

## LEGISLATIVE BILL 29

Approved by the Governor February 22, 2011

Introduced by Langemeier, 23.

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

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

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

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

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

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

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

(5) Fifty percent of the total of such fees collected in each quarter shall be remitted to the State Treasurer for credit to the Integrated Solid Waste Management Cash Fund and shall be used by the department to cover the direct and indirect costs of responding to spills or other environmental emergencies, of regulating, investigating, remediating, and monitoring facilities during and after operation of facilities, or of performance of regulated activities under the Integrated Solid Waste Management Act, ~~the Livestock Waste Management Act,~~ the Nebraska Litter Reduction and Recycling Act, and the Waste Reduction and Recycling Incentive Act. The department may seek recovery of expenses paid from the fund for responding to spills or other environmental emergencies or for investigation, remediation, and monitoring of a facility from any person who owned, operated, or used the facility in violation of the Integrated Solid Waste Management Act, ~~the Livestock Waste Management Act,~~ the Nebraska Litter Reduction and Recycling Act, and the Waste Reduction and Recycling Incentive Act in a civil action filed in the district court of Lancaster County. ~~Of the amount credited to the Integrated Solid Waste Management Cash Fund, the department may disburse amounts to political subdivisions for costs incurred in response to and remediation of any solid waste disposed of or abandoned at dump sites or discrete locations along public roadways or ditches and on any contiguous area affected by such disposal or abandonment. Such reimbursement shall be by application to the department on forms prescribed by the department. The department shall prepare and make available a schedule of eligible costs and application procedures which may include a requirement of a demonstration of preventive measures to be taken to discourage future dumping. The department may not disburse to political subdivisions an amount which in the aggregate exceeds five percent of total revenue from the disposal fees collected pursuant to this section in the preceding fiscal year. These disbursements shall be made on a fiscal-year basis, and applications received after funds for this purpose have been exhausted may be eligible during the next fiscal year but are not an obligation of the state. Any eligible costs incurred by a political subdivision which are not funded due to a lack of funds shall not be considered an obligation of the state. In disbursing funds under this section,~~

~~the director shall make efforts to ensure equal geographic distribution throughout the state and may deny reimbursements in order to accomplish this goal.~~

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

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

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

~~(ii) The department may disburse amounts to political subdivisions for costs incurred in response to and remediation of any solid waste disposed of or abandoned at dump sites or discrete locations along public roadways or ditches and on any contiguous area affected by such disposal or abandonment. Such reimbursement shall be by application to the department on forms prescribed by the department. The department shall prepare and make available a schedule of eligible costs and application procedures which may include a requirement of a demonstration of preventive measures to be taken to discourage future dumping. The department may not disburse to political subdivisions an amount which in the aggregate exceeds five percent of total revenue from the disposal fees collected pursuant to this section in the preceding fiscal year. These disbursements shall be made on a fiscal-year basis, and applications received after funds for this purpose have been exhausted may be eligible during the next fiscal year but are not an obligation of the state. Any eligible costs incurred by a political subdivision which are not funded due to a lack of funds shall not be considered an obligation of the state. In disbursing funds under this subdivision, the director shall make efforts to ensure equal geographical distribution throughout the state and may deny reimbursements in order to accomplish this goal.~~

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

66-1519 (1) 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:

- (a) The fees imposed by sections 66-1520 and 66-1521;
- (b) Money paid under an agreement, stipulation, cost-recovery award under section 66-1529.02, or settlement; and
- (c) 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.

(2) Money in the fund may 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, 2012, 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) claims approved by the State Claims Board authorized under section 66-1531; ~~(h) a grant to a city of the~~

metropolitan class in the amount of three hundred thousand dollars, provided no later than September 15, 2005, to carry out the federal Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et seq., as such act existed on October 1, 2003, 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, and (h) the direct and indirect costs incurred by the department in responding to spills and other environmental emergencies related to petroleum or petroleum products.

(3) Transfers may be made from the Petroleum Release Remedial Action Cash Fund to the General Fund at the direction of the Legislature. 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. The State Treasurer shall transfer one million five hundred thousand dollars from the Petroleum Release Remedial Action Cash Fund to the Ethanol Production Incentive Cash Fund on July 1 of each of the following years: 2004 through 2011.

(4) Any money in the 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.

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

81-15,162 (1) There is hereby imposed a fee of one dollar on each tire of every new motor vehicle, trailer, or semitrailer sold at retail in this state. Such fee shall be collected by the county treasurer at the time of registration of the motor vehicle, trailer, or semitrailer and remitted to the Department of Revenue.

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

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

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

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