

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 309

Introduced by Hughes, 24.

Read first time January 15, 2025

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to batteries; to adopt the Safe Battery
- 2 Collection and Recycling Act; to provide penalties; and to create a
- 3 fund.
- 4 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 17 of this act shall be known and may be
2 cited as the Safe Battery Collection and Recycling Act.

3 **Sec. 2.** For purposes of the Safe Battery Collection and Recycling
4 Act:

5 (1)(a) Battery containing product means a product that contains or
6 is packaged with a covered battery.

7 (b) Battery containing product does not include computers, small-
8 scale servers, computer monitors, electronic keyboards and mice,
9 printers, fax machines, scanners, televisions, digital video disc players
10 and recorders, video cassette recorders, digital converter boxes, cable
11 receivers, satellite receivers, portable digital music players, and video
12 game consoles;

13 (2) Battery stewardship organization means an organization
14 designated by a producer or a group of five or more producers that
15 directly implements a battery stewardship plan approved by the department
16 under section 4 of this act;

17 (3) Collection rate means the percentage calculated by dividing the
18 total weight of covered batteries collected in this state by a battery
19 stewardship organization in a calendar year by the average annual weight
20 of covered batteries estimated to have been sold in this state by all
21 producers during the previous three calendar years;

22 (4)(a) Covered battery means a portable battery or a medium format
23 battery.

24 (b) Covered battery does not include:

25 (i) A battery that is contained in a medical device regulated under
26 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., and that
27 is not designed or marketed for sale or resale at retail locations for
28 personal use;

29 (ii) A battery that contains an electrolyte as a free liquid or a
30 product that contains such a battery;

31 (iii) A battery designed to power a motor vehicle, part of a motor

1 vehicle, or a component part of a motor vehicle assembled by, or for, a
2 vehicle manufacturer or franchised dealer, including replacement parts
3 for use in a motor vehicle;

4 (iv) A battery in a product that is not intended or designed to be
5 easily removable from the product; or

6 (v) A battery or battery containing product that is being recalled
7 for safety reasons;

8 (5) Department means the Department of Environment and Energy;

9 (6) Medium format battery means any of the following:

10 (a) For batteries that are not capable of being recharged, a battery
11 that weighs more than four and four-tenths pounds but not more than
12 twenty-five pounds; or

13 (b) For rechargeable batteries, a battery that weighs more than
14 eleven pounds or that has a rating of more than three hundred watt-hours,
15 or both, but that does not weigh more than twenty-five pounds or have a
16 rating of more than two thousand watt-hours;

17 (7) Portable battery means any of the following:

18 (a) For batteries that are not capable of being recharged, a battery
19 that weighs no more than four and four-tenths pounds; or

20 (b) For rechargeable batteries, a battery that weighs no more than
21 eleven pounds and that has a rating of no more than three hundred watt-
22 hours;

23 (8)(a) Producer means a person that sells, offers for sale, or
24 distributes for sale a covered battery or battery containing product in
25 or into this state and that is any of the following:

26 (i) If the covered battery or battery containing product is sold
27 under a brand of the battery's or product's manufacturer, the person that
28 manufactures the battery or product;

29 (ii) If the covered battery or battery containing product is sold
30 under a retail brand or under a brand owned by a person other than the
31 battery's or product's manufacturer, the person that owns the brand;

1 (iii) If subdivisions (8)(a)(i) and (ii) of this section do not
2 apply, the person that is the licensee of a brand or trademark under
3 which the covered battery or battery containing product is sold, offered
4 for sale, or distributed for sale in or into this state, regardless of
5 whether the trademark is registered in this state;

6 (iv) If subdivisions (8)(a)(i) to (iii) of this section do not apply
7 to any person within the United States, the person that is the importer
8 of record for the covered battery or battery containing product into the
9 United States for the purpose of selling, offering for sale, or
10 distributing for sale the battery or product in or into this state; or

11 (v) If subdivisions (8)(a)(i) to (iv) of this section do not apply
12 to any person with a commercial presence in this state, the person who
13 first sells, offers for sale, or distributes for sale the covered battery
14 or battery containing product in or into this state.

15 (b) Producer does not include a person that only sells, offers for
16 sale, or distributes for sale a battery containing product if the battery
17 is supplied by another producer that has designated a battery stewardship
18 organization to implement a battery stewardship plan and if the producer
19 certifies this fact in writing to the person that only sells, offers for
20 sale, or distributes for sale the battery containing product;

21 (9) Rechargeable battery means a battery that contains one or more
22 voltaic or galvanic cells electrically connected to produce electric
23 energy and that is designed to be recharged;

24 (10)(a) Recycling means preparing batteries for use in manufacturing
25 processes or for recovery of usable materials and delivering the
26 materials for use.

27 (b) Recycling does not include destruction by incineration or other
28 processes or land disposal of recyclable materials and does not include
29 reuse, repair, or any other process through which batteries are returned
30 in their original form;

31 (11) Recycling efficiency rate means the percentage calculated by

1 dividing the weight of components and materials recycled by a battery
2 stewardship organization by the weight of covered batteries collected by
3 the battery stewardship organization; and

4 (12) Retailer means a person that sells or offers for sale a covered
5 battery in or into this state.

6 **Sec. 3.** (1) Beginning January 1, 2028, no producer or retailer may
7 sell, offer for sale, or distribute for sale in or into this state any
8 covered battery or battery containing product unless the producer of the
9 covered battery or battery containing product is a member of a battery
10 stewardship organization operating under a battery stewardship plan
11 approved by the department under section 4 of this act. This subsection
12 does not apply to a retailer if the website maintained by the department
13 under section 9 of this act lists, as of the date a battery or product is
14 made available for retail sale, the producer or brand of the battery or
15 product as being covered by a battery stewardship plan approved by the
16 department under section 4 of this act.

17 (2) Beginning January 1, 2028, no producer or retailer may sell,
18 offer for sale, or distribute for sale in or into this state any covered
19 battery or battery containing product unless the covered battery or
20 battery in the battery containing product is marked with an
21 identification of the producer of the battery. This subsection does not
22 apply if the battery is less than one-half inch in diameter or does not
23 contain a surface with a length that exceeds one-half inch.

24 (3) Beginning January 1, 2029, no producer or retailer may sell,
25 offer for sale, or distribute for sale in or into this state any covered
26 battery or battery containing product unless the covered battery or
27 battery in the battery containing product is marked to ensure proper
28 collection and recycling by:

29 (a) Identifying the chemistry of the battery; and

30 (b) Including an indication that the battery should not be disposed
31 of as household waste. This subdivision does not apply if the battery is

1 less than one-half inch in diameter or does not contain a surface with a
2 length that exceeds one-half inch.

3 (4) A producer, retailer, or battery stewardship organization may
4 not charge a point-of-sale fee to consumers to cover the costs of
5 implementing a battery stewardship plan approved by the department under
6 section 4 of this act.

7 **Sec. 4.** (1) Each battery stewardship organization shall submit a
8 battery stewardship plan to the department for review and approval by
9 January 1, 2027.

10 (2) A battery stewardship plan shall have a term of no more than
11 five years and shall include all of the following:

12 (a) The names and contact information for each producer member
13 covered under a battery stewardship organization's plan;

14 (b) The brands of all of the covered batteries that the battery
15 stewardship organization's producer members sell, offer for sale, or
16 distribute for sale in or into this state. All such brands shall be
17 covered by the battery stewardship plan;

18 (c) Performance goals under the plan and a process for achieving
19 these goals. Performance goals shall include target collection rates for
20 rechargeable batteries and for batteries that are not capable of being
21 recharged; target recycling efficiency rates of at least sixty percent
22 for rechargeable batteries and seventy percent for batteries that are not
23 capable of being recharged; and goals for public awareness, convenience,
24 and accessibility. The collection rate goals for each of the first three
25 years of implementation of the battery stewardship plan shall be based on
26 the estimated total weight of covered batteries that have been sold in
27 this state in the previous three calendar years by the producers
28 participating in the plan;

29 (d) A process for making retailers aware of the prohibitions
30 contained in section 3 of this act;

31 (e) Consumer awareness goals and a description of the education and

1 outreach strategy that the battery stewardship organization will
2 implement pursuant to section 7 of this act;

3 (f) A process for making available to collection sites, for
4 voluntary use, signage, written materials, and other promotional
5 materials to inform consumers of the available end-of-life management
6 options for covered batteries collected under the battery stewardship
7 plan;

8 (g) Collection site safety training procedures related to covered
9 battery collection activities at collection sites, including a
10 description of operating protocols to reduce risks of spills or fires,
11 response protocols in the event of a spill or fire, and protocols for
12 safe management of damaged batteries that are returned to collection
13 sites;

14 (h) A method for fully funding the battery stewardship
15 organization's plan in a manner that equitably distributes the plan's
16 costs among the members of the battery stewardship organization;

17 (i) Provisions for collecting covered batteries at no cost,
18 regardless of the brand or producer of the covered battery, on a
19 continuous, convenient, visible, and accessible basis and a description
20 of how the battery stewardship organization will comply with section 6 of
21 this act;

22 (j) The addresses of collection sites that will accept covered
23 batteries under the plan and the criteria used to determine whether an
24 entity may serve as a collection site;

25 (k) The names of proposed service providers, including sorters,
26 transporters, and processors, to be used for the final disposition of
27 batteries;

28 (l) Provisions for recordkeeping, tracking, and documenting the
29 management and disposition of collected covered batteries; and

30 (m) An explanation for any delay anticipated by the battery
31 stewardship organization in managing medium format batteries.

1 (3) A battery stewardship organization whose battery stewardship
2 plan is approved under this section shall submit a new plan to the
3 department for approval no less than once every five years. If the
4 performance goals under the previously approved plan have not been met,
5 the new plan shall include corrective measures to be implemented by the
6 battery stewardship organization to meet those performance goals, which
7 may include improvements to the collection site network or increased
8 expenditures dedicated to education and outreach.

9 (4) A battery stewardship organization whose battery stewardship
10 plan is approved under this section shall provide plan amendments to the
11 department for approval when proposing any material changes to an
12 approved plan.

13 (5)(a) Within one hundred twenty days after receiving a proposed
14 battery stewardship plan or a proposed amendment described in subsection
15 (4) of this section, the department shall approve, conditionally approve,
16 or deny the plan or amendment.

17 (b) If the department denies the plan or amendment:

18 (i) The department shall notify the battery stewardship organization
19 of the denial in writing and explain how the proposed plan or amendment
20 does not comply with the Safe Battery Collection and Recycling Act;

21 (ii) The battery stewardship organization shall submit a revised
22 plan or amendment or notice of plan or amendment withdrawal within sixty
23 days after the denial; and

24 (iii) The department shall approve or deny the revised plan or
25 amendment within ninety days after resubmittal. The denial of a revised
26 plan or amendment may be appealed, and the appeal shall be in accordance
27 with the Administrative Procedure Act.

28 (6) A battery stewardship organization operating under a plan
29 approved by the department under this section shall notify the department
30 within ninety days of a producer beginning or ceasing participation in
31 the battery stewardship organization, or within ninety days of adding or

1 removing a processor or transporter under the approved plan.

2 (7) A battery stewardship organization shall pay a fee of one
3 hundred thousand dollars to the department upon approval of a plan under
4 this section or on January 1, 2027, whichever is later, and a fee of one
5 hundred thousand dollars annually thereafter. Fees paid under this
6 subsection shall be remitted to the State Treasurer for credit to the
7 Battery Stewardship Fund.

8 **Sec. 5.** A battery stewardship organization implementing a battery
9 stewardship plan approved under section 4 of this act shall:

10 (1) Be responsible for all costs associated with implementing the
11 plan;

12 (2) Reimburse local governmental units for demonstrable costs
13 incurred as a result of a local government facility or solid waste
14 facility serving as a collection site under the plan; and

15 (3) Collect charges from participating producers sufficient to cover
16 the costs of implementation, including battery collection,
17 transportation, and processing, education and outreach, program
18 evaluation, and payment of the annual fee to the department under section
19 4 of this act.

20 **Sec. 6.** (1) A battery stewardship organization implementing a
21 battery stewardship plan approved under section 4 of this act shall do
22 all of the following:

23 (a) Provide for the collection of all covered batteries from any
24 person, regardless of the chemistry or brand of the battery, on a free,
25 continuous, convenient, visible, and accessible basis;

26 (b) Provide to collection sites under the plan, at no cost to the
27 sites, suitable collection containers for covered batteries that are
28 segregated from other solid waste, or make alternative arrangements for
29 the collection of such batteries at the site, with the agreement of the
30 collection site;

31 (c) Ensure that medium format batteries are collected only at

1 household hazardous waste collection sites or other staffed collection
2 sites that meet applicable federal, state, and local requirements for
3 managing medium format batteries;

4 (d) Provide for the collection of damaged and defective batteries,
5 by persons trained to handle and ship such batteries, at collection sites
6 and at each permanent household hazardous waste facility and each
7 household hazardous waste collection event provided by the department. As
8 used in this subdivision, damaged and defective batteries means batteries
9 that have been damaged or that have been identified by the manufacturer
10 as being defective for safety reasons and that have the potential to
11 produce a dangerous evolution of heat or fire or short circuit;

12 (e) Ensure statewide collection opportunities for all covered
13 batteries;

14 (f) Coordinate activities with others, such as electronic waste
15 recyclers and other battery stewardship organizations, to provide
16 efficient delivery of services and avoid unnecessary duplication of
17 effort and expense. A battery stewardship organization shall use existing
18 public and private waste collection services and facilities,
19 transporters, consolidators, processors, and retailers if cost effective,
20 mutually agreeable, and otherwise practical;

21 (g) For portable batteries, provide all of the following within
22 three years after approval of the battery stewardship plan:

23 (i) At least one permanent collection site within a fifteen-mile
24 radius for at least ninety-five percent of state residents; and

25 (ii) At least one permanent collection site, collection service, or
26 collection event for every thirty thousand residents of a county;

27 (h) For medium format batteries, provide all of the following within
28 three years after approval of the battery stewardship plan:

29 (i) At least ten permanent collection sites in this state. Such
30 sites must be reasonably dispersed throughout the state; and

31 (ii) A collection event at least once every three years in each

1 county that does not have a permanent collection site, which must provide
2 for the collection of all medium format batteries, including damaged and
3 defective medium format batteries; and

4 (i) Use as a collection site or the site of a collection event any
5 entity that meets the criteria for a collection site or collection event
6 under an approved battery stewardship plan and that requests to serve as
7 a collection site or collection event, up to the number of collection
8 sites required to comply with subdivisions (1)(g) and (h) of this
9 section.

10 (2) A battery stewardship organization implementing a battery
11 stewardship plan approved under section 4 of this act may issue a warning
12 to, suspend, or terminate a collection site or service that does not
13 comply with the criteria contained in the approved plan or that poses an
14 immediate concern to health and safety.

15 (3) A battery stewardship organization is not required to provide
16 for the collection of battery containing products, covered batteries that
17 remain contained in a battery containing product at the time of delivery
18 to a collection site or collection event, or batteries or battery
19 containing products being recalled for safety reasons. A battery
20 stewardship organization may seek reimbursement from the producer of a
21 battery or battery containing product being recalled for safety reasons
22 for the costs incurred in collecting, transporting, or processing such
23 batteries and products.

24 **Sec. 7.** A battery stewardship organization implementing a battery
25 stewardship plan approved under section 4 of this act shall do all of the
26 following to promote the implementation of the plan:

27 (1) Develop and maintain a website;

28 (2) Develop and place advertisements on social media or other
29 relevant media platforms;

30 (3) Develop promotional materials about the program and about the
31 restrictions on disposing of covered batteries under section 12 of this

1 act;

2 (4) Develop and distribute collection site safety training
3 procedures to collection sites to help ensure proper management of
4 covered batteries at collection sites;

5 (5) Provide consumer-focused educational materials, to each
6 collection site used under the plan, that are accessible by customers of
7 retailers that sell covered batteries or battery containing products;

8 (6) Provide safety information related to covered battery collection
9 activities to the operator of each collection site used under the plan,
10 including appropriate protocols to reduce risks of spills or fires, to
11 respond to a spill or fire, and to manage a collected damaged or
12 defective battery;

13 (7) Provide educational materials to the operator of each collection
14 site used under the plan for the management of recalled batteries;

15 (8) Upon request by a retailer or other potential collection site,
16 provide educational materials describing collection opportunities for
17 covered batteries;

18 (9) Coordinate with other battery stewardship organizations
19 implementing a battery stewardship plan in providing education and
20 outreach under this section; and

21 (10) Conduct a survey, during the first year of implementing a
22 battery stewardship plan and once every five years thereafter, of public
23 awareness of the outreach efforts undertaken pursuant to this section.
24 The battery stewardship organization shall share the results of the
25 surveys with the department.

26 **Sec. 8.** (1) No later than June 1, 2029, and no later than June 1 of
27 each year thereafter, a battery stewardship organization implementing a
28 battery stewardship plan approved under section 4 of this act shall
29 submit to the department a report that includes:

30 (a) A summary financial statement documenting the financing of the
31 plan and an analysis of plan costs and expenditures, including an

1 analysis of the plan's expenses, such as collection, transportation,
2 recycling, education, and administrative overhead. The summary financial
3 statement shall be sufficiently detailed to provide transparency that
4 funds collected from producers are spent on plan implementation in this
5 state;

6 (b) The weight, by chemistry, of covered batteries collected under
7 the plan;

8 (c) The weight of materials recycled from covered batteries
9 collected under the plan, in total, and by method of battery recycling;

10 (d) A calculation of the recycling efficiency rate under the plan;

11 (e) A list of all facilities used in the processing or disposition
12 of covered batteries under the plan and a summary of any violations of
13 environmental laws and regulations during the previous three years at
14 each facility;

15 (f) For each facility used for the final disposition of covered
16 batteries under the plan, a description of how the facility recycled or
17 otherwise managed batteries and battery components;

18 (g) The weight and chemistry of covered batteries sent to each
19 facility that is used for the final disposition of batteries. This
20 information may be approximated based on extrapolations of national or
21 regional data for programs in operation in multiple states;

22 (h) The collection rate achieved under the plan, including a
23 description of how this collection rate was calculated and how it
24 compares to the collection rate goals under the plan;

25 (i) The estimated aggregate sales, by weight and chemistry, of
26 covered batteries, including covered batteries contained in or packaged
27 with battery containing products, sold in this state by the battery
28 stewardship organization's participating producers for each of the
29 previous three calendar years;

30 (j) A description of how collected batteries were managed and
31 recycled, including a discussion of best available technologies and the

1 recycling efficiency rate;

2 (k) A description of education and outreach efforts supporting plan
3 implementation, including:

4 (i) A summary of education and outreach provided to consumers,
5 collection sites, manufacturers, distributors, and retailers to promote
6 the collection and recycling of covered batteries;

7 (ii) A description of how that education and outreach met the
8 requirements of section 7 of this act;

9 (iii) Samples of education and outreach materials;

10 (iv) A summary of coordinated education and outreach efforts with
11 any other battery stewardship organizations implementing a battery
12 stewardship plan; and

13 (v) A summary of any changes made during the previous calendar year
14 to education and outreach activities;

15 (l) A list of all collection sites used to implement the plan, an
16 address for each listed site, a link to the website of each listed site,
17 if available, and an up-to-date map indicating the location of each site;

18 (m) A description of methods used to collect, transport, and recycle
19 covered batteries under the plan;

20 (n) A summary of progress made toward the performance goals under
21 the plan, and an explanation of why performance goals were not met, if
22 applicable;

23 (o) An evaluation of the effectiveness of education and outreach
24 activities; and

25 (p) If a battery stewardship organization has disposed of covered
26 batteries through energy recovery, incineration, or landfilling during
27 the preceding calendar year of plan implementation, the steps that the
28 battery stewardship organization will take to make the recycling of
29 covered batteries cost-effective, when possible, or to otherwise increase
30 battery recycling efficiency rates achieved by the battery stewardship
31 organization.

1 (2) After five years of implementation of an approved battery
2 stewardship plan, a battery stewardship organization or a producer member
3 of such organization shall hire an independent third party to conduct a
4 one-time audit of the battery stewardship plan and plan operation. The
5 auditor shall examine the effectiveness of the battery stewardship plan
6 in collecting and recycling covered batteries. The auditor shall also
7 examine the cost-effectiveness of the plan and compare it to the cost-
8 effectiveness of collections plans and programs for covered batteries in
9 other jurisdictions. A copy of such audit shall be submitted to the
10 department.

11 **Sec. 9.** (1) Subject to subsection (2) of this section, the
12 department shall include on its website:

13 (a) A copy of all battery stewardship plans approved under section 4
14 of this act and any amendments to such plans;

15 (b) The names of the producer members covered under an approved
16 battery stewardship plan;

17 (c) A list of brands of covered batteries covered under an approved
18 battery stewardship plan; and

19 (d) A copy of each annual report submitted to the department under
20 subsection (1) of section 8 of this act.

21 (2) Any proprietary information submitted to the department under
22 this section shall not be included on the department's website and shall
23 not be subject to public disclosure pursuant to sections 84-712 to
24 84-712.09.

25 **Sec. 10.** A producer, retailer, or battery stewardship organization
26 is not liable for any claim of a violation of antitrust laws or laws
27 relating to fraudulent, deceptive, or unfair methods of competition or
28 trade practices arising from conduct that complies with a battery
29 stewardship plan approved under section 4 of this act.

30 **Sec. 11.** Nothing in the Safe Battery Collection and Recycling Act
31 prevents or prohibits a person from offering or performing a fee-based

1 household collection program or a mail-back program for covered batteries
2 independently of a battery stewardship plan if:

3 (1) The services are performed and any facilities are operated in
4 compliance with all applicable federal, state, and local laws and
5 requirements;

6 (2) All batteries collected by the person from customers in this
7 state are provided to a battery stewardship organization implementing a
8 battery stewardship plan approved under section 4 of this act; and

9 (3) After providing collected batteries to a battery stewardship
10 organization, any transport and processing of such batteries by the
11 battery stewardship organization is done at the battery stewardship
12 organization's expense.

13 **Sec. 12.** (1) Beginning January 1, 2028, all of the following shall
14 apply:

15 (a) A person may dispose of a covered battery only by delivery to a
16 collection site or collection event operated under a battery stewardship
17 plan approved under section 4 of this act, unless the battery is
18 regulated as hazardous waste;

19 (b) No person may knowingly cause or allow the mixing of a covered
20 battery with recyclable materials that are intended for processing and
21 sorting at a material recovery facility;

22 (c) No person may knowingly cause or allow the mixing of a covered
23 battery with municipal waste that is intended for disposal at a landfill;

24 (d) No person may knowingly cause or allow the disposal of a covered
25 battery in a landfill;

26 (e) No person may knowingly cause or allow the mixing of a covered
27 battery with waste that is intended for burning or incineration; and

28 (f) No person may knowingly cause or allow the burning or
29 incineration of a covered battery.

30 (2) An owner or operator of a solid waste facility may not be found
31 in violation of this section if the facility has posted in a conspicuous

1 location a sign stating that covered batteries must be managed through
2 collection sites established by a battery stewardship organization and
3 are not accepted for disposal.

4 (3) A solid waste collector may not be found in violation of this
5 section for a covered battery placed in a disposal container by a third
6 party.

7 **Sec. 13.** (1) Any person who violates the Safe Battery Collection
8 and Recycling Act, other than a violation of section 12 of this act,
9 shall be subject to a civil penalty of ten thousand dollars for each
10 violation. Any person who fails to pay the fee required under subsection
11 (7) of section 4 of this act shall also be subject to a civil penalty of
12 ten thousand dollars.

13 (2) A person who knowingly makes a false material statement to the
14 department related to a battery stewardship plan submitted under section
15 4 of this act shall be guilty of a Class IV felony.

16 (3) The Attorney General or the county attorney of any county in
17 which a violation of the act occurs may, in addition to any other
18 penalty, bring an action to enjoin any person from violating the act,
19 other than a violation of section 12 of this act.

20 (4) All civil penalties collected pursuant to this section shall be
21 remitted to the State Treasurer for distribution in accordance with
22 Article VII, section 5, of the Constitution of Nebraska.

23 **Sec. 14.** (1) The department shall review and evaluate the studies
24 and assessments carried out by Illinois, Vermont, and Washington
25 regarding whether products or batteries that are not currently covered by
26 the Safe Battery Collection and Recycling Act should be covered at a
27 later date. The department may review similar studies or assessments
28 carried out by any other state or person.

29 (2) No later than May 30, 2028, the department shall electronically
30 submit a report to the Natural Resources Committee of the Legislature.
31 The report shall include the findings and recommendations of any study or

1 assessment reviewed by the department under this section. The report may
2 include recommendations for legislation based on the department's
3 evaluation of the studies and assessments reviewed by the department.

4 **Sec. 15.** (1) A battery stewardship organization implementing an
5 approved battery stewardship plan may bring a civil action or actions to
6 recover costs, damages, and fees, as specified in this subsection, from a
7 producer who sells or otherwise makes available in Nebraska covered
8 batteries or battery containing products not included under an approved
9 plan in violation of the requirements of the Safe Battery Collection and
10 Recycling Act. An action under this subsection may be brought against one
11 or more defendants. An action under this subsection shall only be brought
12 against a defendant producer if the battery stewardship organization
13 incurs costs in Nebraska, including legal fees and expenses and
14 reasonable incremental administrative and program promotional costs, in
15 excess of one thousand dollars to collect, transport, and recycle or
16 otherwise dispose of the covered batteries or battery containing products
17 of a nonparticipating producer.

18 (2) A battery stewardship organization implementing an approved
19 battery stewardship plan may bring a civil action against a producer of a
20 recalled battery to recover costs associated with handling the recalled
21 battery, including legal fees and expenses.

22 (3) A battery stewardship organization implementing an approved
23 battery stewardship plan may bring a civil action against another battery
24 stewardship organization that underperforms on its battery collection
25 obligations under the Safe Battery Collection and Recycling Act by
26 failing to collect and provide for the end-of-life management of
27 batteries in an amount roughly equivalent to costs imposed on the
28 plaintiff battery stewardship organization by virtue of the failures of
29 the defendant battery stewardship organization, plus legal fees and
30 expenses.

31 **Sec. 16.** The Battery Stewardship Cash Fund is created. The fund

1 shall consist of fees collected under section 4 of this act. The fund
2 shall be administered by the department and shall only be used for
3 purposes of carrying out the Safe Battery Collection and Recycling Act.
4 Any money in the fund available for investment shall be invested by the
5 state investment officer pursuant to the Nebraska Capital Expansion Act
6 and the Nebraska State Funds Investment Act.

7 **Sec. 17.** The department may adopt and promulgate rules and
8 regulations to carry out the Safe Battery Collection and Recycling Act.