Supplement, 2001, is amended to read:

49-1493. The individuals listed in subdivisions (1) through ~~(12)~~ (13) of this section shall file with the commission a statement of financial interests as provided in sections 49-1496 and 49-1497 for the preceding calendar year on or before April 1 of each year in which such individual holds such a position. An individual who leaves office shall, within thirty days after leaving office, file a statement covering the period since the previous statement was filed. Disclosure of the interest named in sections 49-1496 to 49-1498 shall be made by:

(1) An individual holding a state executive office as provided in Article IV of the Constitution of Nebraska, including the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, Tax Commissioner, and heads of such other executive departments as set forth in the Constitution or as may be established by law;

(2) An individual holding the office of Commissioner of Education, member of the State Board of Education, member of the Board of Regents of the University of Nebraska with the exception of student members, or member of the Coordinating Commission for Postsecondary Education;

(3) A member of the Board of Parole;

(4) A member of the Public Service Commission;

(5) A member of the Legislature;

(6) A member of the board of directors or an officer of a district

organized under the provisions of Chapter 70;

(7) A member of any board or commission of the state or any county which examines or licenses a business or which determines rates for or otherwise regulates a business;

(8) A member of a land-use planning commission, zoning commission, or authority of the state or any county with a population of more than one hundred thousand inhabitants;

(9) An elected official of a city of the primary or metropolitan class;

(10) An elected county official;

(11) A member of the Nebraska Environmental Trust Board;

(12) An individual employed at the University of Nebraska-Lincoln in the position of Head Football Coach, Men's Basketball Coach, or Women's Basketball Coach; and

~~(12)~~ (13) An official or employee of the state designated by rules and regulations of the commission who is responsible for taking or recommending official action of a nonministerial nature with regard to:

(a) Contracting or procurement;

(b) Administering or monitoring grants or subsidies;

(c) Land-use planning or zoning;

(d) Inspecting, licensing, regulating, or auditing any person; or

(e) Any similar action.

Sec. 36. Any member of the Nebraska Environmental Trust Board who is also a director of a state agency shall abstain from voting on applications pursuant to the Nebraska Environmental Trust Act which would provide funding primarily to his or her agency.

Sec. 37. Section 54-2302, Revised Statutes Supplement, 2000, is amended to read:

54-2302. Sections 54-2302 to 54-2323 and section 39 of this act shall be known and may be cited as the Domesticated Cervine Animal Act.

Sec. 38. Section 54-2305, Revised Statutes Supplement, 2000, is amended to read:

54-2305. On and after January 1, 2000, it is unlawful for any person to own, possess, buy, sell, or barter any domesticated cervine animal in this state unless such animal is individually identified and kept at a premises for which a domesticated cervine animal facility permit has been issued by the department. Permits shall be issued only after a determination that the applicant is in compliance with the Domesticated Cervine Animal Act. This section shall not be construed to require a municipal, state, or federal zoo, park, refuge, or wildlife area, a bona fide circus or animal exhibit, or any private, nonprofit zoological society to obtain a permit in order to own, possess, buy, sell, or barter a domesticated cervine animal, but such facilities shall be governed by the provisions of the act and the rules and regulations promulgated thereunder regarding the testing, control, and eradication of cervidae diseases including chronic wasting disease.

Sec. 39. Nothing in the Domesticated Cervine Animal Act shall be construed to authorize any person to import, own, or possess any species of cervine animal the importation or possession of which is prohibited under section 37-524 and the rules and regulations promulgated thereunder.

Sec. 40. Section 54-2322, Revised Statutes Supplement, 2000, is amended to read:

54-2322. The commission shall have access, upon notification, to any premises where domesticated cervine animals may be for the purpose of assessing or removing populations of wild cervidae.

Sec. 41. Section 66-1519, Revised Statutes Supplement, 2001, is amended to read:

66-1519. There is hereby created the Petroleum Release Remedial Action Cash Fund to be administered by the department. Revenue from the following sources shall be remitted to the State Treasurer for credit to the fund:

(1) The fees imposed by sections 66-1520 and 66-1521;

(2) Money paid under an agreement, stipulation, cost-recovery award under section 66-1529.02, or settlement; and

(3) Money received by the department in the form of gifts, grants, reimbursements, property liquidations, or appropriations from any source intended to be used for the purposes of the fund.

Money in the fund may only be spent for: (a) Reimbursement for the costs of remedial action by a responsible person or his or her designated representative and costs of remedial action undertaken by the department in response to a release first reported after July 17, 1983, and on or before June 30, 2005, including reimbursement for damages caused by the department or a person acting at the department's direction while investigating or

inspecting or during remedial action on property other than property on which a release or suspected release has occurred; (b) payment of any amount due from a third-party claim; (c) fee collection expenses incurred by the State Fire Marshal; (d) direct expenses incurred by the department in carrying out the Petroleum Release Remedial Action Act; (e) other costs related to fixtures and tangible personal property as provided in section 66-1529.01; (f) interest payments as allowed by section 66-1524; (g) expenses incurred by the technical advisory committee created in section 81-15,189 in carrying out its duties pursuant to section 81-15,190; (h) claims approved by the State Claims Board authorized under section 66-1531; and (i) methyl tertiary butyl ether testing, to be conducted randomly at terminals within the state for up to two years ending June 30, 2003. The amount expended on the testing shall not exceed forty thousand dollars. The testing shall be conducted by the Department of Agriculture. The department may enter into contractual arrangements for such purpose. The results of the tests shall be made available to the Department of Environmental Quality.

Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the Water Policy Task Force Cash Fund at the direction of the Legislature. Any money in the fund Petroleum Release Remedial Action Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Within fifteen days after the effective date of this act, the State Treasurer shall transfer one hundred fifty thousand dollars from the Petroleum Release Remedial Action Cash Fund to the Water Policy Task Force Cash Fund.

Sec. 42. Section 72-2005, Revised Statutes Supplement, 2000, is amended to read:

72-2005. As a result of the recent federal court ruling in National Parks and Conservation Association v. National Park Service and in order to maintain an aspect of local control over the Niobrara scenic river corridor, the Legislature finds that there is a need to reconstitute the existing Niobrara Council with the express authority and responsibility to manage the Niobrara scenic river corridor in conjunction with the National Park Service. The purpose of ~~sections 72-2005 to 72-2012~~ the Niobrara Scenic River Act is to effectuate changes in the council necessary to ensure the continuation of the cooperative management relationship between the Niobrara Council and the National Park Service so that local participation and control over this valuable natural resource can be maintained.

Sec. 43. Section 72-2006, Revised Statutes Supplement, 2000, is amended to read:

72-2006. For purposes of ~~sections 72-2005 to 72-2012~~ the Niobrara Scenic River Act, Niobrara scenic river corridor means the area designated as a national scenic river and a part of the national wild and scenic rivers system under 16 U.S.C. 1274(a)(117), as such section existed on May 24, 1991, and described in the 1996 Niobrara National Scenic River General Management Plan/Environmental Impact Statement.

Sec. 44. Section 72-2008, Revised Statutes Supplement, 2000, is amended to read:

72-2008. The mission of the Niobrara Council is to assist in all aspects of the management of the Niobrara scenic river corridor since portions of the Niobrara River have been designated as a national scenic river under 16 U.S.C. 1274(a)(117), as such section existed on May 24, 1991, giving consideration and respect to local and governmental input and private landowner rights, and to maintain and protect the integrity of the resources associated with the Niobrara scenic river corridor. The council shall perform management functions related to the Niobrara scenic river corridor, including, but not limited to, those authorized and delegated to it by the National Park Service. The council may promulgate its own rules and internal policies to carry out the purposes of the Niobrara Scenic River Act. The Game and Parks Commission may provide administrative support when requested by the council to carry out its duties. This support shall not exceed fifty thousand dollars in any calendar year. In the Niobrara scenic river corridor, the council may hold title to real estate in the name of the council. The council may purchase, accept gifts of, or trade real estate and may obtain conservation easements as provided in the Conservation and Preservation Easements Act. Acquisition of conservation easements outside the boundaries of the Niobrara scenic river corridor shall require the approval of the appropriate governing body as provided in section 76-2,112.

Sec. 45. Section 72-2010, Revised Statutes Supplement, 2000, is amended to read:

72-2010. The Niobrara Council shall review and approve or reject all zoning regulations, including existing regulations, new regulations,

proposed regulations, and variances of any type including variances for use and location, ~~granted for nonconforming uses,~~ which affect land in the Niobrara scenic river corridor that is not incorporated within the boundaries of a municipality. If the council rejects a zoning regulation or variance, the governing body enacting the regulation or variance has six months to present an alternative to the council. If no alternative is proposed or if the alternative is also rejected, the council may adopt zoning regulations for such area. In counties without zoning the council may develop and enforce zoning regulations within the Niobrara scenic river corridor under the guidance of the federal Wild and Scenic Rivers Act or under the guidance of the general management plan as written by the National Park Service. The council shall follow the requirements for zoning regulations in sections 23-114 to 23-114.05 and 23-164 to 23-174.10, except that no separate planning commission is required and the council shall fulfill the duties of both the county board and the planning commission in such sections.

Sec. 46. Section 72-2011, Revised Statutes Supplement, 2000, is amended to read:

72-2011. (1) Any state or state-assisted activity or undertaking proposed within the Niobrara scenic river corridor shall be consistent with the purpose of the scenic river designation, including the scenic river's free-flowing condition and scenic, geological, biological, agricultural, historic, and prehistoric resources.

(2) The head of any state or local agency having direct or indirect jurisdiction over a proposed state or state-assisted undertaking within the Niobrara scenic river corridor and the head of any agency having authority to license or permit any undertaking in such area shall prepare a detailed proposal and submit it to the Niobrara Council for its review.

(3) The council shall review the proposal and consult with the agency. ~~If, within thirty days after such review and consultation, the council finds that~~ The council has ninety days after the date that the proposal is received to make a determination of whether or not the proposed action is not consistent with the purposes of this section. If the council determines that the proposal is not consistent with the purposes of this section, the council shall so notify the agency and, the agency shall not proceed with the action until after a justification for the action has been submitted to the Governor and approved by the Governor in writing. The justification shall include the following elements: The anticipated current, future, and cumulative effects on the scenic and natural resources of the designated scenic river corridor; the social and economic necessity for the proposed action; all possible alternatives to the proposed action including a no-action alternative; the comparative benefits of proposed alternative actions; and the mitigation measures outlined in the proposed action.

Sec. 47. Sections 72-2005 to 72-2012 and this section shall be known and may be cited as the Niobrara Scenic River Act.

Sec. 48. Section 81-15,167, Revised Statutes Supplement, 2000, is amended to read:

81-15,167. Sections 81-15,167 to 81-15,176 and section 50 of this act shall be known and may be cited as the Nebraska Environmental Trust Act.

Sec. 49. Section 81-15,170, Revised Statutes Supplement, 2000, is amended to read:

81-15,170. The Nebraska Environmental Trust Board is hereby created as an entity of the executive branch. The board shall consist of the Director of Environmental Quality, the Director of Regulation and Licensure, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, and nine 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. Three appointees shall be chosen from each of the three congressional districts. The board shall hire an executive director who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it. The Game and Parks Commission shall provide administrative support, including, but not limited to, payroll and accounting functions, to the board. ~~For administrative purposes only, the board shall be part of the Game and Parks Commission.~~

Sec. 50. Members of the board shall comply with the conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act. Any member of the board who is also a director of a state agency shall

abstain from voting on applications which would provide funding primarily to his or her agency.

Sec. 51. Section 81-15,175, Revised Statutes Supplement, 2000, is amended to read:

81-15,175. (1) The board may make an annual allocation from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations from the Nebraska Environmental Endowment Fund for projects which conform to the environmental priorities of the board established pursuant to section 81-15,176 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 81-15,176;

(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 eleven 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 may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the subcommittee shall (a) use the rating system established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval. A motion to deviate from the subcommittee's recommendations must specify the reason for doing so and be adopted with an affirmative vote of not fewer than eight members of the board.

(4) 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.

(5) 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.

(6) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor.

Sec. 52. Section 81-15,176, Revised Statutes Supplement, 2000, is amended to read:

81-15,176. (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 grant assistance, which criteria shall include the following:

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

(b) No more than sixty percent of grant allocations in any year shall assist remediation of soils or ground water, and no grants for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized;

(c) The grants shall not pay for projects which provide primarily private benefits or to relieve private liability for environmental damage;

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

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

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

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

(h) The grants should assist those projects which offer the greatest public benefits; and

(i) The grants shall not pay for land or easements acquired without the full and express consent of the landowner.

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

(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 46-656.07, 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. 53. Original sections 2-1576, 37-101, 37-102, 37-453, 37-491, 37-4,105, 37-4,106, 37-528, 37-608, and 37-806, Reissue Revised Statutes of Nebraska, sections 2-1575, 2-1579, 37-201, 37-202, 37-406, 37-440, 37-525, 37-724, 54-2302, 54-2305, 54-2322, 72-2005, 72-2006, 72-2008, 72-2010, 72-2011, 81-15,167, 81-15,170, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2000, and sections 37-407, 37-426, 37-455, 49-1401, 49-1493, and 66-1519, Revised Statutes Supplement, 2001, are repealed.