

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 761**

Introduced by Brandt, 32.

Read first time January 07, 2026

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the Department of Water, Energy, and  
2 Environment; to amend sections 13-2041, 54-2428, 81-1505, and  
3 81-1532, Reissue Revised Statutes of Nebraska, and section 46-606,  
4 Revised Statutes Supplement, 2025; to change the use of the  
5 Integrated Solid Waste Management Cash Fund and the Department of  
6 Water, Energy, and Environment Cash Fund; to provide for and change  
7 provisions related to fees related to water wells and hazardous  
8 waste management; to create a fund; to eliminate obsolete  
9 provisions; to harmonize provisions; and to repeal the original  
10 sections  
11 Be it enacted by the people of the State of Nebraska,

1           **Section 1.** Section 13-2041, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           13-2041 There is hereby created the Integrated Solid Waste  
4 Management Cash Fund. All fees collected by the department pursuant to  
5 this section, fees collected pursuant to subdivision (13)(c) of section  
6 81-1505, ~~or~~ fees designated pursuant to section 13-2042, or money  
7 forfeited under subsection (21) of section 81-1505 shall be remitted to  
8 the State Treasurer for credit to the fund. Forfeited funds may only be  
9 used for purposes specified in the underlying financial assurance  
10 instrument. Any money in the fund available for investment shall be  
11 invested by the state investment officer pursuant to the Nebraska Capital  
12 Expansion Act and the Nebraska State Funds Investment Act.

13           The council shall adopt and promulgate rules and regulations  
14 establishing a fee schedule to be paid to the department by persons  
15 applying for a permit to operate a facility pursuant to the Integrated  
16 Solid Waste Management Act or the Environmental Protection Act. Payment  
17 shall be made in full to the department before the application is  
18 processed.

19           By October 1 of each year, any person holding a permit under the  
20 Integrated Solid Waste Management Act or to operate a solid waste  
21 management facility under the Environmental Protection Act shall pay an  
22 annual fee in an amount to be determined by the council. The annual fee  
23 shall be sufficient to cover the costs of ongoing permit considerations.  
24 The fees collected pursuant to this section shall not exceed the amount  
25 necessary to pay reasonable costs of administering the permit program  
26 pursuant to the Integrated Solid Waste Management Act or the  
27 Environmental Protection Act.

28           Fees collected pursuant to subdivision (13)(c) of section 81-1505  
29 shall be used by the department to implement the rules and regulations  
30 adopted and promulgated pursuant to subsection (13) of section 81-1505.  
31 ~~The State Treasurer shall transfer one million three hundred eighty-four~~

1 ~~thousand four hundred eighty-four dollars from the Integrated Solid Waste~~  
2 ~~Management Cash Fund to the Superfund Cost Share Cash Fund on or before~~  
3 ~~June 1, 2006.~~

4       **Sec. 2.** Section 46-606, Revised Statutes Supplement, 2025, is  
5 amended to read:

6       46-606 (1) The department shall collect in advance a registration  
7 fee of two hundred ~~forty~~ dollars and the fee required by subsection (3)  
8 of section 46-1224 for each water well registered under section 46-602  
9 except as provided in subsections (2) through (5) of this section.

10       (2) For water wells permitted pursuant to the Industrial Ground  
11 Water Regulatory Act, the department shall collect in advance a  
12 registration fee of two hundred ~~forty~~ dollars and the fee required by  
13 subsection (3) of section 46-1224 for each of the first ten such water  
14 wells registered under section 46-602, and for each group of ten or fewer  
15 such water wells registered thereafter, the department shall collect in  
16 advance a registration fee of two hundred ~~forty~~ dollars and the fee  
17 required by subsection (3) of section 46-1224.

18       (3) For a series of water wells completed for purposes of  
19 installation of a ground heat exchanger for a structure for utilizing the  
20 geothermal properties of the ground, the department shall collect in  
21 advance a fee of two hundred ~~forty~~ dollars for each such series and the  
22 fee required by subsection (3) of section 46-1224.

23       (4) For water wells constructed as part of a single site plan for  
24 monitoring ground water, obtaining hydrogeologic information, or  
25 extracting contaminants from the ground, the department shall collect in  
26 advance a registration fee of two hundred ~~forty~~ dollars and the fee  
27 required by subsection (3) of section 46-1224 for each of the first five  
28 such water wells registered under section 46-602, and for each group of  
29 five or fewer such water wells registered thereafter, the department  
30 shall collect in advance a registration fee of two hundred ~~forty~~ dollars  
31 and the fee required by subsection (3) of section 46-1224. However, if

1 such water wells are a part of remedial action approved by the department  
2 pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set  
3 pursuant to this subsection shall be collected as if only one water well  
4 was being registered and the fee required by subsection (3) of section  
5 46-1224 shall be collected.

6 (5)(a) For a series of two or more water wells completed and pumped  
7 into a common carrier as part of a single site plan for irrigation  
8 purposes, the department shall collect in advance a registration fee of  
9 two hundred forty dollars and the fee required by subsection (3) of  
10 section 46-1224 for each of the first two such wells registered under  
11 section 46-602.

12 (b) Any additional water wells which are part of a series registered  
13 under this subsection shall not be subject to a new well registration  
14 fee.

15 (6) The department shall remit the fees collected to the State  
16 Treasurer for credit to the appropriate fund. From the registration fees  
17 required by subsections (1) through (5) of this section, the State  
18 Treasurer shall credit to the Department of Water, Energy, and  
19 Environment Cash Fund the amount determined by the department to be  
20 necessary to pay for the costs of processing notices filed pursuant to  
21 section 46-230, the costs of water resources update notices required by  
22 section 76-2,124, and the direct and indirect costs to carry out sections  
23 46-602 and 46-1228 costs for making corrections to water well  
24 registration data authorized by subsections (6) and (7) of section 46-602  
25 and shall credit the remainder of the registration fees required by  
26 subsections (1) through (5) of this section to the Water Well  
27 Decommissioning Fund. The State Treasurer shall credit the fees required  
28 by subsection (3) of section 46-1224 to the Water Well Standards and  
29 Contractors' Licensing Fund.

30 **Sec. 3.** Section 54-2428, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           54-2428 (1) Any person required to obtain a National Pollutant  
2 Discharge Elimination System permit for an animal feeding operation or a  
3 construction and operating permit for a livestock waste control facility  
4 shall file an application with the department accompanied by the  
5 appropriate fees in the manner established by the department. The  
6 application fee shall be established by the council with a maximum fee of  
7 two hundred dollars. For major modifications to an application or a  
8 permit, the fee shall equal the amount of the application fee.

9           (2) On or before March 1, 2006, and each year thereafter, each  
10 person who has a National Pollutant Discharge Elimination System permit  
11 or who has a large concentrated animal feeding operation, as defined in  
12 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004,  
13 and a state operating permit, a construction and operating permit, or a  
14 construction approval issued pursuant to the Environmental Protection Act  
15 or the Livestock Waste Management Act shall pay a per head annual fee  
16 based on the permitted capacity identified in the permit for that  
17 facility. The department shall invoice each permittee by February 1,  
18 2006, and February 1 of each year thereafter.

19           (3) The initial annual fee shall be: Beef cattle, ten cents per  
20 head; veal calves, ten cents per head; dairy cows, fifteen cents per  
21 head; swine ~~larger than~~ fifty-five pounds or larger, four dollars per one  
22 hundred head or fraction thereof; swine less than fifty-five ~~fifty~~  
23 pounds, one dollar per one hundred head or fraction thereof; horses,  
24 twenty cents per head; sheep or lambs, one dollar per one hundred head or  
25 fraction thereof; turkeys, two dollars per one thousand head or fraction  
26 thereof; chickens or ducks with liquid manure facility, three dollars per  
27 one thousand head or fraction thereof; and chickens or ducks with other  
28 than liquid manure facility, one dollar per one thousand head or fraction  
29 thereof. ~~This fee structure may be reviewed in fiscal year 2007-08.~~

30           (4) ~~The Beginning in fiscal year 2007-08,~~ the department shall  
31 annually review and adjust the fee structure in this section and section

1 54-2423 to ensure that fees are adequate to meet ~~forty~~ twenty percent of  
2 the program costs from the previous fiscal year. All fees collected under  
3 this section and sections 54-2423, 54-2435, and 54-2436 shall be remitted  
4 to the State Treasurer for credit to the Livestock Waste Management Cash  
5 Fund which is created for the purposes described in the Livestock Waste  
6 Management Act. Transfers may be made from the fund to the General Fund  
7 at the direction of the Legislature. Any money in the Livestock Waste  
8 Management Cash Fund available for investment shall be invested by the  
9 state investment officer pursuant to the Nebraska Capital Expansion Act  
10 and the Nebraska State Funds Investment Act.

11 (5) On or before January 1 of each year, the department shall submit  
12 electronically a report to the Legislature in sufficient detail to  
13 document all direct and indirect costs incurred in the previous fiscal  
14 year in carrying out the Livestock Waste Management Act, including the  
15 number of inspections conducted, the number of animal feeding operations  
16 with livestock waste control facilities, the number of animal feeding  
17 operations inspected, the size of the livestock waste control facilities,  
18 the results of water quality monitoring programs, and other elements  
19 relating to carrying out the act. The Appropriations Committee of the  
20 Legislature shall review the report in its analysis of executive programs  
21 in order to verify that the revenue generated from fees was used solely  
22 to offset appropriate and reasonable costs associated with carrying out  
23 the act.

24 **Sec. 4.** Section 81-1505, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 81-1505 (1) In order to carry out the purposes of the Environmental  
27 Protection Act, the Integrated Solid Waste Management Act, and the  
28 Livestock Waste Management Act, the council shall adopt and promulgate  
29 rules and regulations which shall set standards of air, water, and land  
30 quality to be applicable to the air, waters, and land of this state or  
31 portions thereof. Such standards of quality shall be such as to protect

1 the public health and welfare. The council shall classify air, water, and  
2 land contaminant sources according to levels and types of discharges,  
3 emissions, and other characteristics which relate to air, water, and land  
4 pollution and may require reporting for any such class or classes. Such  
5 classifications and standards made pursuant to this section may be made  
6 for application to the state as a whole or to any designated area of the  
7 state and shall be made with special reference to effects on health,  
8 economic and social factors, and physical effects on property. Such  
9 standards and classifications may be amended as determined necessary by  
10 the council.

11 (2) In adopting the classifications of waters and water quality  
12 standards, the primary purpose for such classifications and standards  
13 shall be to protect the public health and welfare and the council shall  
14 give consideration to:

15 (a) The size, depth, surface area, or underground area covered, the  
16 volume, direction, and rate of flow, stream gradient, and temperature of  
17 the water;

18 (b) The character of the area affected by such classification or  
19 standards, its peculiar suitability for particular purposes, conserving  
20 the value of the area, and encouraging the most appropriate use of lands  
21 within such area for domestic, agricultural, industrial, recreational,  
22 and aquatic life purposes;

23 (c) The uses which have been made, are being made, or are likely to  
24 be made, of such waters for agricultural, transportation, domestic, and  
25 industrial consumption, for fishing and aquatic culture, for the disposal  
26 of sewage, industrial waste, and other wastes, or other uses within this  
27 state and, at the discretion of the council, any such uses in another  
28 state on interstate waters flowing through or originating in this state;

29 (d) The extent of present pollution or contamination of such waters  
30 which has already occurred or resulted from past discharges therein; and

31 (e) Procedures pursuant to section 401 of the Clean Water Act, as

1 amended, 33 U.S.C. 1251 et seq., for certification by the department of  
2 activities requiring a federal license or permit which may result in a  
3 discharge.

4 (3) In adopting effluent limitations or prohibitions, the council  
5 shall give consideration to the type, class, or category of discharges  
6 and the quantities, rates, and concentrations of chemical, physical,  
7 biological, and other constituents which are discharged from point  
8 sources into navigable or other waters of the state, including schedules  
9 of compliance, best practicable control technology, and best available  
10 control technology.

11 (4) In adopting standards of performance, the council shall give  
12 consideration to the discharge of pollutants which reflect the greatest  
13 degree of effluent reduction which the council determines to be  
14 achievable through application of the best available demonstrated control  
15 technology, processes, operating methods, or other alternatives,  
16 including, when practicable, a standard permitting no discharge of  
17 pollutants.

18 (5) In adopting toxic pollutant standards and limitations, the  
19 council shall give consideration to the combinations of pollutants, the  
20 toxicity of the pollutant, its persistence, degradability, the usual or  
21 potential presence of the affected organisms in any waters, the  
22 importance of the affected organisms, and the nature and extent of the  
23 effect of the toxic pollutant on such organisms.

24 (6) In adopting pretreatment standards, the council shall give  
25 consideration to the prohibitions or limitations to noncompatible  
26 pollutants, prohibitions against the passage through a publicly owned  
27 treatment works of pollutants which would cause interference with or  
28 obstruction to the operation of publicly owned treatment works, damage to  
29 such works, and the prevention of the discharge of pollutants therefrom  
30 which are inadequately treated.

31 (7) In adopting treatment standards, the council shall give



1 consideration to providing for processes to which wastewater shall be  
2 subjected in a publicly owned wastewater treatment works in order to make  
3 such wastewater suitable for subsequent use.

4 (8) In adopting regulations pertaining to the disposal of domestic  
5 and industrial liquid wastes, the council shall give consideration to the  
6 minimum amount of biochemical oxygen demand, suspended solids, or  
7 equivalent in the case of industrial wastewaters, which must be removed  
8 from the wastewaters and the degree of disinfection necessary to meet  
9 water quality standards with respect to construction, installation,  
10 change of, alterations in, or additions to any wastewater treatment works  
11 or disposal systems, including issuance of permits and proper  
12 abandonment, and requirements necessary for proper operation and  
13 maintenance thereof.

14 (9)(a) The council shall adopt and promulgate rules and regulations  
15 for controlling mineral exploration holes and mineral production and  
16 injection wells. The rules and regulations shall include standards for  
17 the construction, operation, and abandonment of such holes and wells. The  
18 standards shall protect the public health and welfare and air, land,  
19 water, and subsurface resources so as to control, minimize, and eliminate  
20 hazards to humans, animals, and the environment. Consideration shall be  
21 given to:

22 (i) Area conditions such as suitability of location, geologic  
23 formations, topography, industry, agriculture, population density,  
24 wildlife, fish and other aquatic life, sites of archaeological and  
25 historical importance, mineral, land, and water resources, and the  
26 existing economic activities of the area including, but not limited to,  
27 agriculture, recreation, tourism, and industry;

28 (ii) A site-specific evaluation of the geologic and hydrologic  
29 suitability of the site and the injection, disposal, and production  
30 zones;

31 (iii) The quality of the existing ground water, the effects of

1 exemption of the aquifer from any existing water quality standards, and  
2 requirements for restoration of the aquifer;

3 (iv) Standards for design and use of production facilities, which  
4 shall include, but not be limited to, all wells, pumping equipment,  
5 surface structures, and associated land required for operation of  
6 injection or production wells; and

7 (v) Conditions required for closure, abandonment, or restoration of  
8 mineral exploration holes, injection and production wells, and production  
9 facilities in order to protect the public health and welfare and air,  
10 land, water, and subsurface resources.

11 (b) The council shall establish fees for regulated activities and  
12 facilities and for permits for such activities and facilities. The fees  
13 shall be sufficient but shall not exceed the amount necessary to pay the  
14 department for the direct and indirect costs of evaluating, processing,  
15 and monitoring during and after operation of regulated facilities or  
16 performance of regulated activities.

17 (c) With respect to mineral production wells, the council shall  
18 adopt and promulgate rules and regulations which require restoration of  
19 air, land, water, and subsurface resources and require mineral production  
20 well permit applications to include a restoration plan for the air, land,  
21 water, and subsurface resources affected. Such rules and regulations may  
22 provide for issuance of a research and development permit which  
23 authorizes construction and operation of a pilot plant by the permittee  
24 for the purpose of demonstrating the permittee's ability to inject and  
25 restore in a manner which meets the standards required by this subsection  
26 and the rules and regulations.

27 The rules and regulations adopted and promulgated may also provide  
28 for issuance of a commercial permit after a finding by the department  
29 that the injection and restoration procedures authorized by the research  
30 and development permit have been successful in demonstrating the  
31 applicant's ability to inject and restore in a manner which meets the

1 standards required by this subsection and the rules and regulations.

2 (d) For the purpose of this subsection, unless the context otherwise  
3 requires, restoration shall mean the employment, during and after an  
4 activity, of procedures reasonably designed to control, minimize, and  
5 eliminate hazards to humans, animals, and the environment, to protect the  
6 public health and welfare and air, land, water, and subsurface resources,  
7 and to return each resource to a quality of use consistent with the uses  
8 for which the resource was suitable prior to the activity.

9 (10) In adopting livestock waste control regulations, the council  
10 shall consider the discharge of livestock wastes into the waters of the  
11 state or onto land not owned by the livestock operator, conditions under  
12 which permits for such operations may be issued, including design,  
13 location, and proper management of such facilities, protection of ground  
14 water from such operations, and revocation, modification, or suspension  
15 of such permits for cause and all requirements of the Livestock Waste  
16 Management Act.

17 (11) In adopting regulations for the issuance of permits under the  
18 National Pollutant Discharge Elimination System created by the Clean  
19 Water Act, as amended, 33 U.S.C. 1251 et seq., the council shall consider  
20 when such permits shall be required and exemptions, application and  
21 filing requirements, terms and conditions affecting such permits, notice  
22 and public participation, duration and review of such permits, the  
23 evaluation provided for under section 81-1517, and monitoring, recording,  
24 and reporting under the system.

25 (12) The council shall adopt and promulgate rules and regulations  
26 for air pollution control which shall include:

27 (a) A construction permit program which requires the owner or  
28 operator of an air contaminant source to obtain a permit prior to  
29 construction. Application fees shall be according to section 81-1505.06;

30 (b) An operating permit program consistent with requirements of the  
31 Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and an operating

1 permit program for minor sources of air pollution, which programs shall  
2 require permits for both new and existing sources;

3 (c) Provisions for operating permits to be issued after public  
4 notice, to be terminated, modified, or revoked for cause, and to be  
5 modified to incorporate new requirements;

6 (d) Provisions for applications to be on forms provided by the  
7 department and to contain information necessary to make a determination  
8 on the appropriateness of issuance or denial. The department shall make a  
9 completeness determination in a timely fashion and after such  
10 determination shall act on the application within time limits set by the  
11 council. Applications for operating permits shall include provisions for  
12 certification of compliance by the applicant;

13 (e) Requirements for operating permits which may include such  
14 conditions as necessary to protect public health and welfare, including,  
15 but not limited to (i) monitoring and reporting requirements on all  
16 sources subject to the permit, (ii) payment of annual fees sufficient to  
17 pay the reasonable direct and indirect costs of developing and  
18 administering the air quality permit program, (iii) retention of records,  
19 (iv) compliance with all air quality standards, (v) a permit term of no  
20 more than five years from date of issuance, (vi) any applicable schedule  
21 of compliance leading to compliance with air quality regulations, (vii)  
22 site access to the department for inspection of the facility and records,  
23 (viii) emission limits or control technology requirements, (ix) periodic  
24 compliance certification, and (x) other conditions necessary to carry out  
25 the purposes of the Environmental Protection Act. For purposes of this  
26 subsection, control technology shall mean a design, equipment, a work  
27 practice, an operational standard which may include a requirement for  
28 operator training or certification, or any combination thereof;

29 (f) Classification of air quality control regions;

30 (g) Standards for air quality that may be established based upon  
31 protection of public health and welfare, emission limitations established

1 by the United States Environmental Protection Agency, and maximum  
2 achievable control technology standards for sources of toxic air  
3 pollutants. For purposes of this subdivision, maximum achievable control  
4 technology standards shall mean an emission limit or control technology  
5 standard which requires the maximum degree of emission reduction that the  
6 council, taking into consideration the cost of achieving such emission  
7 reduction, any health and environmental impacts not related to air  
8 quality, and energy requirements, determines is achievable for new or  
9 existing sources in the category or subcategory to which the standard  
10 applies through application of measures, processes, methods, systems, or  
11 techniques, including, but not limited to, measures which accomplish one  
12 or a combination of the following:

13 (i) Reduce the volume of or eliminate emissions of the pollutants  
14 through process changes, substitution of materials, or other  
15 modifications;

16 (ii) Enclose systems or processes to eliminate emissions; or

17 (iii) Collect, capture, or treat the pollutants when released from a  
18 process, stack, storage, or fugitive emission point;

19 (h) Restrictions on open burning and fugitive emissions;

20 (i) Provisions for issuance of general operating permits, after  
21 public notice, for sources with similar operating conditions and for  
22 revoking such general authority to specific permittees;

23 (j) Provisions for implementation of any emissions trading programs  
24 as defined by the department. Such programs shall be consistent with the  
25 Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and administered  
26 through the operating permit program;

27 (k) A provision that operating permits will not be issued if the  
28 Environmental Protection Agency objects in a timely manner;

29 (l) Provisions for periodic reporting of emissions;

30 (m) Limitations on emissions from process operations, fuel-burning  
31 equipment, and incinerator emissions and such other restrictions on

1 emissions as are necessary to protect the public health and welfare;

2 (n) Time schedules for compliance;

3 (o) Requirements for owner or operator testing and monitoring of  
4 emissions;

5 (p) Control technology requirements when it is not feasible to  
6 prescribe or enforce an emission standard; and

7 (q) Procedures and definitions necessary to carry out payment of the  
8 annual emission fee set in section 81-1505.04.

9 (13)(a) In adopting regulations for hazardous waste management, the  
10 council shall give consideration to generation of hazardous wastes,  
11 labeling practices, containers used, treatment, storage, collection,  
12 transportation including a manifest system, processing, resource  
13 recovery, and disposal of hazardous wastes. It shall consider the  
14 permitting, licensing, design and construction, and development and  
15 operational plans for hazardous waste treatment, storage, and disposal  
16 facilities, and conditions for licensing or permitting of hazardous waste  
17 treatment, storage, and disposal areas. It shall consider modification,  
18 suspension, or revocation of such licenses and permits, including  
19 requirements for waste analysis, site improvements, fire prevention,  
20 safety, security, restricted access, and covering and handling of  
21 hazardous liquids and materials. Licenses and permits for hazardous  
22 waste, treatment, storage, and disposal facilities shall not be issued  
23 until certification by the State Fire Marshal as to fire prevention and  
24 fire safety has been received by the department. The council shall  
25 further consider the need at treatment, storage, or disposal facilities  
26 for required equipment, communications and alarms, personnel training,  
27 and contingency plans for any emergencies that might arise and for a  
28 coordinator during such emergencies.

29 In addition the council shall give consideration to (i) ground water  
30 monitoring, (ii) use and management of containers and tanks, (iii)  
31 surface impoundments, (iv) waste piles, (v) land treatment, (vi)

1 incinerators, (vii) chemical or biological treatment, (viii) landfills  
2 including the surveying thereof, and (ix) special requirements for  
3 ignitable, reactive, or incompatible wastes.

4 In considering closure and postclosure of hazardous waste treatment,  
5 storage, or disposal facilities, the council shall consider regulations  
6 that would result in the owner or operator closing his or her facility so  
7 as to minimize the need for future maintenance, and to control, minimize,  
8 or eliminate, to the extent necessary to protect humans, animals, and the  
9 environment, postclosure escape of hazardous waste, hazardous waste  
10 constituents, and leachate to the ground water or surface waters, and to  
11 control, minimize, or eliminate, to the extent necessary to protect  
12 humans, animals, and the environment, waste decomposition to the  
13 atmosphere. In considering corrective action for hazardous waste  
14 treatment, storage, or disposal facilities, the council shall consider  
15 regulations that would require the owner or operator, or any previous  
16 owner or operator with actual knowledge of the presence of hazardous  
17 waste at the facility, to undertake corrective action or such other  
18 response measures necessary to protect human health or the environment  
19 for all releases of hazardous waste or hazardous constituents from any  
20 treatment, storage, or disposal facility or any solid waste management  
21 unit at such facility regardless of the time at which waste was placed in  
22 such unit.

23 Such regulations adopted pursuant to this subsection shall in all  
24 respects comply with the Environmental Protection Act and the Resource  
25 Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

26 (b) In adopting regulations for hazardous waste management, the  
27 council shall consider, in addition to criteria in subdivision (a) of  
28 this subsection, establishing criteria for (i) identifying hazardous  
29 waste including extraction procedures, toxicity, persistence, and  
30 degradability in nature, potential for accumulation in tissue,  
31 flammability or ignitability, corrosiveness, reactivity, and generation

1 of pressure through decomposition, heat, or other means, and other  
2 hazardous characteristics, (ii) listing all materials it deems hazardous  
3 and which should be subject to regulation, and (iii) locating treatment,  
4 storage, or disposal facilities for such wastes. In adopting criteria for  
5 flammability and ignitability of wastes pursuant to subdivision (b)(i) of  
6 this subsection, no regulation shall be adopted without the approval of  
7 the State Fire Marshal.

8 (c) In adopting regulations for hazardous waste management, the  
9 council shall establish a schedule of fees to be paid to the director by  
10 hazardous waste generators on the basis of an annual fee, the quantity of  
11 hazardous waste generated by weight or volume as reported by the  
12 generator to the national hazardous waste manifest system, or a  
13 combination thereof; and by licensees or permittees operating hazardous  
14 waste processing facilities or disposal areas on the basis of a monetary  
15 value per cubic foot or per pound of the hazardous wastes. The fee  
16 schedule shall be , sufficient but not exceeding the amount necessary for  
17 to reimburse the department to pay for the direct and indirect costs of  
18 the regulation of hazardous waste management for the costs of monitoring  
19 such facilities or areas during and after operation of such facilities or  
20 areas. The permittees ~~licensees~~ may assess a cost against persons using  
21 the facilities or areas. The director shall remit any money collected  
22 from fees paid to him or her to the State Treasurer who shall credit the  
23 entire amount thereof to the Integrated Solid Waste Management Cash Fund  
24 ~~General Fund.~~

25 (d) In adopting regulations for solid waste disposal, the council  
26 shall consider storage, collection, transportation, processing, resource  
27 recovery, and disposal of solid waste, developmental and operational  
28 plans for solid waste disposal areas, conditions for permitting of solid  
29 waste disposal areas, modification, suspension, or revocation of such  
30 permits, regulations of operations of disposal areas, including site  
31 improvements, fire prevention, ground water protection, safety and



1 restricted access, handling of liquid and hazardous materials, insect and  
2 rodent control, salvage operations, and the methods of disposing of  
3 accumulations of junk outside of solid waste disposal areas. Such  
4 regulations shall in all respects comply with the Environmental  
5 Protection Act, the Integrated Solid Waste Management Act, and the  
6 Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et  
7 seq.

8 (14) In adopting regulations governing discharges or emissions of  
9 oil and other hazardous materials into the waters, in the air, or upon  
10 the land of the state, the council shall consider the requirements of the  
11 Integrated Solid Waste Management Act, methods for prevention of such  
12 discharges or emissions, and the responsibility of the discharger or  
13 emitter for cleanup, toxicity, degradability, and dispersal  
14 characteristics of the substance.

15 (15) In adopting regulations governing composting and composting  
16 sites, the council shall give consideration to:

17 (a) Approval of a proposed site by the local governing body,  
18 including the zoning authority, if any, prior to issuance of a permit by  
19 the department;

20 (b) Issuance of permits by the department for such composting  
21 operations, with conditions if necessary;

22 (c) Submission of construction and operational plans by the  
23 applicant for a permit to the department, with approval of such plans  
24 before issuance of such permit;

25 (d) A term of up to ten years for such permits;

26 (e) Renewal of permits if the operation has been in substantial  
27 compliance with composting regulations adopted pursuant to this  
28 subsection, permit conditions, and operational plans;

29 (f) Review by the department of materials to be composted, including  
30 chemical analysis when found by the department to be necessary;

31 (g) Inspections of such compost sites by the department. Operations

1 out of compliance with composting regulations, permit conditions, or  
2 operational plans shall be given a reasonable time for voluntary  
3 compliance, and failure to do so within the specified time shall result  
4 in a hearing after notice is given, at which time the owner or operator  
5 shall appear and show cause why his or her permit should not be revoked;

6 (h) Special permits of the department for demonstration projects not  
7 to exceed six months;

8 (i) Exemptions from permits of the department; and

9 (j) The Integrated Solid Waste Management Act.

10 (16) Any person operating or responsible for the operation of air,  
11 water, or land contaminant sources of any class for which the rules and  
12 regulations of the council require reporting shall make reports  
13 containing information as may be required by the department concerning  
14 quality and quantity of discharges and emissions, location, size, and  
15 height of contaminant outlets, processes employed, fuels used, and the  
16 nature and time periods or duration of discharges and emissions, and such  
17 other information as is relevant to air, water, or land pollution and is  
18 available.

19 (17) Prior to adopting, amending, or repealing standards and  
20 classifications of air, water, and land quality and rules and regulations  
21 under the Integrated Solid Waste Management Act or the Livestock Waste  
22 Management Act, the council shall, after due notice, conduct public  
23 hearings thereon. Notice of public hearings shall specify the waters or  
24 the area of the state for which standards of air, water, or land are  
25 sought to be adopted, amended, or repealed and the time, date, and place  
26 of such hearing. Such hearing shall be held in the general area to be  
27 affected by such standards. Such notice shall be given in accordance with  
28 the Administrative Procedure Act.

29 (18) Standards of quality of the air, water, or land of the state  
30 and rules and regulations adopted under the Integrated Solid Waste  
31 Management Act or the Livestock Waste Management Act or any amendment or

1   repeal of such standards or rules and regulations shall become effective  
2   upon adoption by the council and filing in the office of the Secretary of  
3   State. In adopting standards of air, water, and land quality or making  
4   any amendment thereof, the council shall specify a reasonable time for  
5   persons discharging wastes into the air, water, or land of the state to  
6   comply with such standards and upon the expiration of any such period of  
7   time may revoke or modify any permit previously issued which authorizes  
8   the discharge of wastes into the air, water, or land of this state which  
9   results in reducing the quality of such air, water, or land below the  
10  standards established therefor by the council.

11       (19) All standards of quality of air, water, or land and all rules  
12   and regulations adopted pursuant to law by the council prior to May 29,  
13   1981, and applicable to specified air, water, or land are hereby approved  
14   and adopted as standards of quality of and rules and regulations for such  
15   air, water, or land.

16       (20) In addition to such standards as are heretofore authorized, the  
17   council shall adopt and promulgate rules and regulations to set standards  
18   of performance, effluent standards, pretreatment standards, treatment  
19   standards, toxic pollutant standards and limitations, effluent  
20   limitations, effluent prohibitions, and quantitative limitations or  
21   concentrations which shall in all respects conform with and meet the  
22   requirements of the National Pollutant Discharge Elimination System in  
23   the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

24       (21)(a) The council shall adopt and promulgate rules and regulations  
25   requiring all new or renewal permit or license applicants regulated under  
26   the Environmental Protection Act, the Integrated Solid Waste Management  
27   Act, or the Livestock Waste Management Act to establish proof of  
28   financial responsibility by providing funds in the event of abandonment,  
29   default, or other inability of the permittee or licensee to meet the  
30   requirements of its permit or license or other conditions imposed by the  
31   department pursuant to the acts. The council may exempt classes of

1 permittees or licensees from the requirements of this subdivision when a  
2 finding is made that such exemption will not result in a significant risk  
3 to the public health and welfare.

4 (b) Proof of financial responsibility shall include any of the  
5 following made payable to or held in trust for the benefit of the state  
6 and approved by the department:

7 (i) A surety bond executed by the applicant and a corporate surety  
8 licensed to do business in this state;

9 (ii) A deposit of cash, negotiable bonds of the United States or the  
10 state, negotiable certificates of deposit, or an irrevocable letter of  
11 credit of any bank or other savings institution organized or transacting  
12 business in the United States in an amount or which has a market value  
13 equal to or greater than the amount of the bonds required for the bonded  
14 area under the same terms and conditions upon which surety bonds are  
15 deposited;

16 (iii) An established escrow account; or

17 (iv) A bond of the applicant without separate surety upon a  
18 satisfactory demonstration to the director that such applicant has the  
19 financial means sufficient to self-bond pursuant to bonding requirements  
20 adopted by the council consistent with the purposes of this subdivision.

21 (c) The director shall determine the amount of the bond, deposit, or  
22 escrow account which shall be reasonable and sufficient so the department  
23 may, if the permittee or licensee is unable or unwilling to do so and in  
24 the event of forfeiture of the bond or other financial responsibility  
25 methods, arrange to rectify any improper management technique committed  
26 during the term of the permit or license and assure the performance of  
27 duties and responsibilities required by the permit or license pursuant to  
28 law, rules, and regulations.

29 (d) In determining the amount of the bond or other method of  
30 financial responsibility, the director shall consider the requirements of  
31 the permit or license or any conditions specified by the department, the

1 probable difficulty of completing the requirements of such permit,  
2 license, or conditions due to such factors as topography, geology of the  
3 site, and hydrology, and the prior history of environmental activities of  
4 the applicant.

5 This subsection shall apply to hazardous waste treatment, storage,  
6 or disposal facilities which have received interim status.

7 (22)(a) The council shall adopt and promulgate rules and regulations  
8 no more stringent than the provisions of section 1453 et seq. of the  
9 federal Safe Drinking Water Act, as amended, 42 U.S.C. 300j-13 et seq.,  
10 for public water system source water assessment programs.

11 (b) The council may adopt and promulgate rules and regulations to  
12 implement a source water petition program no more stringent than section  
13 1454 et seq. of the federal Safe Drinking Water Act, as amended, 42  
14 U.S.C. 300j-14 et seq.

15 (23) The council may adopt and promulgate rules and regulations for  
16 the issuance of permits relating to the discharge of dredged or fill  
17 material into the waters of the United States under section 404 of the  
18 Clean Water Act, as amended, 33 U.S.C. 1251 et seq., giving consideration  
19 to (a) when such permits are required and exemptions, application, and  
20 filing requirements, (b) terms and conditions affecting such permits,  
21 notice and public participation, and duration, (c) review of such  
22 permits, (d) monitoring, recording, and reporting requirements, (e)  
23 compensatory mitigation, and (f) such other requirements not inconsistent  
24 with the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

25 (24) The council may establish fees for applications,  
26 determinations, permits, licenses, or similar authorizations for the  
27 discharge of dredged and fill material under section 404 of the Clean  
28 Water Act, as amended, 33 U.S.C. 1251 et seq., to be collected by the  
29 department. The fees shall be sufficient to pay the department for the  
30 direct and indirect costs of administering a permitting program under  
31 section 404 of the Clean Water Act.

1       **Sec. 5.** (1) The Water Quality and Quantity Cash Fund is created.  
2       The department shall remit all fees collected pursuant to this section  
3       and money received by the department in the form of gifts, grants,  
4       reimbursements, or monetary transfers from any source intended to be used  
5       for the purposes of the fund to the State Treasurer for credit to the  
6       fund. The fund shall be used to pay the reasonable direct and indirect  
7       costs required to develop and administer programs to regulate discharges  
8       under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1342 et  
9       seq. Any money in the fund available for investment shall be invested by  
10       the state investment officer pursuant to the Nebraska Capital Expansion  
11       Act and the Nebraska State Funds Investment Act.

12       (2) Beginning July 1, 2027, each application for a National  
13       Pollutant Discharge Elimination System permit or a pretreatment permit  
14       required by rules and regulations adopted and promulgated pursuant to  
15       subsection (20) of section 81-1505 shall be accompanied by an application  
16       fee, to be determined by the department. The fee shall not be more than  
17       the amount necessary to reimburse the department for administering the  
18       applications. An application required under section 54-2428 shall be  
19       exempt from the application fee required by this section.

20       (3) Beginning July 1, 2027, the department shall charge an annual  
21       fee to each person who has a National Pollutant Discharge Elimination  
22       System permit or who has a pretreatment permit required by rules and  
23       regulations adopted and promulgated pursuant to subsection (20) of  
24       section 81-1505. The fee shall be an amount no more than the actual cost  
25       of services provided. A permit issued pursuant to section 54-2428 shall  
26       be exempt from the annual fee required by this section.

27       **Sec. 6.** Section 81-1532, Reissue Revised Statutes of Nebraska, is  
28       amended to read:

29       81-1532 Sections 81-1501 to 81-1532 and section 5 of this act shall  
30       be known and may be cited as the Environmental Protection Act.

31       **Sec. 7.** Original sections 13-2041, 54-2428, 81-1505, and 81-1532,

- 1 Reissue Revised Statutes of Nebraska, and section 46-606, Revised
- 2 Statutes Supplement, 2025, are repealed.