

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 696**

Introduced by Pahls, 31.

Read first time January 06, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Integrated Solid Waste Management  
2 Act; to amend section 13-2042, Reissue Revised Statutes  
3 of Nebraska, and section 13-2042.01, Revised Statutes  
4 Supplement, 2009; to change provisions relating to  
5 disposal fees; to harmonize provisions; and to repeal  
6 the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-2042, Reissue Revised Statutes of  
2 Nebraska, 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  
5 waste, one dollar and twenty-five cents for each three cubic yards  
6 of compacted solid waste, or one dollar and twenty-five cents per  
7 ton of solid waste (a) disposed of at landfills regulated by the  
8 department or (b) transported from transfer stations in Nebraska  
9 for disposal out of state. Each operator of a landfill ~~disposal~~  
10 ~~facility or transfer station~~ shall make the fee payment quarterly.  
11 The fee shall be paid quarterly to the department on or before the  
12 forty-fifth day following the end of each quarter. For purposes of  
13 this section, landfill has the same definition as municipal solid  
14 waste landfill unit in 40 C.F.R. ~~part 258, subpart A, section~~  
15 258.2.

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 ~~that facility~~ the landfill or transported from the  
20 transfer station during the payment period and shall provide any  
21 other information deemed necessary by the department. The form  
22 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  
7 to the Integrated Solid Waste Management Cash Fund and shall be  
8 used by the department to cover the direct and indirect costs  
9 of responding to spills or other environmental emergencies, of  
10 regulating, investigating, remediating, and monitoring facilities  
11 during and after operation of facilities, or of performance of  
12 regulated activities under the Integrated Solid Waste Management  
13 Act, the Livestock Waste Management Act, the Nebraska Litter  
14 Reduction and Recycling Act, and the Waste Reduction and Recycling  
15 Incentive Act. The department may seek recovery of expenses paid  
16 from the fund for responding to spills or other environmental  
17 emergencies or for investigation, remediation, and monitoring of  
18 a facility from any person who owned, operated, or used the  
19 facility in violation of the Integrated Solid Waste Management  
20 Act, the Livestock Waste Management Act, the Nebraska Litter  
21 Reduction and Recycling Act, and the Waste Reduction and Recycling  
22 Incentive Act in a civil action filed in the district court of  
23 Lancaster County. Of the amount credited to the Integrated Solid  
24 Waste Management Cash Fund, the department may disburse amounts  
25 to political subdivisions for costs incurred in response to and

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

21 (6) The remaining fifty percent of the total of such fees  
22 collected per quarter shall be remitted to the State Treasurer for  
23 credit to the Waste Reduction and Recycling Incentive Fund. For  
24 purposes of determining the total fees collected, any amount of  
25 fees rebated pursuant to section 13-2042.01 shall be included as if

1 the fees had not been rebated, and the amount of the fees rebated  
2 pursuant to such section shall be deducted from the amount to be  
3 credited to the Waste Reduction and Recycling Incentive Fund.

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

18 Sec. 2. Section 13-2042.01, Revised Statutes Supplement,  
19 2009, is amended to read:

20 13-2042.01 (1) The Department of Environmental Quality  
21 shall rebate to the municipality or county of origin ten cents of  
22 the disposal fee required by section 13-2042 for ~~each six cubic~~  
23 ~~yards of uncompact solid waste,~~ for each three cubic yards of  
24 ~~compact solid waste,~~ or for each ten of solid waste disposed  
25 of at landfills regulated by the department and ~~originating or~~

1 transported from transfer stations in Nebraska for disposal out of  
2 state when such solid waste originated in a municipality or county  
3 with a purchasing policy approved by the department. The fee shall  
4 be rebated on a schedule agreed upon between the municipality or  
5 county and the department. The schedule shall be no more often than  
6 quarterly and no less often than annually.

7 (2) Any municipality or county may apply to the  
8 department for the rebate authorized in subsection (1) of this  
9 section if the municipality or county has a written purchasing  
10 policy in effect requiring a preference for purchasing products,  
11 materials, or supplies which are manufactured or produced from  
12 recycled material. The policy shall provide that the preference  
13 shall not operate when it would result in the purchase of  
14 products, materials, or supplies which are of inadequate quality  
15 as determined by the municipality or county. Upon receipt of an  
16 application, the Department of Environmental Quality shall submit  
17 the application to the materiel division of the Department of  
18 Administrative Services for review. The materiel division shall  
19 review the application for compliance with this section and any  
20 rules and regulations adopted pursuant to this section and to  
21 determine the probable effectiveness in assuring that a preference  
22 is given to products, materials, or supplies which are manufactured  
23 or produced from recycled material. The materiel division shall  
24 provide a report of its findings to the Department of Environmental  
25 Quality within thirty days after receiving the review request. The

1 Department of Environmental Quality shall approve the application  
2 or suggest modifications to the application within sixty days after  
3 receiving the application based on the materiel division's report,  
4 any analysis by the Department of Environmental Quality, and any  
5 factors affecting compliance with this section or the rules and  
6 regulations adopted pursuant to this section.

7 (3) A municipality or county shall file a report  
8 complying with the rules and regulations adopted pursuant to  
9 this section with the Department of Environmental Quality before  
10 April 1 of each year documenting purchasing practices for the  
11 past calendar year in order to continue receiving the rebate.  
12 The report shall include, but not be limited to, quantities of  
13 products, materials, or supplies purchased which were manufactured  
14 or produced from recycled material. The department shall provide  
15 copies of each report to the materiel division in a timely manner.  
16 If the department determines that a municipality or county is  
17 not following the purchasing policy presented in the approved  
18 application or that the purchasing policy presented in the approved  
19 application is not effective in assuring that a preference is  
20 given to products, materials, or supplies which are manufactured  
21 or produced from recycled material, the department shall suspend  
22 the rebate until it determines that the municipality or county  
23 is giving a preference to products, materials, or supplies which  
24 are manufactured or produced from recycled material pursuant to  
25 a written purchasing policy approved by the department subsequent

1 to the suspension. The materiel division may make recommendations  
2 to the department regarding suspensions and reinstatements of  
3 rebates. The Department of Administrative Services may adopt  
4 and promulgate rules and regulations establishing procedures for  
5 reviewing applications and for annual reports.

6 (4) Any suspension of the rebate or denial of an  
7 application made under this section may be appealed. The appeal  
8 shall be in accordance with the Administrative Procedure Act.

9 (5) The council shall adopt and promulgate rules and  
10 regulations establishing criteria for application procedures, for  
11 accepting and denying applications, for required reports, and  
12 for suspending and reinstating the rebate. The materiel division  
13 shall recommend to the council criteria for accepting and denying  
14 applications and for suspending and reinstating the rebate. The  
15 materiel division may make other recommendations to the council  
16 regarding rules and regulations authorized under this section.

17 Sec. 3. Original section 13-2042, Reissue Revised  
18 Statutes of Nebraska, and section 13-2042.01, Revised Statutes  
19 Supplement, 2009, are repealed.