

AMENDMENTS TO LB 696

Introduced by Natural Resources.

1           1. Strike the original sections and insert the following  
2 new sections:

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

5           13-2042 (1) A disposal fee of one dollar and twenty-five  
6 cents is imposed for each six cubic yards of uncompacted solid  
7 waste, one dollar and twenty-five cents for each three cubic yards  
8 of compacted solid waste, or one dollar and twenty-five cents  
9 per ton of solid waste (a) disposed of at landfills regulated  
10 by the department or (b) transported for disposal out of state  
11 from a solid waste processing facility holding a permit under  
12 the Integrated Solid Waste Management Act. Each operator of a  
13 landfill or solid waste processing disposal facility shall make  
14 the fee payment quarterly. The fee shall be paid quarterly to the  
15 department on or before the forty-fifth day following the end of  
16 each quarter. For purposes of this section, landfill has the same  
17 definition as municipal solid waste landfill unit in 40 C.F.R. ~~part~~  
18 ~~258, subpart A, section 258.2.~~

19           (2) Each fee payment shall be accompanied by a form  
20 prepared and furnished by the department and completed by the  
21 permitholder. The form shall state the total volume of solid waste  
22 disposed of at ~~that~~ the landfill or transported for disposal out of  
23 state from the solid waste processing facility during the payment

1 period and shall provide any other information deemed necessary by  
2 the department. The form shall be signed by the permitholder.

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

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

10 (5) Fifty percent of the total of such fees collected in  
11 each quarter shall be remitted to the State Treasurer for credit  
12 to the Integrated Solid Waste Management Cash Fund and shall be  
13 used by the department to cover the direct and indirect costs  
14 of responding to spills or other environmental emergencies, of  
15 regulating, investigating, remediating, and monitoring facilities  
16 during and after operation of facilities, or of performance of  
17 regulated activities under the Integrated Solid Waste Management  
18 Act, the Livestock Waste Management Act, the Nebraska Litter  
19 Reduction and Recycling Act, and the Waste Reduction and Recycling  
20 Incentive Act. The department may seek recovery of expenses paid  
21 from the fund for responding to spills or other environmental  
22 emergencies or for investigation, remediation, and monitoring of  
23 a facility from any person who owned, operated, or used the  
24 facility in violation of the Integrated Solid Waste Management  
25 Act, the Livestock Waste Management Act, the Nebraska Litter  
26 Reduction and Recycling Act, and the Waste Reduction and Recycling  
27 Incentive Act in a civil action filed in the district court of

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

24 (6) The remaining fifty percent of the total of such fees  
25 collected per quarter shall be remitted to the State Treasurer for  
26 credit to the Waste Reduction and Recycling Incentive Fund. For  
27 purposes of determining the total fees collected, any amount of

1 fees rebated pursuant to section 13-2042.01 shall be included as if  
2 the fees had not been rebated, and the amount of the fees rebated  
3 pursuant to such section shall be deducted from the amount to be  
4 credited to the Waste Reduction and Recycling Incentive Fund.

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

19 Sec. 2. Section 13-2042.01, Revised Statutes Supplement,  
20 2009, is amended to read:

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

1 waste processing facility holding a permit under the Integrated  
2 Solid Waste Management Act when such solid waste originated in a  
3 municipality or county with a purchasing policy approved by the  
4 department. The fee shall be rebated on a schedule agreed upon  
5 between the municipality or county and the department. The schedule  
6 shall be no more often than quarterly and no less often than  
7 annually.

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

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

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

1 and promulgate rules and regulations establishing procedures for  
2 reviewing applications and for annual reports.

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

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

14 Sec. 3. Original section 13-2042, Reissue Revised  
15 Statutes of Nebraska, and section 13-2042.01, Revised Statutes  
16 Supplement, 2009, are repealed.