

## LEGISLATIVE BILL 658

Approved by the Governor June 4, 1997

Introduced by Beutler, 28

AN ACT relating to energy production; to amend sections 18-412.07, 18-412.08, 18-2458, 18-2459, 70-601, 70-604, 70-625, 70-628.02 to 70-628.04, and 71-3505, Reissue Revised Statutes of Nebraska, and section 81-15,113.01, Revised Statutes Supplement, 1996; to change provisions relating to powers of public power districts, nuclear power plant fees, and radioactive waste compensation; to change and eliminate provisions relating to sale or lease of equipment and property of public power districts; to harmonize provisions; to repeal the original sections; to outright repeal sections 70-646 and 70-657, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 18-412.07, Reissue Revised Statutes of Nebraska, is amended to read:

18-412.07. It is hereby declared to be in the public interest of the State of Nebraska that cities and villages of this state be empowered to participate jointly or in cooperation with public power districts and public power and irrigation districts and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or without outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted cities and villages of this state, each city and village which owns or operates electrical facilities shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located within or without outside this state jointly and in cooperation with one or more such districts, other cities or villages of this state which own or operate electrical facilities, municipal corporations, or other governmental entities of other states which operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09~~7~~ and 70-628.02 to 70-628.04~~1~~ ~~7~~ 70-646~~7~~ and 70-657~~7~~.

Sec. 2. Section 18-412.08, Reissue Revised Statutes of Nebraska, is amended to read:

18-412.08. It is hereby declared to be in the public interest of the State of Nebraska that cities and villages of this state be empowered to participate jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to but not in substitution for any other powers granted such cities and villages of this state, each city or village which owns or operates electrical facilities shall have and may exercise power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each city or village shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provisions of sections 18-412.07 to 18-412.09~~7~~ and 70-628.02 to 70-628.04~~1~~ ~~7~~ 70-646~~7~~ and 70-657~~7~~.

Sec. 3. Section 18-2458, Reissue Revised Statutes of Nebraska, is amended to read:

18-2458. It is hereby declared to be in the public interest of the State of Nebraska that agencies be empowered to participate jointly or in

cooperation with municipalities and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or without outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted such agencies, ~~each such agency shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located within or without~~ outside this state jointly and in cooperation with one or more other such agencies, cities, or villages of this state which own or operate electrical facilities, or municipal corporations or other governmental entities of this or other states which own or operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09, and 70-628.02 to 70-628.04, ~~70-646, and 70-657.~~

Sec. 4. Section 18-2459, Reissue Revised Statutes of Nebraska, is amended to read:

18-2459. It is hereby declared to be in the public interest of the State of Nebraska that agencies be empowered to participate jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or without outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to but not in substitution for any other powers granted such agencies, each such agency shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each agency shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside of this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The power granted under this section may be exercised with respect to any electric generation or transmission facilities jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09, and 70-628.02 to 70-628.04, ~~70-646, and 70-657.~~

Sec. 5. Section 70-601, Reissue Revised Statutes of Nebraska, is amended to read:

70-601. As used in For purposes of Chapter 70, article 6, unless the context otherwise requires:

(1) District shall mean means a public power district, public irrigation district, or public power and irrigation district, organized under Chapter 70, article 6, either as originally organized or as the same may from time to time be altered or extended, and shall include includes, when applicable, rural public power districts organized under Chapter 70, article 8, and subject to Chapter 70, article 6;

(2) Municipality, when used in relation to the organization or charter of a public power district or to the election of successors to the board of directors of a public power district, shall mean means any county, city, incorporated village, or voting precinct in this state;

(3) Governing body, whenever used in relation to any municipality, shall mean means the duly constituted legislative body or authority within and for such municipality as a public corporation and governmental subdivision. When used with reference to a voting precinct, governing body shall mean means the county board of the county in which the precinct is located;

(4) Irrigation works shall mean means any and all sites, dams, dikes, abutments, reservoirs, canals, flumes, ditches, head gates, machinery, equipment, materials, apparatus, and all other property used or useful for the storage, diversion, damming, distribution, sale, or furnishing of water supply or storage of water for irrigation purposes or for flood control, or used or useful for flood control, whether such works be operated in conjunction with or separately from electric light and power plants or systems;

(5) Power shall include includes any and all electrical energy generated, produced, distributed, bought, or sold and ethanol produced for purposes of lighting, heating, power, and any and every other useful purpose whatsoever; and

(6) Plant or system shall include includes any and all property

owned, used, operated, or useful for operation in the district's business, including the generation by means of water power, steam, or other means or in the transmission, distribution, sale, or purchase of electrical energy or ethanol for any and every useful purpose, including any and all irrigation works which may be owned, used, or operated in conjunction with such power plant or system; and

(7) Energy equipment includes, but is not limited to, equipment or facilities used or useful to generate, produce, transmit, or distribute power, heated or chilled water, or steam for use by the district or the district's commercial and industrial customers.

Sec. 6. Section 70-604, Reissue Revised Statutes of Nebraska, is amended to read:

70-604. The petition shall be addressed to the Nebraska Power Review Board and state in substance that it is the intent and purpose of the petitioners by such petition to create or amend the charter of a district subject to approval by the Nebraska Power Review Board. The petition shall state and contain:

(1) The name of the district, which name shall contain, if the district is to engage or is engaged in the electric light and power business or ethanol production and distribution, the words public power district. If the district is to engage or is engaged in the business of owning and operating irrigation works, the name shall include the words public irrigation district, except that if electric light and power are the major business of such district, it need not include these words in its name. A district may be organized to engage only in the electric light and power business and the production and distribution of ethanol, only in the business of owning and operating irrigation works, in any business identified in section 70-625, or in all of such businesses;

(2) The names of the municipalities constituting the district and the boundaries of such district;

(3) A general description of the nature of the business which the district intends to engage in and, for the original creation of a district, the location and method of operation of the proposed power plants and systems or irrigation works of the district;

(4) The location of the principal place of business of the district;

(5) A statement that the district shall not have the power to levy taxes nor to issue general obligation bonds;

(6) When the Nebraska Power Review Board finds from the evidence that subdivisions, from which directors are to be elected or appointed, are necessary or desirable, such subdivisions shall be of substantially equal population, except that no district shall be required to redistrict its subdivisions for purposes of equalizing population more frequently than every ten years following publication of the most recent federal decennial census; and

(7) Except in a district having within its boundaries twenty-five or more cities or villages, the names and addresses of the members of the board of directors of the district, not less than five nor more than twenty-one, who shall serve or continue to serve until their successors are elected and qualified. In any district having within its boundaries twenty-five or more cities and villages, (a) the original petition for creation shall set forth the number of directors of the district and shall provide that the board of directors, to serve until their successors are elected and qualified, shall be appointed by the Governor within thirty days after the approval of the formation of the district and (b) a petition to amend a charter shall set forth the names and addresses of the members of the board of directors of the district. In the petition the directors named or to be appointed by the Governor shall be divided as nearly as possible into three equal groups, the members of the first group to hold office until their successors, elected at the first general state election thereafter, shall have qualified, the members of the second group to hold office until their successors, elected at the second general state election thereafter, shall have qualified, and the members of the third group to hold office until their successors, elected at the third general state election thereafter, shall have qualified. The group to which each proposed director belongs shall be designated in the petition or, for an original petition in case the district has within its proposed boundaries twenty-five or more cities and villages, shall be set forth in the order of appointment by the Governor.

Sec. 7. The Legislature finds and declares that:

(1) There are rural areas in the state which are experiencing declines in economic activity and the outmigration of rural residents which is eroding the tax base of those rural areas and undermining the ability of the state and local governments to provide essential public services;

(2) Rural economic development efforts can increase the productivity of economic resources, create and enhance employment opportunities, increase the level of income and quality of life for rural residents, assist in slowing or reversing the outmigration of rural residents, and help maintain essential public services to the advantage not only of those rural areas but also of the state as a whole and the electric utilities serving those rural areas;

(3) Funds may be available from the United States Department of Agriculture or other federal agencies to suppliers of electricity in rural areas to promote economic development and job creation projects;

(4) It is the policy of this state to promote economic development and job creation projects in rural areas through the use of federal funds and other funds which may be available as authorized in subsection (3) of section 70-625;

(5) Public power districts operating in rural areas of this state are uniquely situated through their boards of directors to know and understand the need to promote economic development and job creation projects in their service areas; and

(6) Involvement by publicly owned electric utilities operating in rural areas in such economic development activities serves a public purpose and it is the public policy of this state to allow public power districts to promote economic development and job creation projects in rural areas as provided in subsection (3) of section 70-625.

Sec. 8. Section 70-625, Reissue Revised Statutes of Nebraska, is amended to read:

70-625. (1) Subject to the limitations of the petition for its creation and all amendments ~~thereto~~ to such petition, a public power district ~~shall have~~ has all the usual powers of a corporation for public purposes and may purchase, hold, sell, and lease personal property and real estate property reasonably necessary for the conduct of its business. No district may sell household appliances at retail if the retail price of any such appliance exceeds fifty dollars, except that newly developed electrical appliances may be merchandised and sold during the period of time in which any such appliances are being introduced to the public. New models of existing appliances shall not be deemed to be newly developed appliances. An electrical appliance shall be considered to be in such introductory period of time until the particular type of appliance is used by twenty-five percent of all the electrical customers served by such district, but such period shall in no event exceed five years from the date of introduction by the manufacturer of the new appliance to the local market.

(2) In addition to its powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may sell, lease, and service satellite television signal descrambling or decoding devices, satellite television programming, and equipment and services associated with such devices and programming, except that ~~nothing in this section shall~~ this section does not authorize public power districts ~~(1) (a)~~ to operate as contract or common carriers engaged in furnishing communication services for hire in Nebraska intrastate commerce, ~~(2) (b)~~ to provide signal descrambling or decoding devices or satellite programming to any location ~~(a)~~ (i) being furnished such devices or programming on April 24, 1987, or ~~(b) (ii)~~ (ii) where community antenna television service is available from any person, firm, or corporation holding a franchise pursuant to sections 18-2201 to 18-2206 or a permit pursuant to sections 23-383 to 23-388 on April 24, 1987, or ~~(c)~~ (c) to sell, service, or lease C-band satellite dish systems or repair parts.

(3) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, the board of directors of a public power district may apply for and use funds available from the United States Department of Agriculture or other federal agencies for grants or loans to promote economic development and job creation projects in rural areas as permitted under the rules and regulations of the federal agency from which the funds are received. Any loan to be made by a district shall only be made in participation with a bank pursuant to a contract. The district and the participating bank shall determine the terms and conditions of the contract. In addition, in rural areas of the district, the board of directors of such district may provide technical or management assistance to prospective, new, or expanding businesses, including home-based businesses, provide assistance to a local or regional industrial or economic development corporation or foundation located within or contiguous to the district's service area, and provide youth and adult community leadership training.

(4) Notwithstanding any law, ordinance, resolution, or regulation of any political subdivision to the contrary, each public power district may receive funds and extend loans pursuant to the Nebraska Investment Finance Authority Act or pursuant to this section. In addition to the powers

authorized by Chapter 70 and specified in its petition for creation, as amended, and without the need for further amendment thereto, a public power district may own and operate, contract to operate, or lease energy equipment and provide billing, meter reading, surveys, or evaluations and other administrative services, but not to include natural gas services, of public utility systems within a district's service territory.

Sec. 9. Section 70-628.02, Reissue Revised Statutes of Nebraska, is amended to read:

70-628.02. It is hereby declared to be in the public interest of the State of Nebraska that public power districts and public power and irrigation districts be empowered to participate jointly or in cooperation with municipalities and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or ~~without~~ outside this state or for the production and distribution of ethanol located within this state in order to achieve economies and efficiencies in meeting the future energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted such districts, each such district shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located within or ~~without~~ outside this state or ethanol production or distribution facilities within this state jointly and in cooperation with one or more other such districts, cities, or villages of this state which own or operate electrical facilities or municipal corporations or other governmental entities of other states which own or operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility or ethanol production or distribution facility jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09, and 70-628.02 to 70-628.04, ~~70-646, and 70-657.~~

Sec. 10. Section 70-628.03, Reissue Revised Statutes of Nebraska, is amended to read:

70-628.03. It is hereby declared to be in the public interest of the State of Nebraska that public power districts and public power and irrigation districts be empowered to participate jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or ~~without~~ outside this state or for the production and distribution of ethanol located within this state in order to achieve economies and efficiencies in meeting the future energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to but not in substitution for any other powers granted such districts, each such district shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities or ethanol production or distribution facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each district shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside of this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The power granted under this section may be exercised with respect to any electric generation or transmission facilities or ethanol production or distribution facilities jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09, and 70-628.02 to 70-628.04, ~~70-646, and 70-657.~~

Sec. 11. Section 70-628.04, Reissue Revised Statutes of Nebraska, is amended to read:

70-628.04. Any public power district or public power and irrigation district participating jointly and in cooperation with others in an electric generation or transmission facility or ethanol production or distribution facility shall own an undivided interest in such facility and be entitled to the share of the output or capacity ~~therefrom~~ from the facility attributable to such undivided interest. Such district may enter into an agreement or agreements with respect to each such electric generation or transmission facility or ethanol production or distribution facility with the other participants therein, and any such agreement shall contain such terms, conditions, and provisions consistent with the provisions of sections 13-803, 13-805, 70-628.02 to 70-628.04, ~~70-646, 70-657,~~ and 70-1002.03 as the board of directors of such district shall deem to be in the interests of such district.

The agreement may include, but not be limited to, provision for the construction, operation, and maintenance of such electric generation or transmission facility or ethanol production or distribution facility by any one of the participants, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other participants or by such other means as may be determined by the participants and provision for a uniform method of determining and allocating among participants costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such facility. In carrying out its functions and activities as such agent with respect to construction, operation, and maintenance of such a facility, including without limitation the letting of contracts therefor, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participants. Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of any such agreement in which or pursuant to which a public power district or a public power and irrigation district or a city or village of this state shall be designated as the agent thereunder for the construction, operation, and maintenance of such a facility, each of the participants may delegate its powers and duties with respect to the construction, operation, and maintenance of such facility to such agent, and all actions taken by such agent in accordance with the provisions of such agreement shall be binding upon each of such participants without further action or approval by their respective boards of directors or governing bodies. Such agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice. As used in For purposes of this section, prudent utility practice shall mean means any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry or ethanol production industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In no event shall anything in sections 13-803, 13-805, 70-628.02 to 70-628.04, ~~70-646~~ 70-657, and 70-1002.03 be deemed to authorize any district to become liable for and to pay for any costs, expenses, or liabilities attributable to the undivided interest of any other participant in such electric generation or transmission facility, and no funds of such district may be used for any such purpose.

Sec. 12. Except as provided in sections 18-412.07 to 18-412.09, 70-628.02 to 70-628.04, or 70-644 to 70-653.02 the plant, property, or equipment of a public power district shall never, by sale under foreclosure, receivership, bankruptcy proceedings, outright sale, or lease, become the property or come under the control of any private person, firm, or corporation engaged in the business of generating, transmitting, or distributing electricity for profit. This restriction does not apply to: (1) The exercise by a district of its rights and powers with respect to radioactive material or the energy therefrom; (2) the sales of ethanol production or distribution facilities; (3) joint participation in any electric generation or transmission facility pursuant to sections 18-412.07 to 18-412.09, and 70-628.02 to 70-628.04; or (4) a nonprofit cooperative corporation that has provided financing for property, projects, or undertakings when such property is covered by a mortgage, pledge of revenue, or other hypothecation to secure the payment of a loan or loans made to a district. This restriction does not apply to a sale, transfer, or lease of property to a nonprofit electric cooperative corporation engaged in the retail distribution of electric energy in established service areas, which cooperative corporation is organized under the laws of the State of Nebraska or domesticated in the State of Nebraska, except that such property so acquired by a cooperative nonprofit corporation organized to provide financing or by a nonprofit electric cooperative corporation shall never become the property or come under the control of any person, firm, or corporation engaged in the business of generating, transmitting, or distributing electricity for profit. This section shall not be construed as an expansion of the authority of public power districts to engage in telecommunications services as may otherwise be authorized by statute.

Sec. 13. Section 71-3505, Reissue Revised Statutes of Nebraska, is amended to read:

71-3505. Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The Department of Health and Human Services Regulation and Licensure Department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (iii) persons providing services to reduce the effects of sources of radiation, and (iv) persons practicing medical radiography, as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(2) Inform the council of any such rules and regulations at least thirty days prior to their adoption and consider any recommendations of the council;

(3) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(4) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(5) Collect and disseminate health education information relating to radiation protection;

(6) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency with respect to matters of protection and safety for the control of undesirable radiation;

(7) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department and provide the owner, user, or operator with a report of any known or suspected deficiencies; and

(8) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual ~~annual~~ costs of such activities or fifty-three thousand dollars per annum. Commencing July 1, 1997, the accounting division of the Department of Administrative Services shall recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. ~~thirty-six thousand dollars~~. The fee collected shall be credited to the Department of Health and Human Services Regulation and Licensure Cash Fund. This fee and shall be used solely for the purpose of defraying the direct costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may

charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section.

Sec. 14. Section 81-15,113.01, Revised Statutes Supplement, 1996, is amended to read:

81-15,113.01. (1) There is hereby created the Community Improvements Cash Fund which shall be under the direction of the department. The Central Interstate Low-Level Radioactive Waste Compact Commission shall annually through 1996 1997 remit to the department the funds received from the states belonging to the Central Interstate Low-Level Radioactive Waste Compact as compensation paid to the host state. When the facility begins operation, the developer shall levy, collect, and remit to the department a surcharge on the rates charged to the users of the facility which is sufficient to raise two million dollars per year together with any adjustments made by the department pursuant to this section. The department shall remit such surcharge to the State Treasurer who shall credit it to the Community Improvements Cash Fund. On October 1, 1990, and each October 1 thereafter, the department shall adjust the amount to be remitted by the developer by an amount equal to the percentage increase in the Consumer Price Index or, if publication of the Consumer Price Index is discontinued, a comparable index selected by the director. There is hereby appropriated three hundred thousand dollars from the Community Improvements Cash Fund for the period July 1, 1988, to June 30, 1989, to carry out the purposes of this section. 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.

(2) The department shall distribute money from the fund as follows:

(a) Prior to final site selection, three hundred thousand dollars per year shall be allocated for public purposes to be divided among the communities that are under active consideration to host the facility as provided in subsection (3) of this section;

(b) After the final site has been selected and until the facility is operational, three hundred thousand dollars per year shall be allocated for public purposes as provided in subsection (3) of this section. Acceptance of the funds distributed pursuant to this subdivision or subdivision (a) of this subsection shall in no way affect the siting process; and

(c) Once the facility is operational and during the operational life of the facility, the total amount in the fund shall be allocated each year for public purposes as provided in subsection (3) of this section.

(3) Money distributed pursuant to subdivisions (2)(a), (b), and (c) of this section shall be allocated as follows:

(a) Fifty percent of such money shall be distributed to incorporated municipalities which lie totally or partially within ten kilometers of the facility or the proposed facility based on the ratio of the population of the particular incorporated municipality to the total population of all such incorporated municipalities as determined by the latest federal census; and

(b) Fifty percent of such money shall be distributed to the county treasurer of the county where the facility is located or proposed to be located to be distributed to each political subdivision which levied property taxes on the property where the facility is located or proposed to be located. The money shall be distributed on the basis of the ratio of the total amount of taxes levied by each political subdivision to the total amount of property taxes levied by all such political subdivisions on such property based on the amounts stated in the most recent certificate of taxes levied submitted by each county to the Property Tax Administrator pursuant to section 77-1613.01.

(4) The Natural Resources Committee of the Legislature shall conduct a study to establish a formula for the equitable distribution of the funds specified in subdivision (2)(c) of this section. The committee shall hold public hearings necessary to carry out the purposes of the study.

Sec. 15. Original sections 18-412.07, 18-412.08, 18-2458, 18-2459, 70-601, 70-604, 70-625, 70-628.02 to 70-628.04, and 71-3505, Reissue Revised Statutes of Nebraska, and section 81-15,113.01, Revised Statutes Supplement, 1996, are repealed.

Sec. 16. The following sections are outright repealed: Sections 70-646 and 70-657, Reissue Revised Statutes of Nebraska.

Sec. 17. Since an emergency exists, this act takes effect when passed and approved according to law.