

ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022
COMMITTEE STATEMENT
LB1102

Hearing Date: Thursday February 03, 2022
Committee On: Natural Resources
Introducer: Bostelman
One Liner: Adopt the Nebraska Environmental Response Act and change provisions relating to enforcement of environmental protection requirements

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 5 Senators Aguilar, Bostelman, Gragert, Hughes, Moser
Nay:
Absent:
Present Not Voting: 2 Senators Cavanaugh, J., Wayne

Oral Testimony:

Proponents:
Bruce Bostelman
Jim Macy
Al Davis

Representing:
Introducer
Department of Environment & Energy
Sierra Club- Nebraska Chapter

Opponents:
Avery Svoboda

Representing:
Self

Neutral:
Kenneth Winston

Representing:
Bold Alliance

Summary of purpose and/or changes:

LB1102 creates the Nebraska Environmental Response Act and provides authority and potential remedies that can be administered by the Nebraska Department of Environment and Energy (NDEE) in the event the responsible person cannot or will not correct or cleanup site conditions where a pollutant has been or is being released. Includes ability to issue cease and desist orders, recover state cleanup costs, and assess penalties. Creates the Nebraska Environmental Response Cash Fund and, as amended, would appropriate \$300,000 to initially fund. The bill also authorizes the assessment of civil penalties for non-compliance, which are remitted to school districts as provided in the Nebraska Constitution.

Explanation of amendments:

AM1893 makes the following changes to the original bill:

1. Clarifies "release" in conformity with applicable federal and state environmental standards
 2. Changes responsible "party" to responsible "person".
 3. Adds plant and animal life to property for purposes of harmful effects
 4. Transfers \$300,000 to NDEE to the Nebraska Environmental Response Cash Fund to allocate some resources for
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cleanup if needed.

5. Removes Director's authority to waive cleanup requirements for third-party volunteer cleanup

Section by section

Sec. 1 Names the legislation as the Nebraska Environmental Response Act

Sec. 2 Defines terms for purposes of the Act.

Sec. 3 Creates the Nebraska Environmental Response Cash Fund to be administered by NDEE for the control, abatement, analysis, cleanup, prevention, mitigation, investigation, and other reasonable costs involved in carrying out any response.

Sec. 4 Authorizes the Director to issue orders, take necessary action to cleanup or terminate the release of a pollutant in the event a person responsible cannot or will not take the necessary action and assess administrative penalties.

Sec. 5 Authorizes the Director to adopt and promulgate rules and regulations necessary to carry out the Act.

Sec. 6 Prohibits refusal of entry to authorized, credentials NDEE employees for purposes of responding to a reported or actual release of a pollutant.

Sec. 7 Establishes liability of the person responsible for release of pollutants to reimburse the State for cleanup expenses incurred.

Sec. 8 Authorizes the director to allow another person or entity to voluntarily remediate site conditions in lieu of issuing an order under Section 7.

Sec. 9 Clean up costs incurred by the state shall constitute an environmental lien on the source property.

Sec. 10 If the director has reason to believe violation of any provision or order, or any rule or regulations has been violated, a cease and desist order may be issued. Administrative penalties up to five thousand dollars per day, per violation may be assessed.

Bruce Bostelman, Chairperson