

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 957
FINAL READING

Introduced by Dierks, 40; Schrock, 38; Wehrbein, 2

Read first time January 5, 2000

Committee: Agriculture

A BILL

1 FOR AN ACT relating to the environment; to amend sections
2 81-15,167, 81-15,169, 81-15,173, 81-15,174, 81-15,175,
3 and 81-15,176, Reissue Revised Statutes of Nebraska; to
4 create the Carbon Sequestration Advisory Committee; to
5 provide duties; to create funds; to change provisions of
6 the Nebraska Environmental Trust Act; to harmonize
7 provisions; to repeal the original sections; and to
8 declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Increasing levels of carbon dioxide and other
2 greenhouse gases in the atmosphere has led to growing interest in
3 national and international forums for implementing measures to slow
4 and reverse the buildup of such atmospheric constituents. Such
5 measures may potentially include the establishment of systems of
6 trading in credits for adoption of practices, technologies, or
7 other measures which decrease net emissions of carbon dioxide and
8 other greenhouse gases.

9 Improved agricultural production methods, soil
10 conservation practices, and other methods of stewardship of soil
11 resources have great potential to increase carbon sequestration on
12 agricultural lands and help offset carbon dioxide emissions from
13 other sectors of the economy. It is in the interest of
14 agricultural producers and the public in general that the Director
15 of Natural Resources document and quantify carbon sequestration and
16 greenhouse emissions reductions associated with agricultural
17 practices, management systems, and land uses occurring on cropland
18 and rangeland in Nebraska. It is the intent of the Legislature
19 that efforts to quantify and verify carbon sequestration on
20 agricultural land will enhance the ability of the state's
21 agricultural landowners to participate in any system of carbon or
22 greenhouse emissions marketing or trading.

23 Sec. 2. (1) The Carbon Sequestration Advisory Committee
24 is created. The committee shall consist of the following members
25 appointed by the Governor:

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

27 (b) The Director of Natural Resources or his or her
28 designee;

1 (c) The Director of Environmental Quality or his or her
2 designee;

3 (d) One member representing the Natural Resources
4 Conservation Service of the United States Department of
5 Agriculture;

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

8 (f) One member representing the Nebraska Energy Office;

9 (g) One member representing an entity which generates
10 electrical energy;

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

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

16 (j) One member with expertise in greenhouse emissions
17 marketing or trading;

18 (k) One member representing natural resources districts;
19 and

20 (l) One member representing the ethanol industry.

21 (2) Members of the committee shall serve without
22 compensation but shall be reimbursed for their actual and necessary
23 expenses as provided in sections 81-1174 to 81-1177. The Director
24 of Natural Resources shall assist the committee with administrative
25 and operational support. The Nebraska Natural Resources Commission
26 may advise the committee in the performance of its duties under
27 sections 1 to 6 of this act.

28 Sec. 3. The Carbon Sequestration Advisory Committee

1 shall:

2 (1) Advise and assist the Director of Natural Resources
3 in preparing the reports pursuant to sections 4 and 5 of this act
4 and in conducting the assessment pursuant to section 5 of this act;

5 (2) Recommend policies or programs to enhance the ability
6 of Nebraska agricultural landowners to participate in systems of
7 carbon trading. Such recommendations shall include potential
8 policies or programs designed to optimize economic benefits to
9 agricultural producers participating in carbon trading
10 transactions. Such policies or programs may include, but are not
11 limited to, identifying existing or the potential of creating
12 nonprofit organizations or other public or private entities capable
13 of serving as assemblers of carbon credits or as intermediaries on
14 behalf of producers in carbon trading systems;

15 (3) Encourage the production of educational and advisory
16 materials regarding carbon sequestration on agricultural lands and
17 participation in systems of carbon or greenhouse emissions trading;
18 and

19 (4) Identify and recommend areas of research needed to
20 better understand and quantify the processes of carbon
21 sequestration on agricultural lands.

22 Sec. 4. On or before December 1, 2001, the Director of
23 Natural Resources, in consultation with the Carbon Sequestration
24 Advisory Committee, shall prepare a report to the Legislature. The
25 report shall include, but not be limited to:

26 (1) The potential for, and potential forms of, greenhouse
27 emissions regulation;

28 (2) The potential for development of a system or systems

1 of carbon emissions trading or markets for carbon sequestered on
2 agricultural land;

3 (3) Agricultural practices, management systems, or land
4 uses which increase stored soil carbon and minimize carbon dioxide
5 or other greenhouse emissions associated with agricultural
6 production;

7 (4) Methods for measuring and modeling net carbon
8 sequestration and greenhouse emissions reduction associated with
9 various agricultural practices, management systems, or land uses
10 occurring on agricultural land;

11 (5) Areas of scientific uncertainty with respect to
12 quantifying and understanding greenhouse emission reductions or
13 soil carbon sequestration associated with agricultural activities;
14 and

15 (6) Any recommendations of the Carbon Sequestration
16 Advisory Committee developed pursuant to section 3 of this act.

17 Sec. 5. (1) The Director of Natural Resources shall, in
18 consultation with the Carbon Sequestration Advisory Committee,
19 assess agricultural lands in the State of Nebraska for past carbon
20 sequestration and future carbon sequestration potential. The
21 assessment shall seek to quantify carbon sequestration associated
22 with various agricultural practices, management systems, and land
23 uses occurring on agricultural lands in this state. On or before
24 January 1, 2002, the director shall publish a report of the
25 findings. The director may, from time-to-time, update such
26 findings as advancements in understanding of the processes of
27 carbon sequestration and new data become available.

28 (2) The assessment shall be conducted in a manner that

1 shall provide a means for owners of agricultural land to estimate
2 past and future net carbon sequestration resulting from
3 agricultural practices, conservation measures, management systems,
4 and land uses occurring on their property. The Director of Natural
5 Resources may contract and cooperate with the Natural Resources
6 Conservation Service of the United States Department of Agriculture
7 to conduct assessment activities provided for in this section.

8 (3) The director may apply for and accept grants, gifts,
9 or other sources of public and private funds to carry out the
10 purposes of sections 1 to 6 of this act.

11 Sec. 6. The Carbon Sequestration Assessment Cash Fund is
12 created. The fund shall be used to carry out sections 1 to 6 of
13 this act. The State Treasurer shall credit to the fund any money
14 appropriated to the fund by the Legislature and any money received
15 as gifts, grants, or other contributions from public or private
16 sources obtained for the purposes of sections 1 to 6 of this act.
17 Any money in the fund available for investment shall be invested by
18 the state investment officer pursuant to the Nebraska Capital
19 Expansion Act and the Nebraska State Funds Investment Act.

20 Sec. 7. Section 81-15,167, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-15,167. Sections 81-15,167 to 81-15,176 and section
23 11 of this act shall be known and may be cited as the Nebraska
24 Environmental Trust Act.

25 Sec. 8. Section 81-15,169, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-15,169. For purposes of the Nebraska Environmental
28 Trust Act:

1 (1) Board ~~shall mean~~ means the Nebraska Environmental
2 Trust Board; and

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

5 ~~(3) Trust shall mean~~ means the Nebraska Environmental
6 Trust.

7 Sec. 9. Section 81-15,173, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-15,173. The board shall have and may exercise the
10 following powers and duties:

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

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

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

18 (4) Establish environmental priorities for use of the
19 ~~trust funds~~ funds;

20 (5) Establish ad hoc advisory boards and subcommittees;

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

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

1 (8) Acquire and dispose of personal property in
2 furtherance of the purposes of the trust; and

3 (9) Apply for or accept any ~~monetary~~ gift, grant,
4 bequest, royalty, or donation, designate the fund to which it will
5 be credited, and expend the proceeds in furtherance of the purposes
6 of the trust. and use it for the general purposes of the trust.

7 Sec. 10. Section 81-15,174, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-15,174. There is hereby established the Nebraska
10 Environmental Trust Fund which shall be a cash fund. The fund
11 shall be used to carry out the purposes of the Nebraska
12 Environmental Trust Act, including administrative costs. Money in
13 the fund shall include proceeds credited pursuant to section 9-812
14 and ~~any monetary gifts, grants, or donations~~ proceeds designated by
15 the board pursuant to section 81-15,173. Any money in the fund
16 available for investment shall be invested by the state investment
17 officer pursuant to the Nebraska Capital Expansion Act and the
18 Nebraska State Funds Investment Act.

19 Sec. 11. The Nebraska Environmental Endowment Fund is
20 created. The fund shall be used to carry out the purposes of the
21 Nebraska Environmental Trust Act. The fund shall include proceeds
22 designated by the board pursuant to section 81-15,173, including
23 grants from the Nebraska Environmental Trust Fund. Grants from the
24 Nebraska Environmental Trust Fund to the Nebraska Environmental
25 Endowment Fund shall be no more than twice the total of any other
26 proceeds received by the Nebraska Environmental Endowment Fund for
27 the same year. Such grants, considered in the aggregate, shall in
28 no case exceed fifty percent of the total proceeds credited to the

1 Nebraska Environmental Trust Fund pursuant to section 9-812 for
2 that year.

3 Any money in the fund available for investment shall be
4 invested by the state investment officer pursuant to the Nebraska
5 Capital Expansion Act and the Nebraska State Funds Investment Act.

6 Allocations received by the Nebraska Environmental
7 Endowment Fund from the Nebraska Environmental Trust Fund shall not
8 be reallocated by the board, but shall remain invested. Any
9 interest income earned by the Nebraska Environmental Endowment Fund
10 shall be available for allocation by the board as provided in
11 section 81-15,175.

12 Sec. 12. Section 81-15,175, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-15,175. (1) The board may make an annual allocation
15 from the Nebraska Environmental Trust Fund to the Nebraska
16 Environmental Endowment Fund as provided in section 11 of this act.

17 The board shall make annual allocations from the ~~fund~~ Nebraska
18 Environmental Trust Fund and from the Nebraska Environmental
19 Endowment Fund for projects which conform to the environmental
20 priorities of the board established pursuant to section 81-15,176
21 and to the extent the board determines those projects to have
22 merit. The board shall establish an annual calendar for receiving
23 and evaluating proposals and awarding grants. To evaluate the
24 economic, financial, and technical feasibility of proposals, the
25 board may establish subcommittees, request or contract for
26 assistance, or establish advisory groups. Private citizens serving
27 on advisory groups shall be reimbursed for their actual and
28 necessary expenses pursuant to sections 81-1174 to 81-1177.

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

5 (a) Conformance with priorities established pursuant to
6 section 81-15,176;

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

8 (c) Encouragement of public-private partnerships;

9 (d) Geographic mix of projects over time;

10 (e) Cost-effectiveness and economic impact;

11 (f) Direct environmental impact; and

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

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

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

28 Sec. 13. Section 81-15,176, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-15,176. (1) Subject to subsection (3) of this
3 section, the board shall establish environmental priorities for the
4 trust. The board, after allowing opportunity for public comment,
5 shall designate as priorities those environmental goals which most
6 affect the natural physical and biological environment in Nebraska,
7 including the air, land, ground water and surface water, flora and
8 fauna, prairies and forests, wildlife and wildlife habitat, and
9 areas of aesthetic or scenic values. In designating environmental
10 priorities, the board shall attempt to focus on the areas which
11 promise the greatest opportunities for effective action to achieve
12 and preserve the future environmental quality in the state. The
13 board shall establish priorities for five-year periods beginning
14 July 1, 1995, except that the board may make annual modifications
15 to refine and clarify its priorities. The board shall provide for
16 public involvement in developing the priorities for such five-year
17 periods, including public meetings in each of the three
18 congressional districts.

19 (2) The board shall establish criteria for determining
20 the eligibility of projects for grant assistance, ~~from the fund,~~
21 which criteria shall include the following:

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

25 (b) ~~Before January 1, 1997, no more than twenty-five~~
26 ~~percent of allocations in any year shall assist remediation of~~
27 ~~soils or ground water, and no allocation for this purpose shall~~
28 ~~occur unless all other available sources of funding are, in the~~

1 ~~opinion of the board, being substantially utilized. On and after~~
2 ~~January 17, 1997, no~~ No more than sixty percent of grant allocations
3 in any year shall assist remediation of soils or ground water, and
4 no ~~allocation~~ grants for this purpose shall occur unless all other
5 available sources of funding are, in the opinion of the board,
6 being substantially utilized;

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

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

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

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

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

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

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

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

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

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

3 (c) Ground water quality, including fostering best
4 management practices as defined in section 46-656.07, actions to
5 preserve ground water from degradation, and remediation of soils or
6 ground water; and

7 (d) Development of recycling markets and reduction of
8 solid waste volume and toxicity.

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

11 Sec. 14. Original sections 81-15,167, 81-15,169,
12 81-15,173, 81-15,174, 81-15,175, and 81-15,176, Reissue Revised
13 Statutes of Nebraska, are repealed.

14 Sec. 15. Since an emergency exists, this act takes
15 effect when passed and approved according to law.