

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 632**

FINAL READING

Introduced by Hughes, 44.

Read first time January 23, 2019

Committee: Natural Resources

1 A BILL FOR AN ACT relating to environment and energy; to amend sections  
2 13-2001, 13-2003, 13-2017, 13-2023, 70-1605, and 70-1606, Reissue  
3 Revised Statutes of Nebraska, and section 2-1504, Revised Statutes  
4 Cumulative Supplement, 2018; to change provisions relating to  
5 Nebraska Natural Resources Commission membership and the Integrated  
6 Solid Waste Management Act; to define a term; to restate policy; to  
7 prohibit regulation of containers as prescribed; to change  
8 provisions relating to utility discontinuance and reconnection; to  
9 require the Department of Natural Resources to develop a state flood  
10 mitigation plan; to harmonize provisions; and to repeal the original  
11 sections.  
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1504, Revised Statutes Cumulative Supplement,  
2 2018, is amended to read:

3 2-1504 (1) The Nebraska Natural Resources Commission is established.  
4 The commission shall advise the department as requested by the director  
5 and shall perform such other functions as are specifically conferred on  
6 the commission by law. The commission shall have no jurisdiction over  
7 matters pertaining to water rights.

8 (2) Each member of the commission shall be a resident of the State  
9 of Nebraska and shall have attained the age of majority. The voting  
10 members of the commission, ~~all of whom shall have attained the age of~~  
11 ~~majority,~~ shall be:

12 (a) One resident of each of the following river basins, with  
13 delineations being those on the Nebraska river basin map officially  
14 adopted by the commission and on file with the department: (i) The  
15 Niobrara River, White River, and Hat Creek basin, (ii) the North Platte  
16 River basin, (iii) the South Platte River basin, (iv) the middle Platte  
17 River basin, (v) the lower Platte River basin, (vi) the Loup River basin,  
18 (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin,  
19 (ix) the Republican River basin, (x) the Little Blue River basin, (xi)  
20 the Big Blue River basin, and (xii) the Nemaha River basin;

21 (b) One additional resident of each river basin which encompasses  
22 one or more cities of the metropolitan class; and

23 (c) Fourteen members appointed by the Governor, subject to  
24 confirmation by the Legislature. Of the members appointed by the  
25 Governor, one shall represent each of the following categories:  
26 Agribusiness interests; agricultural interests; ground water irrigators;  
27 irrigation districts; manufacturing interests; metropolitan utilities  
28 districts; municipal users of water from a city of the primary class;  
29 municipal users of water from a city of the first or second class or a  
30 village; outdoor recreation users; public power districts; public power  
31 and irrigation districts; range livestock owners; surface water

1 irrigators; and wildlife conservation interests.

2 (3) Members of the commission described in subdivision (2)(a) of  
3 this section shall be selected for four-year terms at individual caucuses  
4 of the natural resources district directors residing in the river basin  
5 from which the member is selected. Such caucuses shall be held for each  
6 basin within ten days following the first Thursday after the first  
7 Tuesday of the year the term of office of the member from that basin  
8 expires. The dates and locations for such caucuses shall be established  
9 by the commission, and the commission shall provide notice to the public  
10 by issuing press releases for publication in a newspaper of general  
11 circulation in each county that comprises the river basin for which a  
12 caucus election will be held. Terms of office of such members shall  
13 follow the sequence originally determined by the river basin  
14 representatives to the commission at their first meeting on the third  
15 Thursday after the first Tuesday in January 1975. All river basin members  
16 shall take office on the third Thursday after the first Tuesday in  
17 January following their selection and any vacancy shall be filled for the  
18 unexpired term by a caucus held within thirty days following the date  
19 such vacancy is created. Each member of the commission representing a  
20 river basin shall qualify by filing with the other members of the  
21 commission an acceptance in writing of his or her selection.

22 (4) Members of the commission described in subdivision (2)(b) of  
23 this section shall be residents of natural resources districts which  
24 encompass one or more cities of the metropolitan class and shall be  
25 selected in the same manner, at the same time, and for a four-year term  
26 having the same term sequence as provided for the other members from such  
27 basin under subsection (3) of this section.

28 (5) For members of the commission described in subdivision (2)(c) of  
29 this section:

30 (a) The Governor shall appoint the eleven additional members added  
31 by Laws 2014, LB1098, within thirty days after April 17, 2014. The eleven

1 additional appointments shall be for staggered four-year terms, as  
2 determined by the Governor. The Governor shall also set the terms of the  
3 current members of the commission appointed under such subdivision and  
4 serving on April 17, 2014, to staggered four-year terms. Future  
5 appointments shall be for four-year terms. Members whose terms have  
6 expired shall continue to serve until their successors have been  
7 appointed. In the case of a vacancy, the Governor shall appoint a  
8 successor for the unexpired term. Members may be removed for cause.  
9 Initial appointees shall begin serving immediately following notice of  
10 appointment, except that the member appointed representing municipal  
11 users of water from the class of city or a village that is being  
12 represented by the current member representing municipal users of water  
13 and the members representing surface water irrigators and ground water  
14 irrigators shall not begin serving until the term of the current member  
15 representative of the category expires or such member resigns or is  
16 otherwise removed; and

17 (b) In appointing such members, the Governor shall:

18 (i) Create a broad-based commission which has knowledge of, has  
19 experience with, and is representative of Nebraska's water use and  
20 economy;

21 (ii) Give recognition to the importance of both water quantity and  
22 water quality; and

23 (iii) Appoint members who represent diverse geographic regions of  
24 the state, including urban and rural areas, and represent, to the extent  
25 possible, the racial and ethnic diversity of the state.

26 (6) After the members have been appointed as required under this  
27 section, the commission shall revise or adopt and promulgate rules and  
28 regulations as necessary to administer the Water Sustainability Fund  
29 pursuant to sections 2-1506 to 2-1513.

30 Sec. 2. Section 13-2001, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           13-2001 Sections 13-2001 to 13-2043 and section 4 of this act shall  
2 be known and may be cited as the Integrated Solid Waste Management Act.

3           Sec. 3. Section 13-2003, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           13-2003 For purposes of the Integrated Solid Waste Management Act,  
6 the definitions found in sections 13-2004 to 13-2016.01 and section 4 of  
7 this act shall be used.

8           Sec. 4. Container means a bag, cup, can, pouch, package, container,  
9 bottle, or other packaging that is (1) designed to be reusable,  
10 recyclable, or single-use, (2) made of cloth, paper, plastic, including  
11 foamed or expanded plastic, cardboard, corrugated material, aluminum,  
12 glass, or postconsumer recycled or similar material or substrates,  
13 including coated, laminated, or multilayer substrates, and (3) designed  
14 for consuming, protecting, or transporting merchandise, food, or  
15 beverages from or at a food service or retail facility.

16           Sec. 5. Section 13-2017, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18           13-2017 It is the policy of this state:

19           (1) To encourage the development of integrated solid waste  
20 management programs, including waste volume reduction and recycling  
21 programs and education, at the local governmental level through  
22 incentives, technical assistance, grants, and other practical measures;

23           (2) To support and encourage the development of new uses and markets  
24 for recycled goods, placing emphasis on the development in Nebraska of  
25 businesses relating to waste reduction and recycling;

26           (3) To provide education concerning the components of integrated  
27 solid waste management, at the elementary level through the high school  
28 level and through community organizations, to enhance the success of  
29 local programs requiring public involvement;~~and~~

30           (4) To support and encourage manufacturing methods which are  
31 environmentally sustainable, technologically safe, and ecologically sound

1 and which enhance waste reduction by creating products which have longer  
2 usage life and which are adaptable to secondary uses through processes  
3 such as pyrolysis or biomass, require less input material, and decrease  
4 resource consumption; and -

5 (5) To encourage uniform regulation of containers in order to avoid  
6 the burden on retailers of having to comply with varying regulatory  
7 policies in multiple jurisdictions.

8 Sec. 6. Section 13-2023, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 13-2023 (1) A county, municipality, or agency may, by ordinance or  
11 resolution, adopt regulations governing collection, source separation,  
12 storage, transportation, transfer, processing, treatment, and disposal of  
13 solid waste within its solid waste jurisdiction area as necessary to  
14 protect the public health and welfare and the environment. Regulations  
15 authorized by this section shall be equal to or more stringent than the  
16 provisions of the Integrated Solid Waste Management Act and rules and  
17 regulations adopted and promulgated by the council as authorized by the  
18 act. Any person who violates any such regulation shall be subject to a  
19 noncompliance fee not to exceed five hundred dollars.

20 (2) A county, municipality, or agency shall not adopt, enforce, or  
21 otherwise administer an ordinance or resolution that prohibits the use of  
22 or that sets standards, fees, prohibitions, or requirements regarding the  
23 sale, use, or marketing of containers. This subsection shall not apply to  
24 county, municipality, or agency recycling or solid waste collection  
25 programs, or restrict such programs from the environmental and lawful  
26 operation of program facilities and imposition of user fees at such  
27 facilities, except that in no event shall such programs prohibit or have  
28 the effect of prohibiting the sale, use, or marketing of any containers.

29 Sec. 7. Section 70-1605, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 70-1605 No public or private utility company, other than a municipal

1 utility owned and operated by a village, furnishing water, natural gas,  
2 or electricity at retail in this state shall discontinue service to any  
3 domestic subscriber for nonpayment of any past-due account unless the  
4 utility company first gives notice to any subscriber whose service is  
5 proposed to be terminated. Such notice shall be given in person, by  
6 first-class mail, or by electronic delivery, except that electronic  
7 delivery shall only be used if the subscriber has specifically elected to  
8 receive such notices by electronic delivery. If notice is given by first-  
9 class mail or electronic delivery, such notice shall be conspicuously  
10 marked as to its importance. Service shall not be discontinued for at  
11 least seven days after notice is sent or given. Holidays and weekends  
12 shall be excluded from the seven days. A public or private utility  
13 company shall not charge a fee for the discontinuance or reconnection of  
14 utility service that exceeds the reasonable costs of providing such  
15 service.

16 Sec. 8. Section 70-1606, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 70-1606 (1) The notice required by section 70-1605 shall contain  
19 the following information:

20 (a) ~~(1)~~ The reason for the proposed disconnection;

21 (b) ~~(2)~~ A statement of intention to disconnect unless the domestic  
22 subscriber either pays the bill or reaches an agreement with the utility  
23 regarding payment of the bill;

24 (c) ~~(3)~~ The date upon which service will be disconnected if the  
25 domestic subscriber does not take appropriate action;

26 (d) ~~(4)~~ The name, address, and telephone number of the utility's  
27 employee or department to whom the domestic subscriber may address any  
28 inquiry or complaint;

29 (e) ~~(5)~~ The domestic subscriber's right, prior to the disconnection  
30 date, to request a conference regarding any dispute over such proposed  
31 disconnection;

1           (f) ~~(6)~~ A statement that the utility may not disconnect service  
2 pending the conclusion of the conference;

3           (g) ~~(7)~~ A statement to the effect that disconnection shall ~~may~~ be  
4 postponed or prevented upon presentation of a duly licensed physician's,  
5 physician assistant's, or advanced practice registered nurse's  
6 certificate, which shall certify that a domestic subscriber or resident  
7 within such subscriber's household has an existing illness or handicap  
8 which would cause such subscriber or resident to suffer an immediate and  
9 serious health hazard by the disconnection of the utility's service to  
10 that household. Such certificate shall be filed with the utility within  
11 five days of receiving notice under this section, excluding holidays and  
12 weekends, and will prevent the disconnection of the utility's service for  
13 a period of at least thirty days from such filing. Only one postponement  
14 of disconnection shall be required ~~allowed~~ under this subdivision for  
15 each incidence of nonpayment of any past-due account;

16           (h) ~~(8)~~ The cost that will be borne by the domestic subscriber for  
17 restoration of service;

18           (i) ~~(9)~~ A statement that the domestic subscriber may arrange with  
19 the utility for an installment payment plan;

20           (j) ~~(10)~~ A statement to the effect that those domestic subscribers  
21 who are welfare recipients may qualify for assistance in payment of their  
22 utility bill and that they should contact their caseworker in that  
23 regard; and

24           (k) ~~(11)~~ Any additional information not inconsistent with this  
25 section which has received prior approval from the board of directors or  
26 administrative board of any utility.

27           (2) A public or private utility company, other than a municipal  
28 utility owned and operated by a village, shall make the service  
29 termination information required under subdivisions (d), (e), (f), (g),  
30 (i), (j), and (k) of subsection (1) of this section readily accessible to  
31 the public on the web site of the utility company and available by mail

1 upon request.

2       Sec. 9. The Legislature finds and declares that the State of  
3 Nebraska experienced a historic flood event in 2019. This flood event  
4 significantly impacted numerous communities and individual Nebraskans.  
5 Coordination and communication between state and local entities  
6 implementing flood mitigation strategies is essential to maximize federal  
7 funds for flood mitigation efforts.

8       Sec. 10. The Department of Natural Resources shall develop a state  
9 flood mitigation plan as a stand-alone document to be annexed into the  
10 state hazard mitigation plan maintained by the Nebraska Emergency  
11 Management Agency. Such plan shall be structured in accordance with  
12 Federal Emergency Management Agency guidelines, and shall be  
13 comprehensive, collaborative, and statewide in scope with opportunities  
14 for input from diverse stakeholders.

15       Sec. 11. The Department of Natural Resources shall convene a plan  
16 development group which shall be housed and staffed for administrative  
17 purposes within such department. The Department of Natural Resources  
18 shall engage with federal, state, and local agency and community  
19 stakeholders in the development of the state flood mitigation plan,  
20 including, but not limited to, the Department of Transportation, the  
21 Department of Environment and Energy, the Department of Economic  
22 Development, the Department of Agriculture, the Nebraska Emergency  
23 Management Agency, natural resources districts, the United States  
24 Department of Agriculture, the United States Army Corps of Engineers, the  
25 United States Geological Survey, the Federal Emergency Management Agency,  
26 the University of Nebraska, representatives of counties, municipalities,  
27 and other political subdivisions, and the Natural Resources Committee of  
28 the Legislature. The Department of Natural Resources may engage other  
29 sources to provide technical expertise as needed.

30       Sec. 12. The Department of Natural Resources shall:

31       (1) Evaluate the flood issues that occurred in 2019, and identify

1 cost-effective flood mitigation strategies that should be adopted to  
2 reduce the disruption of lives and livelihoods and prioritize making  
3 Nebraska communities more resilient;

4 (2) Identify opportunities to implement flood hazard mitigation  
5 strategies with the intent to reduce the impact of flood events;

6 (3) Work to improve knowledge and understanding of available  
7 recovery resources while identifying potential gaps in current disaster  
8 program delivery;

9 (4) Identify potential available funding sources that can be  
10 accessed to improve the resilience of the state through flood mitigation  
11 and post-flood disaster recovery. The funding sources shall include, but  
12 not be limited to, assistance from (a) the Federal Emergency Management  
13 Agency's Flood Mitigation Assistance Grant Program, Building Resilient  
14 Infrastructure and Communities Grant Program, Hazard Mitigation Grant  
15 Program, Public Assistance Program, and Individual Assistance Program,  
16 (b) the United States Department of Housing and Urban Development's  
17 Community Development Block Grant Program and Community Development Block  
18 Grant Disaster Recovery Program, and (c) programs of the United States  
19 Department of Agriculture's Natural Resources Conservation Service.  
20 Identification of such funding sources shall be in addition to grants and  
21 cost-sharing programs available through other agencies that support flood  
22 hazard mitigation planning in communities;

23 (5) Compile a centralized list of critical infrastructure and state-  
24 owned facilities and identify those with the highest risk of flooding. In  
25 compiling such list, the Department of Natural Resources shall consult  
26 and collaborate with other state and local agencies that have information  
27 that identifies vulnerable facilities;

28 (6) Evaluate state laws, rules, regulations, policies, and programs  
29 related to flood hazard mitigation and development in flood hazard-prone  
30 areas to support the state's administration of the Federal Emergency  
31 Management Agency's National Flood Insurance Program, Community Rating

1 System, and Risk Mapping, Assessment, and Planning Program;

2 (7) Examine existing law and, if necessary, recommend statutory or  
3 administrative changes to help ensure collaboration and coordination  
4 between state and local entities in statewide flood mitigation planning;  
5 and

6 (8) Hold two public hearings, one prior to the first state flood  
7 mitigation plan development meeting and one prior to the completion of  
8 such plan. Notice of each hearing shall be published at least thirty days  
9 prior to the hearing date.

10 Sec. 13. The state flood mitigation plan shall be completed and  
11 reported to the Governor and electronically to the Legislature on or  
12 before July 1, 2022.

13 Sec. 14. Original sections 13-2001, 13-2003, 13-2017, 13-2023,  
14 70-1605, and 70-1606, Reissue Revised Statutes of Nebraska, and section  
15 2-1504, Revised Statutes Cumulative Supplement, 2018, are repealed.