

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 29

Introduced by Langemeier, 23.

Read first time January 06, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Department of Environmental Quality; to
2 amend sections 66-1519 and 81-15,162, Reissue Revised
3 Statutes of Nebraska, and section 13-2042, Revised
4 Statutes Cumulative Supplement, 2010; to change and
5 eliminate provisions relating to the use of certain
6 funds; to harmonize provisions; and to repeal the
7 original sections.

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

1 Section 1. Section 13-2042, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 13-2042 (1) A disposal fee of one dollar and twenty-five
4 cents is imposed for each six cubic yards of uncompacted solid waste,
5 one dollar and twenty-five cents for each three cubic yards of
6 compacted solid waste, or one dollar and twenty-five cents per ton of
7 solid waste (a) disposed of at landfills regulated by the department
8 or (b) transported for disposal out of state from a solid waste
9 processing facility holding a permit under the Integrated Solid Waste
10 Management Act. Each operator of a landfill or solid waste processing
11 facility shall make the fee payment quarterly. The fee shall be paid
12 quarterly to the department on or before the forty-fifth day
13 following the end of each quarter. For purposes of this section,
14 landfill has the same definition as municipal solid waste landfill
15 unit in 40 C.F.R. 258.2.

16 (2) Each fee payment shall be accompanied by a form
17 prepared and furnished by the department and completed by the
18 permitholder. The form shall state the total volume of solid waste
19 disposed of at the landfill or transported for disposal out of state
20 from the solid waste processing facility during the payment period
21 and shall provide any other information deemed necessary by the
22 department. The form shall be signed by the permitholder.

23 (3) If a permitholder fails to make a timely payment of
24 the fee, he or she shall pay interest on the unpaid amount at the
25 rate specified in section 45-104.02, as such rate may from time to

1 time be adjusted.

2 (4) This section shall not apply to a site used solely
3 for the reclamation of land through the introduction of landscaping
4 rubble or inert material.

5 (5) Fifty percent of the total of such fees collected in
6 each quarter shall be remitted to the State Treasurer for credit to
7 the Integrated Solid Waste Management Cash Fund and shall be used by
8 the department to cover the direct and indirect costs of responding
9 to spills or other environmental emergencies, of regulating,
10 investigating, remediating, and monitoring facilities during and
11 after operation of facilities, or of performance of regulated
12 activities under the Integrated Solid Waste Management Act, ~~the~~
13 ~~Livestock Waste Management Act,~~ the Nebraska Litter Reduction and
14 Recycling Act, and the Waste Reduction and Recycling Incentive Act.
15 The department may seek recovery of expenses paid from the fund for
16 responding to spills or other environmental emergencies or for
17 investigation, remediation, and monitoring of a facility from any
18 person who owned, operated, or used the facility in violation of the
19 Integrated Solid Waste Management Act, ~~the Livestock Waste Management~~
20 ~~Act,~~ the Nebraska Litter Reduction and Recycling Act, and the Waste
21 Reduction and Recycling Incentive Act in a civil action filed in the
22 district court of Lancaster County. ~~Of the amount credited to the~~
23 ~~Integrated Solid Waste Management Cash Fund,~~ the department may
24 ~~disburse amounts to political subdivisions for costs incurred in~~
25 ~~response to and remediation of any solid waste disposed of or~~

1 ~~abandoned at dump sites or discrete locations along public roadways~~
2 ~~or ditches and on any contiguous area affected by such disposal or~~
3 ~~abandonment. Such reimbursement shall be by application to the~~
4 ~~department on forms prescribed by the department. The department~~
5 ~~shall prepare and make available a schedule of eligible costs and~~
6 ~~application procedures which may include a requirement of a~~
7 ~~demonstration of preventive measures to be taken to discourage future~~
8 ~~dumping. The department may not disburse to political subdivisions an~~
9 ~~amount which in the aggregate exceeds five percent of total revenue~~
10 ~~from the disposal fees collected pursuant to this section in the~~
11 ~~preceding fiscal year. These disbursements shall be made on a fiscal-~~
12 ~~year basis, and applications received after funds for this purpose~~
13 ~~have been exhausted may be eligible during the next fiscal year but~~
14 ~~are not an obligation of the state. Any eligible costs incurred by a~~
15 ~~political subdivision which are not funded due to a lack of funds~~
16 ~~shall not be considered an obligation of the state. In disbursing~~
17 ~~funds under this section, the director shall make efforts to ensure~~
18 ~~equal geographic distribution throughout the state and may deny~~
19 ~~reimbursements in order to accomplish this goal.~~

20 ~~(6)~~(6)(a) The remaining fifty percent of the total of
21 such fees collected per quarter shall be remitted to the State
22 Treasurer for credit to the Waste Reduction and Recycling Incentive
23 Fund. For purposes of determining the total fees collected, any
24 amount of fees rebated pursuant to section 13-2042.01 shall be
25 included as if the fees had not been rebated, and the amount of the

1 fees rebated pursuant to such section shall be deducted from the
2 amount to be credited to the Waste Reduction and Recycling Incentive
3 Fund.

4 (b) From the fees credited to the Waste Reduction and
5 Recycling Incentive Fund under this subsection:

6 ~~(7) The council shall adopt and promulgate rules and~~
7 ~~regulations for the distribution of grants under subsection (6) of~~
8 ~~this section from the proceeds of the fees imposed by this section~~
9 (i) Grants shall be awarded to counties, municipalities, and agencies
10 for the purposes of planning and implementing facilities and systems
11 to further the goals of the Integrated Solid Waste Management Act.
12 ~~The fees collected pursuant to this section shall not be used as~~
13 ~~grant proceeds~~ shall not be used to fund landfill closure site
14 assessments, closure, monitoring, or investigative or corrective
15 action costs for existing landfills or landfills already closed prior
16 to July 15, 1992. The council shall adopt and promulgate rules and
17 regulations to carry out this subdivision. Such rules and regulations
18 shall base the awarding of grants on a project's reflection of the
19 integrated solid waste management policy and hierarchy established in
20 section 13-2018, the proposed amount of local matching funds, and
21 community need; and -

22 (ii) The department may disburse amounts to political
23 subdivisions for costs incurred in response to and remediation of any
24 solid waste disposed of or abandoned at dump sites or discrete
25 locations along public roadways or ditches and on any contiguous area

1 affected by such disposal or abandonment. Such reimbursement shall be
2 by application to the department on forms prescribed by the
3 department. The department shall prepare and make available a
4 schedule of eligible costs and application procedures which may
5 include a requirement of a demonstration of preventive measures to be
6 taken to discourage future dumping. The department may not disburse
7 to political subdivisions an amount which in the aggregate exceeds
8 five percent of total revenue from the disposal fees collected
9 pursuant to this section in the preceding fiscal year. These
10 disbursements shall be made on a fiscal-year basis, and applications
11 received after funds for this purpose have been exhausted may be
12 eligible during the next fiscal year but are not an obligation of the
13 state. Any eligible costs incurred by a political subdivision which
14 are not funded due to a lack of funds shall not be considered an
15 obligation of the state. In disbursing funds under this subdivision,
16 the director shall make efforts to ensure equal geographical
17 distribution throughout the state and may deny reimbursements in
18 order to accomplish this goal.

19 Sec. 2. Section 66-1519, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 66-1519 (1) There is hereby created the Petroleum Release
22 Remedial Action Cash Fund to be administered by the department.
23 Revenue from the following sources shall be remitted to the State
24 Treasurer for credit to the fund:

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

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

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

7 (2) Money in the fund may be spent for: (a) Reimbursement
8 for the costs of remedial action by a responsible person or his or
9 her designated representative and costs of remedial action undertaken
10 by the department in response to a release first reported after July
11 17, 1983, and on or before June 30, 2012, including reimbursement for
12 damages caused by the department or a person acting at the
13 department's direction while investigating or inspecting or during
14 remedial action on property other than property on which a release or
15 suspected release has occurred; (b) payment of any amount due from a
16 third-party claim; (c) fee collection expenses incurred by the State
17 Fire Marshal; (d) direct expenses incurred by the department in
18 carrying out the Petroleum Release Remedial Action Act; (e) other
19 costs related to fixtures and tangible personal property as provided
20 in section 66-1529.01; (f) interest payments as allowed by section
21 66-1524; (g) claims approved by the State Claims Board authorized
22 under section 66-1531; ~~(h) a grant to a city of the metropolitan~~
23 ~~class in the amount of three hundred thousand dollars, provided no~~
24 ~~later than September 15, 2005, to carry out the federal Residential~~
25 ~~Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et~~

1 ~~seq., as such act existed on October 1, 2003; and (i) methyl tertiary~~
2 ~~butyl ether testing, to be conducted randomly at terminals within the~~
3 ~~state for up to two years ending June 30, 2003. The amount expended~~
4 ~~on the testing shall not exceed forty thousand dollars. The testing~~
5 ~~shall be conducted by the Department of Agriculture. The department~~
6 ~~may enter into contractual arrangements for such purpose. The results~~
7 ~~of the tests shall be made available to the Department of~~
8 ~~Environmental Quality. and (h) the direct and indirect costs incurred~~
9 ~~by the department in responding to spills and other environmental~~
10 ~~emergencies related to petroleum or petroleum products.~~

11 (3) Transfers may be made from the Petroleum Release
12 Remedial Action Cash Fund to the General Fund at the direction of the
13 Legislature. Transfers may be made from the Petroleum Release
14 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund at
15 the direction of the Legislature. The State Treasurer shall transfer
16 one million five hundred thousand dollars from the Petroleum Release
17 Remedial Action Cash Fund to the Ethanol Production Incentive Cash
18 Fund on July 1 of each of the following years: 2004 through 2011.

19 (4) Any money in the Petroleum Release Remedial Action
20 Cash Fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act and
22 the Nebraska State Funds Investment Act.

23 Sec. 3. Section 81-15,162, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-15,162 (1) There is hereby imposed a fee of one dollar

1 on each tire of every new motor vehicle, trailer, or semitrailer sold
2 at retail in this state. Such fee shall be collected by the county
3 treasurer at the time of registration of the motor vehicle, trailer,
4 or semitrailer and remitted to the Department of Revenue.

5 (2) There is hereby imposed a fee of one dollar on every
6 tire sold at retail in this state, including every farm tractor tire,
7 which tires are not on a motor vehicle, trailer, or semitrailer
8 pursuant to subsection (1) of this section. Such fee shall be
9 collected from the purchaser by the tire retailer at the time of
10 purchase and shall be remitted to the Department of Revenue.

11 (3) For purposes of this section, tire shall have the
12 definition found in section 81-15,159.02 and shall include a
13 pneumatic and solid tire but shall not include a recapped or
14 regrooved tire.

15 (4) Subject to section 81-15,165, the fees remitted to
16 the Department of Revenue under this section shall be remitted to the
17 State Treasurer for credit to the Waste Reduction and Recycling
18 Incentive Fund. Fees collected in excess of one million dollars shall
19 be available for grants to political subdivisions under rules and
20 regulations adopted pursuant to ~~subsection (7)~~ subdivision (6)(b)(i)
21 of section 13-2042.

22 Sec. 4. Original sections 66-1519 and 81-15,162, Reissue
23 Revised Statutes of Nebraska, and section 13-2042, Revised Statutes
24 Cumulative Supplement, 2010, are repealed.