

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 587

Introduced by Nordquist, 7.

Read first time January 19, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to compressed natural gas; to amend sections
2 66-1519, 66-1810, and 66-1825, Reissue Revised Statutes
3 of Nebraska; to provide for a grant program; to provide
4 funding and create a fund; to change provisions relating
5 to jurisdictional utilities and natural gas public
6 utilities; to harmonize provisions; to repeal the
7 original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 5 of this act:

2 (1) Compressed natural gas innovation grant means a grant
3 paid to an eligible entity for a compressed natural gas innovation
4 project;

5 (2) Compressed natural gas innovation project means
6 infrastructure investment relating to storage, distribution, or
7 dispensing of compressed natural gas;

8 (3) Department means the Department of Environmental
9 Quality; and

10 (4) Eligible entity means a Nebraska resident, business,
11 or public utility.

12 Sec. 2. The Compressed Natural Gas Innovation Fund is
13 created. The fund shall be used by the department to provide
14 compressed natural gas innovation grants and for administrative costs
15 relating to its duties under sections 1 to 5 of this act. Any money
16 in the fund available for investment shall be invested by the state
17 investment officer pursuant to the Nebraska Capital Expansion Act and
18 the Nebraska State Funds Investment Act.

19 Sec. 3. The department shall establish and administer a
20 grant program for compressed natural gas innovation projects. An
21 eligible entity may apply to the department for a compressed natural
22 gas innovation grant of up to two hundred thousand dollars. The
23 eligible entity shall pay at least eighty percent of the cost of the
24 compressed natural gas innovation project. The department shall:

25 (1) Not approve more than one grant for a compressed

1 natural gas innovation project in a county during the first five
2 years of the grant program; and

3 (2) Only approve a compressed natural gas innovation
4 project if it will be located within one mile of a portion of the
5 National System of Interstate and Defense Highways.

6 Sec. 4. Beginning December 1, 2012, and annually on or
7 before December 1 thereafter, the department shall submit a report to
8 the Legislature describing each compressed natural gas innovation
9 grant made during the preceding calendar year and the compressed
10 natural gas innovation project for which each such grant was made.

11 Sec. 5. The department may adopt and promulgate rules and
12 regulations to carry out its duties under sections 1 to 5 of this
13 act.

14 Sec. 6. Section 66-1519, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 66-1519 (1) There is hereby created the Petroleum Release
17 Remedial Action Cash Fund to be administered by the department.
18 Revenue from the following sources shall be remitted to the State
19 Treasurer for credit to the fund:

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

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

23 (c) Money received by the department in the form of
24 gifts, grants, reimbursements, property liquidations, or
25 appropriations from any source intended to be used for the purposes

1 of the fund.

2 (2) Money in the fund may be spent for: (a) Reimbursement
3 for the costs of remedial action by a responsible person or his or
4 her designated representative and costs of remedial action undertaken
5 by the department in response to a release first reported after July
6 17, 1983, and on or before June 30, 2012, including reimbursement for
7 damages caused by the department or a person acting at the
8 department's direction while investigating or inspecting or during
9 remedial action on property other than property on which a release or
10 suspected release has occurred; (b) payment of any amount due from a
11 third-party claim; (c) fee collection expenses incurred by the State
12 Fire Marshal; (d) direct expenses incurred by the department in
13 carrying out the Petroleum Release Remedial Action Act; (e) other
14 costs related to fixtures and tangible personal property as provided
15 in section 66-1529.01; (f) interest payments as allowed by section
16 66-1524; (g) claims approved by the State Claims Board authorized
17 under section 66-1531; (h) a grant to a city of the metropolitan
18 class in the amount of three hundred thousand dollars, provided no
19 later than September 15, 2005, to carry out the federal Residential
20 Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4851 et
21 seq., as such act existed on October 1, 2003; and (i) methyl tertiary
22 butyl ether testing, to be conducted randomly at terminals within the
23 state for up to two years ending June 30, 2003. The amount expended
24 on the testing shall not exceed forty thousand dollars. The testing
25 shall be conducted by the Department of Agriculture. The department

1 may enter into contractual arrangements for such purpose. The results
2 of the tests shall be made available to the Department of
3 Environmental Quality.

4 (3) Transfers may be made from the Petroleum Release
5 Remedial Action Cash Fund to the General Fund at the direction of the
6 Legislature. Transfers may be made from the Petroleum Release
7 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund at
8 the direction of the Legislature. The State Treasurer shall transfer
9 one million five hundred thousand dollars from the Petroleum Release
10 Remedial Action Cash Fund to the Ethanol Production Incentive Cash
11 Fund on July 1 of each of the following years: 2004 through 2011. The
12 State Treasurer shall transfer five hundred thousand dollars from the
13 Petroleum Release Remedial Action Cash Fund to the Compressed Natural
14 Gas Innovation Fund on July 1 of each year.

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

19 Sec. 7. Section 66-1810, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 66-1810 (1) A jurisdictional utility may provide service
22 at negotiated rates, contracts, and terms and conditions of service
23 under contract to high-volume ratepayers. Service under the contracts
24 shall be provided on such terms and conditions and for such rates or
25 charges as the jurisdictional utility and the high-volume ratepayer

1 agree, without regard to any rates, tolls, tariffs, or charges the
2 jurisdictional utility may have filed with the commission. Upon the
3 request of the commission, the jurisdictional utility shall file such
4 contracts with the commission. The contracts are not public records
5 within the meaning of sections 84-712 to 84-712.09 and their
6 disclosure to any other person or corporation for any purpose is
7 expressly prohibited, except that they may be used by the commission
8 in any investigation or proceeding. Except as provided in this
9 subsection, high-volume ratepayers shall not be subject to the
10 jurisdiction of the commission.

11 (2) A jurisdictional utility may change any rate or other
12 charge demanded or received from or terms and conditions applicable
13 to its agricultural ratepayers and interruptible ratepayers not
14 otherwise qualifying as high-volume ratepayers, upon notice to the
15 commission and to the public. The commission may not suspend such
16 rate or charge filed by a jurisdictional utility, except that the
17 commission, after hearing and order, may change any such rate or
18 other charge demanded or received from a jurisdictional utility's
19 agricultural ratepayers upon complaint effective as of the date of
20 the order, if such rate or other charge is found in such complaint
21 proceeding to be unduly preferential or unjustly discriminatory. The
22 provisions of this subsection apply notwithstanding any provision in
23 the State Natural Gas Regulation Act to the contrary.

24 (3) A jurisdictional utility may change any rate or other
25 charge demanded or received from or terms and conditions applicable

1 to its motor vehicle rate, upon notice to the commission and to the
2 public. The commission may not suspend such rate or charge filed by a
3 jurisdictional utility. The provisions of this subsection apply
4 notwithstanding any provision in the State Natural Gas Regulation Act
5 to the contrary.

6 Sec. 8. Section 66-1825, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 66-1825 (1) Every rate made, demanded, or received by any
9 natural gas public utility shall be just and reasonable. Rates shall
10 not be unreasonably preferential or discriminatory and shall be
11 reasonably consistent in application to a class of ratepayers. Rates
12 negotiated with agricultural ratepayers and high-volume ratepayers in
13 conformity with the State Natural Gas Regulation Act and motor
14 vehicle rates shall not be considered discriminatory.

15 (2) No jurisdictional utility shall, as to rates or terms
16 and conditions of service, make or grant any unreasonable preference
17 or advantage to any person or subject any person to any unreasonable
18 prejudice or disadvantage.

19 (3) The commission, in the exercise of its power and duty
20 to determine just and reasonable rates for natural gas public
21 utilities, shall give due consideration to the public need for
22 adequate, efficient, and reasonable natural gas service and to the
23 need of the jurisdictional utility for revenue sufficient to enable
24 it to meet the cost of furnishing the service, including adequate
25 provisions for depreciation of its utility property used and useful

1 in rendering service to the public, and to earn a fair and reasonable
2 return upon the investment in such property.

3 (4) Cost of service shall include operating expenses and
4 a fair and reasonable return on rate base, less appropriate credits.

5 (5) In determining a fair and reasonable return on the
6 rate base of a jurisdictional utility, a rate-of-return percentage
7 shall be employed that is representative of the utility's weighted
8 average cost of capital including, but not limited to, long-term
9 debt, preferred stock, and common equity capital.

10 (6) The rate base of the jurisdictional utility shall
11 consist of the utility's property, used and useful in providing
12 utility service, including the applicable investment in utility
13 plant, less accumulated depreciation and amortization, allowance for
14 working capital, such other items as may be reasonably included, and
15 reasonable allocations of common property, less such investment as
16 may be reasonably attributed to other than investor-supplied capital
17 unless such deduction is otherwise prohibited by law.

18 (7) Operating expenses shall consist of expenses
19 prudently incurred to provide natural gas service including (a) a
20 reasonable allocation of common expenses as authorized and limited by
21 section 66-1819 and (b) the quantity and type of purchased services
22 regulated by the Federal Energy Regulatory Commission.

23 (8) In determining the cost of service, the Public
24 Service Commission shall give effect to all costs and allocations as
25 reflected in the rate schedules approved by the Federal Energy

1 Regulatory Commission.

2 (9) The Public Service Commission may include in a
3 jurisdictional utility's rate base the full or partial value of
4 stranded investment which was prudently incurred when the investment
5 actually was, or reasonably was expected to be, used and useful in
6 providing service to ratepayers and was stranded due to changes in
7 regulation or other circumstances reasonably beyond the utility's
8 control and subject to any reasonable obligation of the utility to
9 mitigate the cost.

10 (10) Subsidization is prohibited. For purposes of this
11 subsection, subsidization means the establishment of rates to be
12 collected from a ratepayer or class of ratepayers of a jurisdictional
13 utility that (a) include costs that properly are includable in rates
14 charged to other ratepayers or classes of ratepayers of the utility,
15 or other persons, firms, companies, or corporations doing business
16 with the jurisdictional utility, (b) exclude costs that properly are
17 includable in rates charged to such ratepayers or classes of
18 ratepayers, or (c) include costs that properly are chargeable or
19 allocable to a nonregulated private enterprise engaged in by such
20 jurisdictional utility.

21 Sec. 9. Original sections 66-1519, 66-1810, and 66-1825,
22 Reissue Revised Statutes of Nebraska, are repealed.

23 Sec. 10. Since an emergency exists, this act takes effect
24 when passed and approved according to law.