

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 247

Introduced by DeKay, 40.

Read first time January 14, 2025

Committee:

- 1 A BILL FOR AN ACT relating to the Department of Environment and Energy;
2 to amend section 13-2042, Reissue Revised Statutes of Nebraska, and
3 section 66-1519, Revised Statutes Cumulative Supplement, 2024; to
4 change provisions relating to fees and distribution of proceeds
5 under the Integrated Solid Waste Management Act and uses of and
6 transfers from the Petroleum Release Remedial Action Cash Fund; to
7 provide an operative date; to repeal the original sections; and to
8 declare an emergency.
- 9 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 13-2042, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 13-2042 (1) A disposal fee of two dollars ~~one dollar~~ and thirty-four
4 ~~twenty-five~~ cents is imposed for each six cubic yards of uncompacted
5 solid waste, two dollars ~~one dollar~~ and thirty-four ~~twenty-five~~ cents for
6 each three cubic yards of compacted solid waste, or two dollars ~~one~~
7 ~~dollar~~ and thirty-four ~~twenty-five~~ cents per ton of solid waste (a)
8 disposed of at landfills regulated by the department or (b) transported
9 for disposal out of state from a solid waste processing facility holding
10 a permit under the Integrated Solid Waste Management Act. Each operator
11 of a landfill or solid waste processing facility shall make the fee
12 payment quarterly. The fee shall be paid quarterly to the department on
13 or before the forty-fifth day following the end of each quarter. For
14 purposes of this section, landfill has the same definition as municipal
15 solid waste landfill unit in 40 C.F.R. 258.2.

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

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

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

29 (5) Sixty-five ~~Fifty~~ percent of the total of such fees collected in
30 each quarter shall be remitted to the State Treasurer for credit to the
31 Integrated Solid Waste Management Cash Fund and shall be used by the

1 department to cover the direct and indirect costs of (a) responding to
2 spills or other environmental emergencies, (b) providing cost share,
3 operation, and maintenance for remediation of superfund sites in order to
4 pay for nonfederal costs, including costs for in-kind services, under the
5 federal Comprehensive Environmental Response, Compensation, and Liability
6 Act of 1980, 42 U.S.C. 9601 et seq., (c) of regulating, investigating,
7 remediating, and monitoring facilities during and after operation of
8 facilities, or (d) of performance of regulated activities under the
9 Integrated Solid Waste Management Act, the Nebraska Litter Reduction and
10 Recycling Act, and the Waste Reduction and Recycling Incentive Act. The
11 department may seek recovery of expenses paid from the fund for
12 responding to spills or other environmental emergencies or for
13 investigation, remediation, and monitoring of a facility from any person
14 who owned, operated, or used the facility in violation of the Integrated
15 Solid Waste Management Act, the Nebraska Litter Reduction and Recycling
16 Act, and the Waste Reduction and Recycling Incentive Act in a civil
17 action filed in the district court of Lancaster County.

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

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

28 (i) Grants shall be awarded to counties, municipalities, and
29 agencies for the purposes of planning and implementing facilities and
30 systems to further the goals of the Integrated Solid Waste Management
31 Act. The grant proceeds shall not be used to fund landfill closure site

1 assessments, closure, monitoring, or investigative or corrective action
2 costs for existing landfills or landfills already closed prior to July
3 15, 1992. The council shall adopt and promulgate rules and regulations to
4 carry out this subdivision. Such rules and regulations shall base the
5 awarding of grants on a project's reflection of the integrated solid
6 waste management policy and hierarchy established in section 13-2018, the
7 proposed amount of local matching funds, and community need; and

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

29 **Sec. 2.** Section 66-1519, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 66-1519 (1) There is hereby created the Petroleum Release Remedial

1 Action Cash Fund to be administered by the department. Revenue from the
2 following sources shall be remitted to the State Treasurer for credit to
3 the fund:

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

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

7 (c) Money received by the department in the form of gifts, grants,
8 reimbursements, property liquidations, or appropriations from any source
9 intended to be used for the purposes of the fund.

10 (2) Money in the fund may be spent for: (a) Reimbursement for the
11 costs of remedial action by a responsible person or his or her designated
12 representative and costs of remedial action undertaken by the department
13 in response to a release first reported after July 17, 1983, and on or
14 before June 30, 2028, including reimbursement for damages caused by the
15 department or a person acting at the department's direction while
16 investigating or inspecting or during remedial action on property other
17 than property on which a release or suspected release has occurred; (b)
18 payment of any amount due from a third-party claim; (c) fee collection
19 expenses incurred by the State Fire Marshal; (d) direct expenses incurred
20 by the department in carrying out the Petroleum Release Remedial Action
21 Act; (e) other costs related to fixtures and tangible personal property
22 as provided in section 66-1529.01; (f) interest payments as allowed by
23 section 66-1524; (g) claims approved by the State Claims Board authorized
24 under section 66-1531; (h) the direct and indirect costs incurred by the
25 department in responding to spills and other environmental emergencies
26 related to petroleum or petroleum products; and (i) up to one million
27 five hundred thousand dollars each fiscal year through June 30, 2025, for
28 ~~of~~ the department's cost-share obligations and operation and maintenance
29 obligations under the federal Comprehensive Environmental Response,
30 Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq.

31 ~~(3) Transfers may be made from the Petroleum Release Remedial Action~~

1 ~~Cash Fund to the Superfund Cost Share Cash Fund at the direction of the~~
2 ~~Legislature.~~

3 (3) (4) Any money in the Petroleum Release Remedial Action Cash Fund
4 available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
6 State Funds Investment Act. Investment earnings on and after April 16,
7 2024, shall be credited to the fund.

8 **Sec. 3.** This act becomes operative on July 1, 2025.

9 **Sec. 4.** Original section 13-2042, Reissue Revised Statutes of
10 Nebraska, and section 66-1519, Revised Statutes Cumulative Supplement,
11 2024, are repealed.

12 **Sec. 5.** Since an emergency exists, this act takes effect when
13 passed and approved according to law.