

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 607

Introduced by Bostar, 29.

Read first time January 22, 2025

Committee: Natural Resources

1 A BILL FOR AN ACT relating to solid waste; to amend sections 13-2001,
2 13-2003, 13-2010, 13-2034, 13-2042, 81-1502, and 81-15,160, Reissue
3 Revised Statutes of Nebraska; to adopt the Environmental Stewardship
4 of Batteries Act, the Extended Producer Responsibility Data
5 Collection Act, and the Minimum Recycled Content Act; to define and
6 redefine terms and change provisions relating to regulatory
7 authority over manufacturing facilities and disposal fees under the
8 Integrated Solid Waste Management Act; to define, redefine, and
9 alphabetize terms under the Environmental Protection Act; to change
10 provisions relating to the Waste Reduction and Recycling Incentive
11 Fund; to harmonize provisions; to provide an operative date; and to
12 repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 13-2001, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 13-2001 Sections 13-2001 to 13-2043 and sections 3, 5 to 14, 17, and
4 18 of this act shall be known and may be cited as the Integrated Solid
5 Waste Management Act.

6 **Sec. 2.** Section 13-2003, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 13-2003 For purposes of the Integrated Solid Waste Management Act,
9 the definitions found in sections 13-2004 to 13-2016.01 and sections 3
10 and 5 to 14 of this act shall be used.

11 **Sec. 3.** Depolymerization means a manufacturing process where post-
12 use polymers are broken into smaller molecules such as monomers and
13 oligomers or raw, intermediate, or final products, plastic and chemical
14 feedstocks, basic and unfinished chemicals, waxes, lubricants, and
15 coatings.

16 **Sec. 4.** Section 13-2010, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 13-2010 Facility shall mean any site owned and operated or utilized
19 by any person for the collection, source separation, storage,
20 transportation, transfer, processing, treatment, or disposal of solid
21 waste and shall include a solid waste landfill. Facility shall not
22 include a manufacturing facility.

23 **Sec. 5.** Gasification means a manufacturing process through which
24 post-use polymers or recovered feedstocks are heated in an oxygen-
25 controlled atmosphere and converted into syngas, followed by conversion
26 into valuable raw, intermediate, and final products, including, but not
27 limited to, plastic monomers, chemicals, waxes, lubricants, coatings, and
28 plastic and chemical feedstocks that are returned to economic utility in
29 the form of raw materials or products.

30 **Sec. 6.** Manufacturing facility means a facility engaging in any
31 manufacturing process where sorted post-use polymers and recovered

1 feedstocks are purchased and then converted into basic raw materials,
2 feedstocks, chemicals, and other products through processes including
3 pyrolysis, gasification, depolymerization, catalytic cracking, reforming,
4 hydrogenation, solvolysis, chemolysis, and other similar technologies.
5 The products produced at manufacturing facilities include, but are not
6 limited to, monomers, oligomers, plastics, plastic and chemical
7 feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings,
8 and adhesives, but shall not include fuels. The manufacturing process of
9 a manufacturing facility shall be considered recycling. The manufacturing
10 process of a manufacturing facility shall not be considered solid waste
11 management, solid waste processing, solid waste recovery, incineration,
12 treatment, or waste-to-energy.

13 **Sec. 7.** Mass balance attribution means a chain of custody
14 accounting methodology with rules defined by a third-party certification
15 system that enables the attribution of the mass of manufacturing facility
16 feedstocks to one or more manufacturing facility products.

17 **Sec. 8.** Post-use polymer means a plastic to which all of the
18 following apply:

19 (1) The plastic is derived from any industrial, commercial,
20 agricultural, or domestic activities and includes plastic in pre-consumer
21 recovered materials and post-consumer materials;

22 (2) The plastic has been sorted from solid waste and other regulated
23 waste but may contain residual amounts of waste such as organic material
24 and incidental contaminants or impurities such as paper labels and metal
25 rings;

26 (3) The plastic is not mixed with solid waste or hazardous waste
27 onsite or during processing at the manufacturing facility;

28 (4) The plastic's use or intended use is as a feedstock for the
29 manufacturing of feedstocks, raw materials, or other intermediate
30 products or final products using manufacturing processes of a
31 manufacturing facility; and

1 (5) The plastic is processed at a manufacturing facility or held at
2 such facility prior to processing.

3 **Sec. 9.** Pyrolysis means a manufacturing process through which post-
4 use polymers or recovered feedstocks are heated in the absence of oxygen
5 until melted and thermally decomposed, noncatalytically or catalytically,
6 and are then cooled, condensed, and converted into valuable raw materials
7 and intermediate and final products, including, but not limited to,
8 plastic monomers, chemicals, naphtha, waxes, and plastic and chemical
9 feedstocks that are returned to economic utility in the form of raw
10 materials and products.

11 **Sec. 10.** Recovered feedstock means one or more of the following
12 materials that has been processed so that it may be used as feedstock in
13 a manufacturing facility:

14 (1) Post-use polymers;

15 (2) Materials for which the United States Environmental Protection
16 Agency has made a nonwaste determination or has otherwise determined are
17 feedstocks and not solid waste;

18 (3) Recovered feedstock that does not include unprocessed municipal
19 solid waste; or

20 (4) Recovered feedstock that is not mixed with solid waste or
21 hazardous waste onsite or during processing at a manufacturing facility.

22 **Sec. 11.** Recycled plastic means a product that is produced from (1)
23 mechanical recycling of pre-consumer recovered feedstocks or plastics and
24 post-consumer plastics or (2) the manufacturing of pre-consumer recovered
25 feedstocks or plastics and post-consumer plastics via mass balance
26 attribution under a third-party certification system.

27 **Sec. 12.** Recycling means the process of separating, cleaning,
28 treating, and reconstituting waste or other discarded materials for the
29 purpose of recovering and reusing the resources contained therein.

30 **Sec. 13.** Solvolyis means a manufacturing process through which
31 post-use polymers are purified with the aid of solvents while heated at

1 low temperatures or pressurized to make useful products allowing
2 additives and contaminants to be removed. The products of solvolysis
3 include monomers, intermediates, valuable chemicals, plastic and chemical
4 feedstocks, and raw materials. Solvolysis includes, but is not limited
5 to, hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

6 **Sec. 14.** Third-party certification system means an international
7 and multinational third-party certification system which consists of a
8 set of rules for the implementation of mass balance attribution
9 approaches for the manufacturing process of a manufacturing facility.
10 Third-party certification system includes, but is not limited to, the
11 International Sustainability and Carbon Certification, Underwriter
12 Laboratories, SCS Recycled Content, Roundtable on Sustainable
13 Biomaterials, EcoLoop, and REDcert2.

14 **Sec. 15.** Section 13-2034, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 13-2034 (1) The council shall adopt and promulgate rules and
17 regulations which shall include the following:

18 (a) ~~(1)~~ A permit program for facilities providing for permits to be
19 issued to owners and operators;

20 (b) ~~(2)~~ Requirements for the collection, source separation, storage,
21 transportation, transfer, processing, recycling, resource recovery,
22 treatment, and disposal of solid wastes as well as developmental and
23 operational plans for facilities. Regulations concerning operations may
24 include waste characterization, composition, and source identification,
25 site improvements, air and methane gas monitoring, ground water and
26 surface water monitoring, daily cover, insect and rodent control, salvage
27 operations, waste tire disposal, safety and restricted access, inspection
28 of loads and any other necessary inspection or verification requirements,
29 reporting of monitoring analysis, record-keeping requirements and other
30 reporting requirements, handling and disposal of wastes with special
31 characteristics, and any other operational criteria, location criteria,

1 or design criteria necessary to minimize environmental and health risks
2 and to provide protection of the air, land, and waters of the state; and

3 (c) ~~(3)~~ Requirements for closure, postclosure care and monitoring,
4 and investigative and corrective action with respect to landfills. Such
5 rules and regulations shall require financial assurance for such
6 activities after April 9, 1996. Such rules and regulations shall impose
7 any necessary requirements upon owners or operators in order to assure
8 proper closure, care, monitoring, and investigative and corrective action
9 with respect to landfills to minimize the need for future maintenance and
10 eliminate, to the extent necessary to protect humans, animals, and the
11 environment, releases or the threat of releases of contaminants or
12 leachate.

13 (2) Rules and regulations adopted and promulgated pursuant to this
14 section shall not apply to manufacturing processes of manufacturing
15 facilities.

16 **Sec. 16.** Section 13-2042, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 13-2042 (1) A disposal fee ~~of one dollar and twenty-five cents~~ is
19 imposed for each six cubic yards of uncompacted solid waste, ~~one dollar~~
20 ~~and twenty-five cents~~ for each three cubic yards of compacted solid
21 waste, and ~~or one dollar and twenty-five cents~~ per ton of solid waste (a)
22 disposed of at landfills regulated by the department or (b) transported
23 for disposal out of state from a solid waste processing facility holding
24 a permit under the Integrated Solid Waste Management Act. Each operator
25 of a landfill or solid waste processing facility shall make the fee
26 payment quarterly. The fee shall be paid quarterly to the department on
27 or before the forty-fifth day following the end of each quarter. For
28 purposes of this section, landfill has the same definition as municipal
29 solid waste landfill unit in 40 C.F.R. 258.2.

30 (2) Each fee payment shall be accompanied by a form prepared and
31 furnished by the department and completed by the permitholder. The form

1 shall state the total volume of solid waste disposed of at the landfill
2 or transported for disposal out of state from the solid waste processing
3 facility during the payment period and shall provide any other
4 information deemed necessary by the department. The form shall be signed
5 by the permitholder.

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

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

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

28 (6)(a) The remaining fifty percent of the total of such fees
29 collected per quarter shall be remitted to the State Treasurer for credit
30 to the Waste Reduction and Recycling Incentive Fund. For purposes of
31 determining the total fees collected, any amount of fees rebated pursuant

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

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

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

19 (ii) The department may disburse amounts to political subdivisions
20 for costs incurred in response to and remediation of any solid waste
21 disposed of or abandoned at dump sites or discrete locations along public
22 roadways or ditches and on any contiguous area affected by such disposal
23 or abandonment. Such reimbursement shall be by application to the
24 department on forms prescribed by the department. The department shall
25 prepare and make available a schedule of eligible costs and application
26 procedures which may include a requirement of a demonstration of
27 preventive measures to be taken to discourage future dumping. The
28 department may not disburse to political subdivisions an amount which in
29 the aggregate exceeds five percent of total revenue from the disposal
30 fees collected pursuant to this section in the preceding fiscal year.
31 These disbursements shall be made on a fiscal-year basis, and

1 applications received after funds for this purpose have been exhausted
2 may be eligible during the next fiscal year but are not an obligation of
3 the state. Any eligible costs incurred by a political subdivision which
4 are not funded due to a lack of funds shall not be considered an
5 obligation of the state. In disbursing funds under this subdivision, the
6 director shall make efforts to ensure equal geographical distribution
7 throughout the state and may deny reimbursements in order to accomplish
8 this goal.

9 (7) The disposal fee shall be:

10 (a) Beginning January 1, 2026, and on or before December 31, 2026,
11 two dollars and twenty-five cents;

12 (b) Beginning January 1, 2027, and on or before December 31, 2027,
13 three dollars and twenty-five cents; and

14 (c) Beginning January 1, 2028, four dollars and twenty-five cents.

15 **Sec. 17.** The owner or operator of a manufacturing facility shall be
16 responsible for the proper disposal of all post-use polymers or recovered
17 feedstocks stored on the premises of such manufacturing facility within
18 sixty days after ceasing manufacturing operations.

19 **Sec. 18.** Manufacturing facilities are subject to applicable
20 Department of Environment and Energy manufacturing rules and regulations
21 for air, water, waste, and land use.

22 **Sec. 19.** Sections 19 to 37 of this act shall be known and may be
23 cited as the Environmental Stewardship of Batteries Act.

24 **Sec. 20.** The Legislature finds that:

25 (1) It is in the public interest of the residents of Nebraska to
26 encourage the recovery and reuse of materials, such as metals, that
27 replace the output of mining and other extractive industries;

28 (2) Without a dedicated battery stewardship program, battery user
29 confusion regarding proper disposal options will continue to persist;

30 (3) Ensuring the proper handling, recycling, and end-of-life
31 management of used batteries prevents the release of toxic materials into

1 the environment and removes materials from the waste stream that, if
2 mishandled, may present safety concerns to workers, such as by igniting
3 fires at solid waste handling facilities. For this reason, batteries
4 should not be placed into commingled recycling containers or disposed of
5 via traditional garbage collection containers; and

6 (4) Jurisdictions around the world have successfully implemented
7 battery stewardship laws that have helped address the challenges posed by
8 the end-of-life management of batteries. Because it is difficult for
9 customers to differentiate between types and chemistries of batteries, it
10 is the best practice for battery stewardship programs to collect all
11 battery types and chemistries. Furthermore, it is appropriate for larger
12 batteries used in emerging market sectors such as electric vehicles,
13 solar power arrays, and data centers, to be managed to ensure
14 environmentally positive outcomes similar to those achieved by a battery
15 stewardship program, both because of the potential economic value of
16 large batteries used for these purposes and the anticipated profusion of
17 these larger batteries as these market sectors mature.

18 **Sec. 21.** For purposes of the Environmental Stewardship of Batteries
19 Act, unless the context otherwise requires:

20 (1) Battery-containing product means a product that contains or is
21 packaged with rechargeable or primary batteries that are covered
22 batteries;

23 (2) Battery management hierarchy means a management system of
24 covered batteries prioritized in descending order as follows:

25 (a) Waste prevention and reduction;

26 (b) Reuse, when reuse is appropriate;

27 (c) Recycling; and

28 (d) Other means of end-of-life management, which may only be
29 utilized after demonstrating to the department that it is not feasible to
30 manage the batteries under the higher priority options in subdivisions

31 (2)(a) through (c) of this section;

1 (3) Battery stewardship organization means a producer that directly
2 implements a battery stewardship plan required under the Environmental
3 Stewardship of Batteries Act or a nonprofit organization designated by a
4 producer or group of producers to implement a battery stewardship plan
5 required under the act;

6 (4) Collection rate means a percentage, by weight, that a battery
7 stewardship organization collects that is calculated by dividing the
8 total weight of primary and rechargeable batteries collected during the
9 previous calendar year by the average annual weight of primary and
10 rechargeable batteries that were estimated to have been sold in the state
11 by all producers participating in an approved battery stewardship plan
12 during the previous three calendar years;

13 (5)(a) Covered battery means a portable battery or, beginning
14 January 1, 2029, a medium format battery.

15 (b) Covered battery does not include:

16 (i) A battery contained within a medical device, as specified in 21
17 U.S.C. 321(h), as such section existed on January 1, 2025, that is not
18 designed and marketed for sale or resale principally to consumers for
19 personal use;

20 (ii) A battery that contains an electrolyte as a free liquid;

21 (iii) A lead acid battery weighing greater than eleven pounds; and

22 (iv) A battery in a battery-containing product that is not intended
23 or designed to be easily removable from the battery-containing product;

24 (6) Department means the Department of Environment and Energy;

25 (7) Easily removable means designed by the manufacturer to be
26 removable by the user of the product with no more than commonly used
27 household tools;

28 (8) Environmentally sound management practice means any practice
29 that:

30 (a) Complies with all applicable laws and rules to protect workers,
31 public health, and the environment;

1 (b) Provides for adequate recordkeeping, tracking, and documenting
2 of the fate of materials within the state and beyond; and

3 (c) Includes comprehensive liability coverage for the battery
4 stewardship organization, including environmental liability coverage that
5 is commercially practicable;

6 (9) Final disposition means the final processing of a collected
7 battery to produce usable end products, at the point where the battery
8 has been reduced to its constituent parts, reusable portions made
9 available for use, and any residues handled as wastes in accordance with
10 applicable law;

11 (10) Large format battery means:

12 (a) A rechargeable battery that weighs more than twenty-five pounds
13 or has a rating of more than two thousand watt-hours; or

14 (b) A primary battery that weighs more than twenty-five pounds;

15 (11) Medium format battery means the following primary or
16 rechargeable covered batteries:

17 (a) For rechargeable batteries, a battery weighing more than eleven
18 pounds or having a rating of more than three hundred watt-hours, or both,
19 and weighing no more than twenty-five pounds and having a rating of no
20 more than two thousand watt-hours; and

21 (b) For primary batteries, a battery weighing more than four and
22 four-tenths pounds but not more than twenty-five pounds;

23 (12) Portable battery means the following primary or rechargeable
24 covered batteries:

25 (a) For rechargeable batteries, a battery weighing no more than
26 eleven pounds and having a rating of no more than three hundred watt-
27 hours; and

28 (b) For primary batteries, a battery weighing no more than four and
29 four-tenths pounds;

30 (13) Primary battery means a battery that is not capable of being
31 recharged;

1 (14)(a) Producer means the following person responsible for
2 compliance with requirements under the Environmental Stewardship of
3 Batteries Act for a covered battery or battery-containing product sold,
4 offered for sale, or distributed in or into this state:

5 (i) For covered batteries:

6 (A) If the battery is sold under the brand of the battery
7 manufacturer, the producer is the person that manufactures the battery;

8 (B) If the battery is sold under a retail brand or under a brand
9 owned by a person other than the manufacturer, the producer is the brand
10 owner;

11 (C) If there is no person to which subdivision (14)(a)(i)(A) or (B)
12 of this section applies, the producer is the person that is the licensee
13 of a brand or trademark under which the battery is used in a commercial
14 enterprise, sold, offered for sale, or distributed in or into this state,
15 whether or not the trademark is registered in this state;

16 (D) If there is no person described in subdivisions (14)(a)(i)(A)
17 through (C) of this section within the United States, the producer is the
18 person who is the importer of record for the battery into the United
19 States for use in a commercial enterprise that sells, offers for sale, or
20 distributes the battery in this state; and

21 (E) If there is no person described in subdivisions (14)(a)(i)(A)
22 through (D) of this section with a commercial presence within the state,
23 the producer is the person who first sells, offers for sale, or
24 distributes the battery in or into this state; and

25 (ii) For covered battery-containing products:

26 (A) If the battery-containing product is sold under the brand of the
27 product manufacturer, the producer is the person that manufactures the
28 product;

29 (B) If the battery-containing product is sold under a retail brand
30 or under a brand owned by a person other than the manufacturer, the
31 producer is the brand owner;

1 (C) If there is no person to which subdivision (14)(a)(ii)(A) or (B)
2 of this section applies, the producer is the person that is the licensee
3 of a brand or trademark under which the product is used in a commercial
4 enterprise, sold, offered for sale, or distributed in or into this state,
5 whether or not the trademark is registered in this state;

6 (D) If there is no person described in subdivisions (14)(a)(ii)(A)
7 through (C) of this section within the United States, the producer is the
8 person who is the importer of record for the product into the United
9 States for use in a commercial enterprise that sells, offers for sale, or
10 distributes the product in this state; and

11 (E) If there is no person described in subdivisions (14)(a)(ii)(A)
12 through (D) of this section with a commercial presence within the state,
13 the producer is the person who first sells, offers for sale, or
14 distributes the product in or into this state.

15 (b) A producer does not include any person who only manufactures,
16 sells, offers for sale, distributes, or imports into the state a battery-
17 containing product if the only batteries used by the battery-containing
18 product are supplied by a producer that has joined a registered battery
19 stewardship organization as the producer for that covered battery under
20 the Environmental Stewardship of Batteries Act. Such a producer of
21 covered batteries that are included in a battery-containing product shall
22 provide written certification of that membership to both the producer of
23 the covered battery-containing product and the battery stewardship
24 organization of which the battery producer is a member.

25 (c) A person is the producer of a covered battery or covered
26 battery-containing product sold, offered for sale, or distributed in or
27 into this state, as defined in subdivision (14)(a) of this section,
28 except where another party has contractually accepted responsibility as a
29 responsible producer and has joined a registered battery stewardship
30 organization as the producer for that covered battery or covered battery-
31 containing product under the Environmental Stewardship of Batteries Act;

1 (15) Program means a program implemented by a battery stewardship
2 organization consistent with an approved battery stewardship plan;

3 (16) Rechargeable battery means a battery that contains one or more
4 voltaic or galvanic cells, electrically connected to produce electric
5 energy, designed to be recharged;

6 (17) Recycling means transforming or remanufacturing waste materials
7 into usable or marketable materials for use other than:

8 (a) Combustion;

9 (b) Incineration;

10 (c) Energy generation;

11 (d) Fuel production; or

12 (e) Beneficial reuse in the construction and operation of a solid
13 waste landfill, including use of alternative daily cover;

14 (18) Recycling efficiency rate means the ratio of the weight of
15 covered battery components and materials recycled by a program operator
16 from covered batteries to the weight of those covered batteries collected
17 by the program operator;

18 (19) Retailer means a person who sells covered batteries or battery-
19 containing products in or into this state or offers or otherwise makes
20 available covered batteries or battery-containing products to a customer,
21 including other businesses, for use by the customer in this state; and

22 (20) Urban area means an area delineated by the United States Bureau
23 of the Census, based on a minimum threshold of two thousand housing units
24 or five thousand residents, as of January 1, 2025.

25 **Sec. 22.** Beginning January 1, 2027:

26 (1) Each producer selling, making available for sale, or
27 distributing covered batteries or battery-containing products in or into
28 the State of Nebraska shall participate in an approved Nebraska state
29 battery stewardship plan through participation in and appropriate funding
30 of a battery stewardship organization; and

31 (2) A producer that does not participate in a battery stewardship

1 organization and battery stewardship plan may not sell covered batteries
2 or battery-containing products covered by the Environmental Stewardship
3 of Batteries Act in or into Nebraska.

4 **Sec. 23.** (1) Beginning July 1, 2027, for portable batteries, and
5 July 1, 2029, for medium format batteries, a retailer may not sell, offer
6 for sale, distribute, or otherwise make available for sale a covered
7 battery or battery-containing product unless the producer of the covered
8 battery or battery-containing product certifies to the retailer that the
9 producer participates in a battery stewardship organization whose plan
10 has been approved by the department.

11 (2) A retailer is in compliance with the requirements of subsection
12 (1) of this section and is not subject to penalties under section 31 of
13 this act as long as the website made available by the department pursuant
14 to section 30 of this act lists, as of the date a product is made
15 available for retail sale, a producer or brand of covered battery or
16 battery-containing product sold by the retailer as being a participant in
17 an approved plan or the implementer of an approved plan.

18 (3) Retailers of covered batteries or battery-containing products
19 are not required to make retail locations available to serve as
20 collection sites for a stewardship program operated by a battery
21 stewardship organization. Retailers that serve as a collection site shall
22 comply with the requirements for collection sites, consistent with
23 section 27 of this act.

24 (4) A retailer may not sell, offer for sale, distribute, or
25 otherwise make available for sale covered batteries, unless those
26 batteries are marked consistent with the requirements of section 33 of
27 this act. A producer of a battery-containing product containing a covered
28 battery shall certify to the retailers of their product that the battery
29 contained in the battery-containing product is marked consistent with the
30 requirements of section 33 of this act. A retailer may rely on this
31 certification for purposes of compliance under this subsection.

1 (5) A retailer selling or offering covered batteries or battery-
2 containing products for sale in Nebraska may provide information,
3 provided to the retailer by the battery stewardship organization,
4 regarding available end-of-life management options for covered batteries
5 collected by the battery stewardship organization. The information that a
6 battery stewardship organization shall make available to retailers for
7 voluntary use by retailers shall include, but is not limited to, in-store
8 signage, written materials, and other promotional materials that
9 retailers may use to inform customers of the available end-of-life
10 management options for covered batteries collected by the battery
11 stewardship organization.

12 (6) Retailers, producers, or battery stewardship organizations may
13 not charge a specific point-of-sale fee to consumers to cover the
14 administrative or operational costs of the battery stewardship
15 organization or the battery stewardship program.

16 **Sec. 24.** (1) By July 1, 2026, or within six months after the
17 adoption and promulgation of rules and regulations under section 30 of
18 this act, whichever comes later, each battery stewardship organization
19 shall submit a plan for covered portable batteries to the department for
20 approval. Within twenty-four months after the date of the initial
21 adoption and promulgation of rules and regulations under the
22 Environmental Stewardship of Batteries Act by the department, each
23 battery stewardship organization shall submit a plan for covered medium
24 format batteries to the department for approval. A battery stewardship
25 organization may submit a plan at any time to the department for review
26 and approval. The department shall review and may approve a plan based on
27 whether it contains and adequately addresses the following components:

28 (a) Lists and provides contact information for each producer,
29 battery brand, and battery-containing product brand covered in the plan;

30 (b) Proposes performance goals, consistent with section 25 of this
31 act, including establishing performance goals for each of the next three

1 upcoming calendar years of program implementation;

2 (c) Describes how the battery stewardship organization will make
3 retailers aware of their obligation to sell only covered batteries and
4 battery-containing products of producers participating in an approved
5 plan;

6 (d) Describes the education and communications strategy being
7 implemented to effectively promote participation in the approved covered
8 battery stewardship program and provide the information necessary for
9 effective participation of consumers, retailers, and others;

10 (e) Describes how the battery stewardship organization will make
11 available to retailers, for voluntary use, in-store signage, written
12 materials, and other promotional materials that retailers may use to
13 inform customers of the available end-of-life management options for
14 covered batteries collected by the battery stewardship organization;

15 (f) Lists promotional activities to be undertaken, and the
16 identification of consumer awareness goals and strategies that the
17 program will employ to achieve these goals after the program begins to be
18 implemented;

19 (g) Includes collection site safety training procedures related to
20 covered battery collection activities at collection sites, including
21 appropriate protocols to reduce risks of spills or fires and response
22 protocols in the event of a spill or fire, and a protocol for safe
23 management of damaged batteries that are returned to collection sites;

24 (h) Describes the method to establish and administer a means for
25 fully funding the program in a manner that equitably distributes the
26 program's costs among the producers that are part of the battery
27 stewardship organization. For producers that elect to meet the
28 requirements of the Environmental Stewardship of Batteries Act
29 individually, without joining a battery stewardship organization, the
30 plan shall describe the proposed method to establish and administer a
31 means for fully funding the program;

1 (i) Describes the financing methods used to implement the plan,
2 consistent with section 26 of this act, including how producer fees and
3 fee modulation will incorporate design for recycling and resource
4 conservation as objectives, and a template reimbursement agreement,
5 developed in consultation with local governments and other program
6 stakeholders;

7 (j) Describes how the program will collect all covered battery
8 chemistries and brands on a free, continuous, convenient, visible, and
9 accessible basis, and consistent with the requirements of section 27 of
10 this act, including a description of how the statewide convenience
11 standard will be met and a list of collection sites, including the
12 address and latitude and longitude of collection sites;

13 (k) Describes the criteria to be used in the program to determine
14 whether an entity may serve as a collection site for discarded batteries
15 under the program;

16 (l) Establishes collection goals for each of the first three years
17 of implementation of the battery stewardship plan that are based on the
18 estimated total weight of primary and rechargeable covered batteries that
19 have been sold in the state in the previous three calendar years by the
20 producers participating in the battery stewardship plan;

21 (m) Identifies proposed brokers, transporters, processors, and
22 facilities to be used by the program for the final disposition of
23 batteries and how collected batteries will be managed in:

24 (i) An environmentally sound and socially just manner at facilities
25 operating with human health and environmental protection standards that
26 are broadly equivalent to or better than those required in the United
27 States and other countries that are members of the battery stewardship
28 organization for economic cooperation and development; and

29 (ii) A manner consistent with the battery management hierarchy,
30 including how each proposed facility used for the final disposition of
31 batteries will recycle or otherwise manage batteries;

1 (n) Details how the program will achieve a recycling efficiency
2 rate, calculated consistent with section 29 of this act, of at least
3 sixty percent for rechargeable batteries and at least seventy percent for
4 primary batteries;

5 (o) Proposes goals for increasing public awareness of the program,
6 including subgoals applicable to public awareness of the program in
7 vulnerable populations and overburdened communities identified by the
8 department, and describes how the public education and outreach
9 components of the program under section 28 of this act will be
10 implemented; and

11 (p) Specifies procedures to be employed by a local government
12 seeking to coordinate with a battery stewardship organization pursuant to
13 subdivision (4)(c) of section 27 of this act.

14 (2)(a) If required by the department, a battery stewardship
15 organization shall submit a new plan to the department for approval:

16 (i) If there are significant changes to the methods of collection,
17 transport, or end-of-life management of covered batteries under section
18 28 of this act that are not provided for in the plan. The department may,
19 by rule and regulation, identify the types of significant changes that
20 require a new plan to be submitted to the department for approval;

21 (ii) To address the novel inclusion of medium format batteries or
22 large format batteries as covered batteries under the plan; and

23 (iii) No less than every five years.

24 (b) For purposes of this subsection, adding or removing a processor
25 or transporter under the plan is not considered a significant change that
26 requires a plan resubmittal.

27 (3) If required by the department, a battery stewardship
28 organization shall provide plan amendments to the department for
29 approval:

30 (a) When proposing changes to the performance goals under section 26
31 of this act based on the up-to-date experience of the program;

1 (b) When there is a change to the method of financing plan
2 implementation under section 26 of this act. This does not include
3 changes to the fees or fee structure established in the plan; or

4 (c) When adding or removing a processor or transporter, as part of a
5 quarterly update submitted to the department.

6 (4) As part of a quarterly update, a battery stewardship
7 organization shall notify the department after a producer begins or
8 ceases to participate in a battery stewardship organization. The
9 quarterly update submitted to the department shall also include a current
10 list of the producers and brands participating in the plan.

11 (5) No earlier than five years after the initial approval of a plan,
12 the department may require a battery stewardship organization to submit a
13 revised plan, which may include improvements to the collection site
14 network or increased expenditures dedicated to education and outreach if
15 the approved plan has not met the performance goals under section 25 of
16 this act.

17 **Sec. 25.** (1) Each battery stewardship plan shall include
18 performance goals that measure, on an annual basis, the achievements of
19 the program. Performance goals shall take into consideration technical
20 feasibility and economic practicality in achieving continuous, meaningful
21 progress in improving:

22 (a) The rate of battery collection for recycling in Nebraska;

23 (b) The recycling efficiency of the program; and

24 (c) Public awareness of the program.

25 (2) The performance goals established in each battery stewardship
26 plan shall include, but are not limited to:

27 (a) Target collection rates;

28 (b) Target recycling efficiency rates of at least sixty percent for
29 rechargeable batteries and at least seventy percent for primary
30 batteries; and

31 (c) Goals for public awareness, convenience, and accessibility that

1 meet or exceed the minimum requirements established in section 27 of this
2 act.

3 **Sec. 26.** (1) Each battery stewardship organization shall ensure
4 adequate funding is available to fully implement approved battery
5 stewardship plans, including the implementation of aspects of the plan
6 addressing:

7 (a) Battery collection, transporting, and processing;

8 (b) Education and outreach;

9 (c) Program evaluation; and

10 (d) Payment of the administrative fees to the department under
11 section 30 of this act.

12 (2) A battery stewardship organization implementing a battery
13 stewardship plan on behalf of producers shall develop, and continually
14 improve over the years of program implementation, a system to collect
15 charges from participating producers to cover the costs of plan
16 implementation in an environmentally sound and socially just manner that
17 encourages the use of design attributes that reduce the environmental
18 impacts of covered batteries, such as through the use of eco-modulated
19 fees. Examples of fee structures that meet the requirements of this
20 subsection include using eco-modulated fees to:

21 (a) Encourage designs intended to facilitate reuse and recycling;

22 (b) Encourage the use of recycled content;

23 (c) Discourage the use of problematic materials that increase system
24 costs of managing covered batteries; and

25 (d) Encourage other design attributes that reduce the environmental
26 impacts of covered batteries.

27 (3)(a) Except for costs incurred by a local government or local
28 government facility exercising the authority specified in subdivision (4)
29 (c) of section 27 of this act, each battery stewardship organization is
30 responsible for all costs of participating covered battery collection,
31 transportation, processing, education, administration, agency

1 reimbursement, recycling, and end-of-life management in accordance with
2 the battery management hierarchy and environmentally sound management
3 practices.

4 (b) Each battery stewardship organization shall meet the collection
5 goals as specified in section 24 of this act.

6 (c) A battery stewardship organization is not authorized to reduce
7 or cease collection, education and outreach, or other activities
8 implemented under an approved plan based on achievement of program
9 performance goals.

10 (4)(a) Except for costs incurred by a local government or local
11 government facility exercising the authority granted by subdivision (4)
12 (c) of section 27 of this act, a battery stewardship organization shall
13 reimburse local governments for demonstrable costs, as defined by rules
14 adopted by the department, incurred as a result of a local government
15 facility or solid waste handling facility serving as a collection site
16 for a program including, but not limited to, associated labor costs and
17 other costs associated with accessibility and collection site standards
18 such as storage.

19 (b) Except as to the costs of containers and other materials and
20 services requirements addressed by a local government or local government
21 facility exercising the authority granted by subdivision (4)(c) of
22 section 27 of this act, a battery stewardship organization shall at a
23 minimum provide collection sites with appropriate containers for covered
24 batteries subject to its program, training, signage, safety guidance, and
25 educational materials, at no cost to the collection sites.

26 (c) A battery stewardship organization shall include in its battery
27 stewardship plan a template of the service agreement and any other forms,
28 contracts, or other documents for use in distribution of reimbursements.
29 The service agreement template shall be developed with local government
30 input. The entities seeking or receiving reimbursement from the battery
31 stewardship organization are not required to use the template agreement

1 included in the program plan and are not limited to the terms of the
2 template agreement included in the program plan.

3 **Sec. 27.** (1) Battery stewardship organizations implementing a
4 battery stewardship plan shall provide for the collection of all covered
5 batteries, including all chemistries and brands of covered batteries, on
6 a free, continuous, convenient, visible, and accessible basis to any
7 person, business, government agency, or nonprofit organization. Except as
8 provided in subdivision (2)(b) of this section, each battery stewardship
9 plan shall allow any person, business, government agency, or nonprofit
10 organization to discard each chemistry and brand of covered battery at
11 each collection site that counts towards the satisfaction of the
12 collection site criteria in subsection (3) of this section.

13 (2)(a) Except for local government collection described in
14 subdivision (4)(c) of this section, for each collection site utilized by
15 the program, each battery stewardship organization shall provide suitable
16 collection containers for covered batteries that are segregated from
17 other solid waste or make mutually agreeable alternative arrangements for
18 the collection of batteries at the site. The location of collection
19 containers at each collection site used by the program shall be within
20 view of a responsible person and shall be accompanied by signage made
21 available to the collection site by the battery stewardship organization
22 that informs customers regarding the end-of-life management options for
23 batteries provided by the collection site under the Environmental
24 Stewardship of Batteries Act. Each collection site shall adhere to the
25 operations manual and other safety information provided to the collection
26 site by the battery stewardship organization.

27 (b) Medium format batteries may only be collected at household
28 hazardous waste collection sites or other sites that are staffed by
29 persons who are certified to handle and ship hazardous materials under
30 federal regulations adopted by the United States Department of
31 Transportation Pipeline and Hazardous Materials Safety Administration.

1 (c)(i) Damaged and defective batteries are intended to be collected
2 at collection sites staffed by persons trained to handle and ship those
3 batteries.

4 (ii) Each battery stewardship organization shall provide for
5 collection of damaged and defective batteries in each county of the
6 state, either through collection sites or collection events with
7 qualified staff as specified in subdivision (2)(c)(i) of this section.
8 Collection events should be provided periodically throughout the year
9 where practicable, but shall be provided at least once per year at a
10 minimum, in each county in which there are not permanent collection sites
11 providing for the collection of damaged and defective batteries.

12 (d) For purposes of this subsection, damaged and defective battery
13 means any battery that has been damaged or identified by the manufacturer
14 as being defective for safety reasons or that has the potential of
15 producing a dangerous evolution of heat, fire, or short circuit, as
16 referred to in 49 C.F.R. 173.185(f), as such regulation existed on
17 January 1, 2025, or as updated by the department by rule and regulation
18 to maintain consistency with federal standards.

19 (3)(a) Each battery stewardship organization implementing a battery
20 stewardship plan shall ensure statewide collection opportunities for all
21 covered batteries. Battery stewardship organizations shall coordinate
22 activities with other program operators, including covered battery
23 collection and recycle programs and electronic waste recyclers, with
24 regard to the proper management or recycling of collected covered
25 batteries, for purposes of providing the efficient delivery of services
26 and avoiding unnecessary duplication of effort and expense. Statewide
27 collection opportunities shall be determined by geographic information
28 modeling that considers permanent collection sites. A program may rely,
29 in part, on collection events to supplement the permanent collection
30 services required in subdivisions (3)(b) and (c) of this section.
31 However, only permanent collection services specified in subdivisions (3)

1 (b) and (c) of this section qualify towards the satisfaction of the
2 requirements of this subsection.

3 (b) For portable batteries, each battery stewardship organization
4 shall provide statewide collection opportunities that include, but are
5 not limited to, the provision of:

6 (i) At least one permanent collection site for portable batteries
7 within a fifteen-mile radius for at least ninety percent of Nebraska
8 residents;

9 (ii) The establishment of collection sites that are accessible and
10 convenient to overburdened communities identified by the department, in
11 an amount that is roughly proportional to the number and population of
12 overburdened communities identified by the department relative to the
13 population or size of the state as a whole;

14 (iii) At least one permanent collection site for portable batteries
15 in addition to those required in subdivision (3)(b)(i) of this section
16 for every thirty thousand residents of each urban area in this state. For
17 the purposes of compliance with this subdivision (3)(b)(iii), a battery
18 stewardship organization and the department may rely upon new or updated
19 designations of urban locations by the United States Bureau of the Census
20 that are determined by the department to be similar to the definition of
21 urban area;

22 (iv) Collection opportunities for portable batteries at special
23 locations where batteries are often spent and replaced, such as
24 supervised locations at parks with stores and campgrounds; and

25 (v) Service to areas without a permanent collection site, including
26 service to island and geographically isolated communities without a
27 permanent collection site.

28 (c) For medium format batteries, a battery stewardship organization
29 shall provide statewide collection opportunities that include, but are
30 not limited to, the provision of:

31 (i) At least twenty-five permanent collection sites in Nebraska;

1 (ii) Reasonable geographic dispersion of collection sites throughout
2 the state;

3 (iii) A collection site in each county of at least two hundred
4 thousand residents, as determined by the most recent population estimate;

5 (iv) The establishment of collection sites that are accessible to
6 public transit and that are convenient to overburdened communities
7 identified by the department; and

8 (v) Service to areas without a permanent collection site, including
9 service to geographically isolated communities.

10 (d) A battery stewardship organization shall ensure that there is a
11 collection site or annual collection event in each county of the state.
12 Collection events should be provided periodically throughout the year
13 where practicable, but shall be provided at least once per year at a
14 minimum in each county in which there are not permanent collection sites
15 providing for the collection of damaged and defective batteries.

16 (4)(a) Battery stewardship programs shall use existing public and
17 private waste collection services and facilities, including battery
18 collection sites that are established through other battery collection
19 services, transporters, consolidators, processors, and retailers, where
20 cost-effective, mutually agreeable, and otherwise practicable.

21 (b)(i) Battery stewardship programs shall use as a collection site
22 for covered batteries any retailer, wholesaler, municipality, solid waste
23 management facility, or other entity that meets the criteria for
24 collection sites in the approved plan, upon the submission of a request
25 by the entity to the battery stewardship organization to serve as a
26 collection site.

27 (ii) Battery stewardship programs shall use as a site for a
28 collection event for covered batteries any retailer, wholesaler,
29 municipality, solid waste management facility, or other entity that meets
30 the criteria for collection events in the approved plan, upon the
31 submission of a request by the entity to the battery stewardship

1 organization to serve as a site for a collection event. A signed
2 agreement between a battery stewardship organization and the entity
3 requesting to hold a collection event shall be established at least sixty
4 days prior to any collection of covered batteries under a stewardship
5 program. All costs associated with collection events initiated by an
6 entity other than a battery stewardship organization are the sole
7 responsibility of the entity unless otherwise agreed upon by a battery
8 stewardship organization. A collection event under this subdivision (4)
9 (b)(ii) shall allow any person to discard each chemistry and brand of
10 covered battery at the collection event.

11 (c)(i) A local government facility may collect batteries at its own
12 expense through a collection site or temporary collection event that is
13 not a collection site or event under the program implemented by a battery
14 stewardship organization. A local government facility that collects
15 covered batteries under this subsection shall, in accordance with
16 procedures set forth in battery stewardship organization plans approved
17 by the department:

18 (A) Notify battery stewardship organizations of the local government
19 facility's decision to operate a collection site that is not a collection
20 site under a program established under the Environmental Stewardship of
21 Batteries Act;

22 (B) Collect each chemistry and brand of covered battery at its
23 collection site or sites;

24 (C) Collect, sort, and package collected materials in a manner that
25 meets the standards established in a battery stewardship organization
26 plan approved by the department;

27 (D) Either provide the collected batteries to the battery
28 stewardship organization in lawful transportation containers for it to
29 transfer the collected batteries at a processing facility the battery
30 stewardship organization has approved, or transport to or arrange for the
31 transportation of collected batteries for processing at a facility that a

1 battery stewardship organization has approved under a plan approved by
2 the department.

3 (ii) A local government facility that collects materials at a
4 collection site or temporary collection event operating outside of a
5 battery stewardship program shall also report, to a battery stewardship
6 organization, information necessary for the battery stewardship
7 organization to fulfill its reporting obligations under section 29 of
8 this act. A battery stewardship organization may count materials
9 collected by a local government facility under this subdivision (4)(c) of
10 this section towards the achievement of performance requirements
11 established in section 25 of this act.

12 (d) A battery stewardship organization may suspend or terminate a
13 collection site or service that does not adhere to the collection site
14 criteria in the approved plan or that poses an immediate health and
15 safety concern.

16 (5)(a) Stewardship programs are not required to provide for the
17 collection of battery-containing products.

18 (b) Stewardship programs are not required to provide for the
19 collection of batteries that:

20 (i) Are not easily removable from the product other than by the
21 manufacturer; and

22 (ii) Remain contained in a battery-containing product at the time of
23 delivery to a collection site.

24 (c) Stewardship programs are required to provide for the collection
25 of loose batteries.

26 (6) Batteries collected by the program shall be managed consistent
27 with the battery management hierarchy. Lower priority end-of-life battery
28 management options on the battery management hierarchy may be used by a
29 program only when a battery stewardship organization documents to the
30 department that all higher priority battery management options on the
31 battery management hierarchy are not technologically feasible or

1 economically practical.

2 **Sec. 28.** (1) Each battery stewardship organization shall carry out
3 promotional activities in support of plan implementation including, but
4 not limited to, the development:

5 (a) And maintenance of a website;

6 (b) And distribution of periodic press releases and articles;

7 (c) And placement of advertisements for use on social media or other
8 relevant media platforms;

9 (d) Of promotional materials about the program and the restriction
10 on the disposal of covered batteries in section 34 of this act to be used
11 by retailers, government agencies, and nonprofit organizations;

12 (e) And distribution of collection site safety training procedures
13 that are in compliance with state law to collection sites to help ensure
14 proper management of covered batteries at collection sites; and

15 (f) And implementation of outreach and educational resources
16 targeted to overburdened communities and vulnerable populations
17 identified by the department that are conceptually, linguistically, and
18 culturally accurate for the communities served and reach the state's
19 diverse ethnic populations, including through meaningful consultation
20 with communities that bear disproportionately higher levels of adverse
21 environmental and social justice impacts.

22 (2) Each battery stewardship organization shall provide:

23 (a) Consumer-focused educational promotional materials to each
24 collection site used by the program and accessible by customers of
25 retailers that sell covered batteries or battery-containing products; and

26 (b) Safety information related to covered battery collection
27 activities to the operator of each collection site, including appropriate
28 protocols to reduce risks of spills or fires and response protocols in
29 the event of a spill or fire.

30 (3)(a) Each battery stewardship organization shall provide
31 educational materials to the operator of each collection site for the

1 management of recalled batteries, which are not intended to be part of
2 collection as provided under section 27 of this act, to help facilitate
3 transportation and processing of recalled batteries.

4 (b) A battery stewardship organization may seek reimbursement from
5 the producer of the recalled battery for expenses incurred in the
6 collection, transportation, or processing of those batteries.

7 (4) Upon request by a retailer, the battery stewardship organization
8 shall provide the retailer educational materials describing collection
9 opportunities for batteries.

10 (5) If multiple battery stewardship organizations are implementing
11 plans approved by the department, the battery stewardship organizations
12 shall coordinate in carrying out their education and outreach
13 responsibilities under this section and shall include in their annual
14 reports to the department under section 29 of this act a summary of their
15 coordinated education and outreach efforts.

16 (6) During the first year of program implementation and every five
17 years thereafter, each battery stewardship organization shall carry out a
18 survey of public awareness regarding the requirements of the program
19 established under the Environmental Stewardship of Batteries Act. Each
20 battery stewardship organization shall share the results of the public
21 awareness surveys with the department.

22 **Sec. 29.** (1) By June 1, 2028, and each June 1 thereafter, each
23 battery stewardship organization shall submit an annual report to the
24 department covering the preceding calendar year of battery stewardship
25 plan implementation. The report shall include:

26 (a) An independent financial assessment of a program implemented by
27 the battery stewardship organization, including a breakdown of the
28 program's expenses, such as collection, recycling, education, and
29 overhead, when required by the department;

30 (b) A summary financial statement documenting the financing of a
31 battery stewardship organization's program and an analysis of program

1 costs and expenditures, including an analysis of the program's expenses,
2 such as collection, transportation, recycling, education, and
3 administrative overhead. The summary financial statement shall be
4 sufficiently detailed to provide transparency that funds collected from
5 producers as a result of their activities in Nebraska are spent on
6 program implementation in Nebraska. Battery stewardship organizations
7 implementing similar battery stewardship programs in multiple states may
8 submit a financial statement including all covered states, as long as the
9 statement breaks out financial information pertinent to Nebraska;

10 (c) The weight, by chemistry, of covered batteries collected under
11 the program;

12 (d) The weight of materials recycled from covered batteries
13 collected under the program, in total, and by method of battery
14 recycling;

15 (e) A calculation of the recycling efficiency rates, as measured
16 consistent with subsection (2) of this section;

17 (f) For each facility used for the final disposition of batteries, a
18 description of how the facility recycled or otherwise disposed of
19 batteries and battery components;

20 (g) The weight and chemistry of batteries sent to each facility used
21 for the final disposition of batteries. The information in this
22 subdivision (1)(g) may be approximated for program operations in Nebraska
23 based on extrapolations of national or regional data for programs in
24 operation in multiple states;

25 (h) The collection rate achieved under the program, including a
26 description of how this collection rate was calculated;

27 (i) The estimated aggregate sales, by weight and chemistry, of
28 batteries and batteries contained in or with battery-containing products
29 sold in Nebraska by participating producers for each of the previous
30 three calendar years;

31 (j) A description of the manner in which the collected batteries

1 were managed and recycled, including a discussion of best available
2 technologies and the recycling efficiency rate;

3 (k) A description of education and outreach efforts supporting plan
4 implementation including, but not limited to, a summary of education and
5 outreach provided to consumers, collection sites, manufacturers,
6 distributors, and retailers by the program operator for the purpose of
7 promoting the collection and recycling of covered batteries, a
8 description of how that education and outreach met the requirements of
9 section 28 of this act, samples of education and outreach materials, a
10 summary of coordinated education and outreach efforts with any other
11 battery stewardship organizations implementing a plan approved by the
12 department, and a summary of any changes made during the previous
13 calendar year to education and outreach activities;

14 (l) A list of all collection sites and accompanying latitude and
15 longitude data and an address for each listed site, and an up-to-date map
16 indicating the location of all collection sites used to implement the
17 program, with links to appropriate websites where there are existing
18 websites associated with a site;

19 (m) A description of methods used to collect, transport, and recycle
20 covered batteries by the battery stewardship organization;

21 (n) A summary on progress made towards the program performance goals
22 established under section 25 of this act, and an explanation of why
23 performance goals were not met, if applicable; and

24 (o) An evaluation of the effectiveness of education and outreach
25 activities.

26 (2) The weight of batteries or recovered resources from those
27 batteries shall only be counted once and may not be counted by more than
28 one battery stewardship organization.

29 (3) In addition to the requirements of subsection (1) of this
30 section, with respect to each facility used in the processing or
31 disposition of batteries collected under the program, the battery

1 stewardship organization shall report:

2 (a) Whether the facility is located domestically, in an organization
3 for economic cooperation and development country, or in a country that
4 meets organization for economic cooperation and development operating
5 standards; and

6 (b) What facilities processed the batteries, including a summary of
7 any violations of environmental or labor laws and regulations over the
8 previous three years at each facility.

9 (4) If a battery stewardship organization has disposed of covered
10 batteries through energy recovery, incineration, or landfilling during the
11 preceding calendar year of program implementation, the annual report
12 shall specify the steps that the battery stewardship organization will
13 take to make the recycling of covered batteries cost-effective, where
14 possible, or to otherwise increase battery recycling rates achieved by
15 the battery stewardship organization.

16 (5) A producer or battery stewardship organization that submits
17 information or records to the department under the Environmental
18 Stewardship of Batteries Act may request that the information or records
19 be made available only for the confidential use of the department, the
20 Director of Environment and Energy, or the appropriate division of the
21 department. The director shall consider the request and if this action is
22 not detrimental to the public interest, the director shall grant the
23 request for the information to remain confidential.

24 **Sec. 30.** (1) The department shall adopt and promulgate rules and
25 regulations as necessary for the purpose of implementing, administering,
26 and enforcing the Environmental Stewardship of Batteries Act. The
27 department shall by rule and regulation establish fees, to be paid
28 annually by a battery stewardship organization, that are adequate to
29 cover the department's full costs of implementing, administering, and
30 enforcing the act and allocates costs between battery stewardship
31 organizations, if applicable. All fees shall be based on costs related to

1 implementing, administering, and enforcing the act, not to exceed
2 expenses incurred by the department for these activities.

3 (2) The responsibilities of the department in implementing,
4 administering, and enforcing the Environmental Stewardship of Batteries
5 Act include, but are not limited to:

6 (a)(i) Reviewing submitted stewardship plans and plan amendments and
7 making determinations as to whether to approve the plan or plan
8 amendment.

9 (ii) The department shall provide a letter of approval for the plan
10 or plan amendment if it provides for the establishment of a stewardship
11 program that meets the requirements of sections 22 to 28 of this act.

12 (iii) If a plan or plan amendment is rejected, the department shall
13 provide the reasons for rejecting the plan to the battery stewardship
14 organization. The battery stewardship organization shall submit a new
15 plan within sixty days after receipt of the letter of disapproval.

16 (iv) When a plan or an amendment to an approved plan is submitted
17 under this section, the department shall make the proposed plan or
18 amendment available for public review and comment for at least thirty
19 days;

20 (b) Reviewing annual reports submitted under section 29 of this act
21 within ninety days after submission to ensure compliance with such
22 section;

23 (c)(i) Maintaining a website that lists producers and their brands
24 that are participating in an approved plan, and that makes available to
25 the public each plan, plan amendment, and annual report received by the
26 department under the Environmental Stewardship of Batteries Act.

27 (ii) Upon the date the first plan is approved, the department shall
28 post on its website a list of producers and their brands for which the
29 department has approved a plan. The department shall update the list of
30 producers and brands participating under an approved program plan based
31 on information provided to the department from battery stewardship

1 organizations; and

2 (d) Providing technical assistance to producers and retailers
3 related to the requirements of the Environmental Stewardship of Batteries
4 Act and issuing orders or imposing civil penalties authorized under
5 section 31 of this act if the technical assistance efforts do not lead to
6 compliance by a producer or retailer.

7 (3) Beginning January 1, 2032, and every five years thereafter,
8 after consultation with battery stewardship organizations, the department
9 may by rule and regulation increase the minimum recycling efficiency
10 rates established in section 25 of this act based on the most
11 economically and technically feasible processes and methodology
12 available.

13 **Sec. 31.** (1)(a) A battery stewardship organization implementing an
14 approved plan may bring a civil action or actions to recover costs,
15 damages, and fees, as specified in this section, from a producer who
16 sells or otherwise makes available in Nebraska covered batteries or
17 battery-containing products not included in an approved plan in violation
18 of the requirements of the Environmental Stewardship of Batteries Act. An
19 action under this section may be brought against one or more defendants.
20 An action may only be brought against a defendant producer when the
21 stewardship program incurs costs in Nebraska, including reasonable
22 incremental administrative and program promotional costs, in excess of
23 one thousand dollars to collect, transport, and recycle or otherwise
24 dispose of the covered batteries or battery-containing products of a
25 nonparticipating producer.

26 (b) A battery stewardship organization may bring a civil action
27 against a producer of a recalled battery to recover costs associated with
28 handling a recalled battery.

29 (c) A battery stewardship organization implementing an approved
30 stewardship plan may bring a civil action against another battery
31 stewardship organization that under-performs on its battery collection

1 obligations under the Environmental Stewardship of Batteries Act by
2 failing to collect and provide for the end-of-life management of
3 batteries in an amount roughly equivalent to costs imposed on the
4 plaintiff battery stewardship organization by virtue of the failures of
5 the defendants, plus attorney's fees and expenses.

6 (d) The remedies provided in this subsection are in addition to the
7 enforcement authority of the department and do not limit and are not
8 limited by a decision by the department to impose a civil penalty or
9 issue an order under subsection (2) of this section. The department is
10 not required to audit, participate in, or provide assistance to a battery
11 stewardship organization pursuing a civil action authorized under this
12 subsection.

13 (2)(a) The department may administratively impose a civil penalty on
14 a person who violates the Environmental Stewardship of Batteries Act in
15 an amount of up to one thousand dollars per violation per day.

16 (b) The department may administratively impose a civil penalty of up
17 to ten thousand dollars per violation per day on a person for repeated
18 violations of the Environmental Stewardship of Batteries Act or failure
19 to comply with an order issued under subdivision (c) of this subsection.

20 (c) Whenever, on the basis of any information, the department
21 determines that a person has violated or is in violation of the
22 Environmental Stewardship of Batteries Act, the department may issue an
23 order requiring compliance. A person who fails to take corrective action
24 as specified in a compliance order is liable for a civil penalty as
25 provided in subdivision (b) of this subsection, without receiving a
26 written warning prescribed in subdivision (e) of this subsection.

27 (d) A person who is issued an order or incurs a penalty under this
28 section may appeal the order or penalty to the department.

29 (e) Prior to imposing penalties under this section, the department
30 shall provide a producer, retailer, or battery stewardship organization
31 with a written warning for the first violation by the producer, retailer,

1 or battery stewardship organization of the requirements of the
2 Environmental Stewardship of Batteries Act. The written warning shall
3 inform a producer, retailer, or battery stewardship organization that it
4 shall participate in an approved plan or otherwise come into compliance
5 with the requirements of the act within thirty days after the notice. A
6 producer, retailer, or battery stewardship organization that violates the
7 act after the initial written warning may be assessed a penalty as
8 provided in this subsection.

9 (3) No penalty may be assessed on an individual or resident for the
10 improper disposal of covered batteries as described in section 34 of this
11 act in a noncommercial or residential setting.

12 (4) Civil penalties collected under this section shall be remitted
13 to the State Treasurer for distribution in accordance with Article VII,
14 section 5, of the Constitution of Nebraska.

15 **Sec. 32.** The Responsible Battery Management Fund is created. The
16 fund shall consist of all receipts from fees paid under the Environmental
17 Stewardship of Batteries Act. Only the Director of Environment and Energy
18 or the director's designee may authorize expenditures from the fund.
19 Money in the fund may be used solely by the department for administering,
20 implementing, and enforcing the requirements of the act. Any money in the
21 fund may not be diverted for any purpose or activity other than those
22 specified in this section. Any money in the fund available for investment
23 shall be invested by the state investment officer pursuant to the
24 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
25 Act.

26 **Sec. 33.** (1) Beginning January 1, 2028, a producer or retailer may
27 only sell, distribute, or offer for sale in or into Nebraska a large
28 format battery, covered battery, or battery-containing product that
29 contains a battery that is designed or intended to be easily removable
30 from the product, if the battery is:

31 (a) Marked with an identification of the producer of the battery,

1 unless the battery is less than one-half inch in diameter or does not
2 contain a surface whose length exceeds one-half inch; and

3 (b) Beginning January 1, 2030, marked with proper labeling to ensure
4 proper collection and recycling, by identifying the chemistry of the
5 battery and including an indication that the battery should not be
6 disposed of as household waste.

7 (2) A producer shall certify to its customers, or to the retailer if
8 the retailer is not the customer, that the requirements of this section
9 have been met, as provided in section 23 of this act.

10 (3) The department may amend, by rule and regulation, the
11 requirements of subsection (1) of this section to maintain consistency
12 with the labeling requirements or voluntary standards for batteries
13 established in federal law.

14 **Sec. 34.** (1) Beginning on July 1, 2027, for portable batteries, and
15 on July 1, 2029, for medium format batteries, or beginning on the first
16 date on which an approved plan begins to be implemented under the
17 Environmental Stewardship of Batteries Act by a battery stewardship
18 organization, whichever comes first, all persons shall dispose of
19 unwanted covered batteries through one of the following disposal options:

20 (a) Disposal using the collection sites established by or included
21 in the programs created by the act;

22 (b) For covered batteries generated by persons that are regulated
23 generators of covered batteries under federal or state hazardous or solid
24 waste laws, disposal in a manner consistent with the requirements of
25 those laws; or

26 (c) Disposal using local government collection facilities that
27 collect batteries consistent with subdivision (4)(c) of section 27 of
28 this act.

29 (2)(a) A fee may not be charged at the time unwanted covered
30 batteries are delivered or collected for management.

31 (b) All covered batteries may only be collected, transported, and

1 processed in a manner that meets the standards established for a battery
2 stewardship organization in a plan approved by the department, unless the
3 batteries are being managed as described in subdivision (1)(b) of this
4 section.

5 (3) A person may not place covered batteries in waste containers for
6 disposal at incinerators, waste-to-energy facilities, or landfills.

7 (4) A person may not place covered batteries in or on a container
8 for mixed recyclables unless there is a separate location or compartment
9 for the covered battery that complies with local government collection
10 standards or guidelines.

11 (5) An owner or operator of a solid waste facility may not be found
12 in violation of this section if the facility has posted in a conspicuous
13 location a sign stating that covered batteries shall be managed through
14 collection sites established by a battery stewardship organization and
15 are not accepted for disposal.

16 (6) A solid waste collector may not be found in violation of this
17 section for a covered battery placed in a disposal container by the
18 generator of the covered battery.

19 **Sec. 35.** (1) By July 1, 2027, the department shall complete an
20 assessment of the opportunities and challenges associated with the end-
21 of-life management of batteries that are not covered batteries,
22 including:

23 (a) Large format batteries;

24 (b) Lead acid batteries that weigh greater than eleven pounds;

25 (c) Batteries contained in medical devices, as specified in 21
26 U.S.C. 360c, as such section existed on January 1, 2025, that are not
27 designed and marketed for sale or resale principally to consumers for
28 personal use; and

29 (d) Batteries not intended or designed to be easily removed by a
30 customer that are contained in battery-containing products, including
31 medical devices.

1 (2) The department shall consult with interested stakeholders in
2 completing the assessment, including consultation with overburdened
3 communities and vulnerable populations identified by the department. The
4 assessment shall identify any needed adjustments to the stewardship
5 program requirements established in the Environmental Stewardship of
6 Batteries Act that are necessary to maximize public health, safety, and
7 environmental benefits, such as battery reuse.

8 (3) The assessment shall consider:

9 (a) The different categories and uses of batteries and battery-
10 containing products listed in subsection (1) of this section;

11 (b) The current economic value and reuse or recycling potential of
12 large format batteries or large format battery components and a summary
13 of studies examining the environmental and equity implications of
14 displacing demand for new rare earth materials, critical materials, and
15 other conflict materials through the reuse and recycling of batteries;

16 (c) The current methods by which unwanted batteries and battery-
17 containing products listed in subsection (1) of this section are managed
18 in Nebraska and nearby states;

19 (d) Challenges posed by the potential collection, management, and
20 transport of batteries and battery-containing products listed in
21 subsection (1) of this section, including challenges associated with
22 removing batteries that were not intended or designed to be easily
23 removable from products, other than by the manufacturer; and

24 (e) Which criteria of the act should apply to batteries and battery-
25 containing products listed in subsection (1) of this section in a manner
26 that is identical or analogous to the requirements applicable to covered
27 batteries.

28 (4) By October 1, 2027, the department shall submit a report
29 electronically to the Legislature containing the findings of the
30 assessment required in this section.

31 **Sec. 36.** Producers or battery stewardship organizations acting on

1 behalf of producers that prepare, submit, and implement a battery
2 stewardship program plan pursuant to the Environmental Stewardship of
3 Batteries Act and who are thereby subject to regulation by the department
4 are granted immunity from state laws relating to antitrust, restraint of
5 trade, unfair trade practices, and other regulation of trade and
6 commerce, for the limited purpose of planning, reporting, and operating a
7 battery stewardship program, including:

8 (1) The creation, implementation, or management of a battery
9 stewardship organization and any battery stewardship plan regardless of
10 whether it is submitted, denied, or approved;

11 (2) The determination of the cost and structure of a battery
12 stewardship plan; and

13 (3) The types or quantities of batteries being recycled or otherwise
14 managed pursuant to the act.

15 **Sec. 37.** Nothing in the Environmental Stewardship of Batteries Act
16 changes or limits the authority of a city or village to provide for the
17 collection of solid waste, including curbside collection of residential
18 recyclable materials.

19 **Sec. 38.** Sections 38 to 41 of this act shall be known and may be
20 cited as the Extended Producer Responsibility Data Collection Act.

21 **Sec. 39.** For purposes of the Extended Producer Responsibility Data
22 Collection Act:

23 (1) Covered product means packaging and paper products sold or
24 supplied to consumers for personal, noncommercial use and disposed of
25 through residential curbside or drop-off site collection systems;

26 (2) Department means the Department of Environment and Energy; and

27 (3)(a) Producer means the following person responsible for
28 compliance with requirements under the act for a covered material
29 introduced:

30 (i) For items sold in or with packaging at a physical retail
31 location in this state:

1 (A) If the item is sold in or with packaging under the brand of the
2 item manufacturer or is sold in packaging that lacks identification of a
3 brand, the producer is the person that manufactures the item;

4 (B) If there is no person to which subdivision (3)(a)(i)(A) of this
5 section applies, the producer is the person that is licensed to
6 manufacture and sell or offer for sale to consumers in this state an item
7 with packaging under the brand or trademark of another manufacturer or
8 person;

9 (C) If there is no person to which subdivision (3)(a)(i)(A) or (B)
10 of this section applies, the producer is the brand owner of the item;

11 (D) If there is no person described in subdivision (3)(a)(i)(A),
12 (B), or (C) of this section within the United States, the producer is the
13 person who is the importer of record for the item into the United States
14 for use in a commercial enterprise that sells, offers for sale, or
15 distributes the item in this state; or

16 (E) If there is no person described in subdivisions (3)(a)(i)(A)
17 through (D) of this section, the producer is the person that first
18 distributes the item in or into this state;

19 (ii) For items sold or distributed in packaging in or into this
20 state via e-commerce, remote sale, or distribution:

21 (A) For packaging used to directly protect or contain the item, the
22 producer of the packaging is the same as the producer identified under
23 subdivision (3)(a)(i) of this section; and

24 (B) For packaging used to ship the item to a consumer, the producer
25 of the packaging is the person that packages the item to be shipped to
26 the consumer;

27 (iii) For packaging that is a covered material and is not included
28 in subdivisions (3)(a)(i) and (ii) of this section, the producer of the
29 packaging is the person that first distributes the item in or into this
30 state;

31 (iv) For paper products that are magazines, catalogs, telephone

1 directories, or similar publications, the producer is the publisher;

2 (v) For paper products not described in subdivision (3)(a)(iv) of
3 this section:

4 (A) If the paper product is sold under the manufacturer's own brand,
5 the producer is the person that manufactures the paper product;

6 (B) If there is no person to which subdivision (3)(a)(v)(A) of this
7 section applies, the producer is the person that is the owner or licensee
8 of a brand or trademark under which the paper product is used in a
9 commercial enterprise, sold, offered for sale, or distributed in or into
10 this state, whether or not the trademark is registered in this state;

11 (C) If there is no person to which subdivision (3)(a)(v)(A) or (B)
12 of this section applies, the producer is the brand owner of the paper
13 product;

14 (D) If there is no person described in subdivision (3)(a)(v)(A),
15 (B), or (C) of this section within the United States, the producer is the
16 person that imports the paper product into the United States for use in a
17 commercial enterprise that sells, offers for sale, or distributes the
18 paper product in this state; or

19 (E) If there is no person described in subdivisions (3)(a)(v)(A)
20 through (D) of this section, the producer is the person that first
21 distributes the paper product in or into this state; and

22 (vi) A person is the producer of a covered material sold, offered
23 for sale, or distributed in or into this state, as defined in
24 subdivisions (3)(a)(i) through (v) of this section, except:

25 (A) Where another person has mutually signed an agreement with a
26 producer as defined in subdivisions (3)(a)(i) through (v) of this section
27 that contractually assigns responsibility to the person as the producer,
28 and the person has joined a registered producer responsibility
29 organization as the responsible producer for that covered material under
30 the Extended Producer Responsibility Data Collection Act. In the event
31 that another person is assigned responsibility as the producer under this

1 subdivision (3)(a)(vi), the producer under subdivisions (3)(a)(i) through
2 (v) of this section shall provide written certification of that
3 contractual agreement to the producer responsibility organization; and

4 (B) If the producer described in subdivisions (3)(a)(i) through (v)
5 of this section is a business operated wholly or in part as a franchise,
6 the producer is the franchisor if that franchisor has franchisees that
7 have a commercial presence within the state.

8 (b) Producer does not include:

9 (i) Government agencies, municipalities, or other political
10 subdivisions of the state;

11 (ii) Charitable organizations described in section 501(c)(3) of the
12 Internal Revenue Code as defined in section 49-801.01 and social welfare
13 organizations described in section 501(c)(4) of the Internal Revenue Code
14 as defined in section 49-801.01; or

15 (iii) De minimis producers that:

16 (A) Annually sell, offer for sale, distribute, or import in or into
17 the country for sale in Nebraska less than one ton of covered products
18 each year; or

19 (B) Have a global gross revenue of less than five million dollars
20 for the most recent fiscal year of the organization. The department shall
21 calculate an adjusted rate to maintain the de minimis exemption by the
22 rate of inflation. The adjusted rate shall be calculated to the nearest
23 cent using the Consumer Price Index for All Urban Wage Earners. Each
24 adjusted rate calculated under this subdivision takes effect on the
25 following January 1.

26 **Sec. 40.** (1) Beginning January 1, 2026, a producer that offers for
27 sale, sells, or distributes in or into Nebraska covered products shall
28 register with the department individually or through a third-party
29 representative registering on behalf of a group of producers.

30 (2) The registration information submitted to the department under
31 this section shall include a list of the producers of covered products

1 and the brand names of the covered products represented in the
2 registration submittal. Beginning in 2027, a producer may submit
3 registration information at the same time as the information submitted
4 through the annual reporting in subsection (3) of this section.

5 (3)(a) Beginning April 1, 2027, each producer of covered products,
6 individually or through a third party representing a group of producers,
7 shall provide an annual report to the department that includes, by
8 material category, the volume in pounds of covered products sold, offered
9 for sale, or distributed in or into Nebraska during the preceding
10 calendar year.

11 (b) The report shall be submitted in a format and manner prescribed
12 by the department. A manufacturer may submit national data allocated on a
13 per capita basis for Nebraska to approximate the information required in
14 this subsection if the producer or third-party representative
15 demonstrates to the department that state-level data is not available or
16 feasible to generate.

17 (c) The department shall post the information reported under this
18 subsection on its website, except as provided in subdivision (d) of this
19 subsection.

20 (d) A producer that submits information or records to the department
21 under the Extended Producer Responsibility Data Collection Act may
22 request that the information or records be made available only for the
23 confidential use of the department, the Director of Environment and
24 Energy, or the appropriate division of the department. The director shall
25 give consideration to the request, and if this action is not detrimental
26 to the public interest, the director shall grant the request for the
27 information.

28 **Sec. 41.** (1) The department shall adopt and promulgate rules and
29 regulations as necessary to administer, implement, and enforce the
30 Extended Producer Responsibility Data Collection Act.

31 (2)(a) The department may conduct audits and investigations for the

1 purpose of ensuring compliance with the act.

2 (b) The department shall annually publish a list of registered
3 producers of covered products and associated brand names, their
4 compliance status, and other information the department deems appropriate
5 on the department's website.

6 (3)(a) By January 31, 2026, and every January 31 thereafter, the
7 department shall prepare an annual workload analysis for public comment
8 that identifies the annual costs it expects to incur to implement,
9 administer, enforce, and carry out the Extended Producer Responsibility
10 Data Collection Act.

11 (b) By April 1, 2026, and every April 1 thereafter, producers shall
12 submit a fee payment of one thousand dollars. Fee payments shall be
13 deposited in the Waste Reduction and Recycling Incentive Fund.

14 (c) The department may adjust the fee prescribed in subdivision (b)
15 of this subsection as needed to cover its costs.

16 (d) The department may set a single fee for third-party
17 representatives of producers to be paid on behalf of all producers which
18 are members.

19 (e) The department shall:

20 (i) Apply any remaining annual payment funds from the current year
21 to the annual payment for the coming year, if the collected annual
22 payment exceeds the department's costs for a given year; and

23 (ii) Increase annual payments for the coming year to cover the
24 department's costs, if the collected annual payment was less than the
25 department's costs for a given year.

26 (4) For producers out of compliance with the registration or
27 reporting requirements of the Extended Producer Responsibility Data
28 Collection Act, the department shall provide written notification and
29 offer information to producers. For purposes of this section, written
30 notification serves as notice of the violation. The department shall
31 issue at least two notices of violation by certified mail prior to

1 assessing a penalty under subsection (5) of this section.

2 (5) The department may assess a penalty in an amount not to exceed
3 one thousand dollars for each day for a violation of the Extended
4 Producer Responsibility Data Collection Act.

5 (6) Penalties issued under this section are appealable to the
6 Environmental Quality Council.

7 (7) Penalties collected under this section shall be remitted to the
8 State Treasurer for distribution in accordance with Article VII, section
9 5, of the Constitution of Nebraska.

10 **Sec. 42.** Sections 42 to 58 of this act shall be known and may be
11 cited as the Minimum Recycled Content Act.

12 **Sec. 43.** For purposes of the Minimum Recycled Content Act:

13 (1) Covered product means covered product as described in section 44
14 of this act;

15 (2) De minimis manufacturer means a person that annually sells,
16 offers for sale, distributes, or imports into the country for sale in the
17 state;

18 (a) Less than one ton of a single category of recycled content
19 products; or

20 (b) A single category of a covered product that, in aggregate,
21 generates less than five million dollars each year in global revenue;

22 (3) Department means the Department of Environment and Energy;

23 (4) Food means articles used for food or drink for consumption by
24 humans or other animals, and articles used for components of any such
25 article;

26 (5) Hazardous waste means any solid waste defined as hazardous waste
27 by the department;

28 (6) Licensee means a manufacturer or entity who licenses a brand and
29 manufactures a covered product under that brand;

30 (7)(a) Manufacturer means:

31 (i) A person that produces or generates a covered product that is

1 sold or offered for sale in the state;

2 (ii) A person that is the brand owner of a covered product that is
3 sold or offered for sale in the state unless the brand owner identifies a
4 licensee who agrees to accept responsibility under the Minimum Recycled
5 Content Act and the licensee informs the department in writing of the
6 agreement; or

7 (iii) In the absence of a person meeting the criteria in subdivision
8 (6)(a)(i) or (ii) of this section over whom the state may exercise
9 jurisdiction, a person who imports or distributes a covered product into
10 or within the state.

11 (b) Manufacturer does not include:

12 (i) A person who only licenses a brand or trademark for a product
13 and does not produce, package, or sell the product in the state, except
14 as agreed upon pursuant to subdivision (6)(a)(ii) of this section;

15 (ii) A person who, at a single physical location, produces,
16 packages, and sells a product directly to a consumer at retail, which may
17 include a grocery store, restaurant, bar, cafeteria, café, food truck,
18 food cart, or similar establishment; or

19 (iii) Notwithstanding any other provision of the Minimum Recycled
20 Content Act to the contrary, a de minimis manufacturer;

21 (8) Person means an individual, corporation, company, association,
22 society, firm, partnership, or joint stock company;

23 (9)(a) Plastic means a synthetic material made from linking monomers
24 through a chemical reaction to create an organic polymer chain that can
25 be molded or extruded at high heat into various solid forms retaining
26 their defined shapes during the life cycle and after disposal.

27 (b) Plastic does not include material that is designed to be
28 composted in a municipal or industrial aerobic composting facility and
29 that is certified by a recognized third-party independent verification
30 body as meeting the standards therefore established by ASTM International
31 publications D6400 or D6868;

1 (10) Plastic trash bag means a bag that is made of plastic, is at
2 least 0.7 mils thick, and is designed and manufactured for use as a
3 container to hold, store, or transport materials to be discarded,
4 composted, or recycled, and includes, but is not limited to, a garbage
5 bag, lawn or leaf bag, can-liner bag, kitchen bag, or compactor bag;

6 (11) Portfolio means the suite of product sub-types with the same
7 primary resin composition that a manufacturer may produce under a single
8 covered product type as listed in section 44 of this act;

9 (12) Portfolio standard means a standard for calculating average
10 postconsumer recycled content across covered product sub-types provided
11 that all covered recycled content products in a manufacturer's portfolio
12 are accounted for in the calculation;

13 (13)(a) Postconsumer recycled content means material generated by
14 households or by commercial, industrial, and institutional facilities in
15 their role as end-users of the product which has been used for its
16 intended use or can no longer be used for its intended purpose. This
17 includes the return of material from the distribution chain.

18 (b) Postconsumer recycled content does not include secondary waste
19 material or materials and byproducts generated from, and commonly used
20 within, an original manufacturing and fabrication process;

21 (14) Recycled content product means all products listed under
22 subsection (1) of section 44 of this act;

23 (15) Refillable container means a rigid plastic container that is
24 routinely returned to and refilled by the manufacturer with the same
25 product packaged by the container;

26 (16) Representative organization means an organization created or
27 selected by a manufacturer or manufacturers for the purposes of complying
28 with the annual registration and reporting requirements described in
29 sections 48 and 51 of this act;

30 (17) Reusable container means a rigid plastic container that is
31 routinely reused by consumers to store the original product packaged by

1 the container; and

2 (18) Rigid plastic container means a container made of plastic that
3 has a relatively inflexible finite shape or form, has a minimum capacity
4 of eight fluid ounces or its equivalent volume, and is capable of
5 maintaining its shape while empty or while holding other products.

6 **Sec. 44.** (1) For purposes of the Minimum Recycled Content Act,
7 covered product includes:

8 (a) Rigid plastic containers;

9 (b) Rigid plastic products used for:

10 (i) Plastic buckets and pails;

11 (ii) Household storage containers;

12 (iii) Indoor trash bins;

13 (iv) Nursery packaging;

14 (v) Trash and recycling carts; and

15 (vi) Secondary packaging such as crates, totes, and gaylords;

16 (c) Plastic trash bags; and

17 (d) Film plastic used as:

18 (i) Packaging overwrap;

19 (ii) Lawn and garden plastic film bags; and

20 (iii) Heavy duty industrial plastic film bags.

21 (2)(a) The department is hereby authorized to issue guidance related
22 to covered recycled content product definitions as needed.

23 (b) Covered recycled content products shall be exempt from the
24 Minimum Recycled Content Act if any of the following conditions apply:

25 (i) The product is a package or container that contains food;

26 (ii) The product is associated with a product produced in or brought
27 into the state that is destined for shipment to a destination outside the
28 state, and that remains with the product upon shipment;

29 (iii) The product contains drugs, dietary supplements, medical
30 devices, or cosmetics as those terms are defined in the Federal Food,
31 Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on

1 January 1, 2025;

2 (iv) The product contains toxic or hazardous products regulated
3 under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.
4 136 et seq., as such act existed on January 1, 2025;

5 (v) The product is manufactured for use in the shipment of hazardous
6 materials and is:

7 (A) Prohibited from being manufactured with used material by federal
8 packaging material specifications set forth in 49 C.F.R. 178.509 and 49
9 C.F.R. 178.522;

10 (B) Is subject to the testing standards set forth in 49 C.F.R.
11 178.600 through 49 C.F.R. 178.609; or

12 (C) Is subject to the recommendations of the United Nations on the
13 transport of dangerous goods; or

14 (vi) The product is a refillable container or a reusable container.

15 **Sec. 45.** (1) A manufacturer of a covered product shall meet the
16 following annual minimum postconsumer recycled content percentages on
17 average for the total quantity of covered recycled content products, by
18 weight, that are sold, offered for sale, or distributed in or into the
19 state:

20 (a) Beginning January 1, 2028, for covered recycled content
21 products, no less than thirty percent postconsumer recycled content
22 plastic by weight; and

23 (b) Beginning January 1, 2028, for trash and recycling carts, no
24 less than ten percent postconsumer recycled content plastic by weight.

25 (2) This section does not apply to:

26 (a) Containers certified by the Biodegradable Products Institute as
27 compostable;

28 (b) A bag that is designed and manufactured to hold, store, or
29 transport hazardous waste or regulated medical waste; and

30 (c) Other items as designated by the department.

31 **Sec. 46.** (1) A manufacturer shall achieve compliance with the

1 postconsumer recycled content requirements of the Minimum Recycled
2 Content Act based on the average amount of postconsumer recycled content,
3 by weight, contained in its covered recycled content products. A
4 manufacturer may calculate the average amount of postconsumer recycled
5 content contained in its products using data specific to products sold or
6 offered for sale in the state or nationwide. Beginning four years after
7 the operative date of this act, a manufacturer shall calculate the
8 average amount of postconsumer recycled content in its products using
9 data specific to products sold or offered for sale in this state only, if
10 such data is available. If a manufacturer demonstrates to the department
11 that state-specific data is not available or feasible to generate, then
12 the manufacturer may utilize national data to calculate the average
13 amount of postconsumer recycled content contained in its products.

14 (2) The calculation of averages may be based on portfolio standards.
15 Beginning five years after the effective date of each postconsumer
16 content requirement described in this section, a manufacturer shall be
17 required to calculate the amount of postconsumer recycled content in each
18 individual covered product sold or offered for sale within the state.

19 (3) If a manufacturer relies on national data to calculate the
20 average amount of postconsumer recycled content contained in its
21 products, the manufacturer shall:

22 (a) Prorate the national data based on market share or population,
23 to ensure that the percentage of postconsumer recycled content calculated
24 for products sold in the state is the same percentage as calculated for
25 the nation; and

26 (b) Document the methodology used to prorate the national data in
27 the report required pursuant to this section.

28 **Sec. 47.** (1) A manufacturer may apply to the department for a
29 temporary waiver or an extended timeline for compliance from the
30 postconsumer recycled content requirements established pursuant to the
31 Minimum Recycled Content Act. The department may grant a waiver pursuant

1 to this subsection if the manufacturer demonstrates, and the department
2 finds that:

3 (a) The manufacturer cannot achieve the postconsumer recycled
4 content requirements and remain in compliance with applicable regulations
5 adopted by the United States Food and Drug Administration, or any other
6 state or federal law, rule, or regulation;

7 (b) It is not technologically feasible for the manufacturer to
8 achieve the postconsumer recycled content requirements;

9 (c) The manufacturer cannot comply with the postconsumer recycled
10 content requirements due to supply limitations; or

11 (d) The manufacturer cannot comply for another reason as determined
12 by the department pursuant to rules and regulations based on factors
13 described in section 50 of this act.

14 (2) In order to qualify for a waiver from the postconsumer recycled
15 content requirements of the Minimum Recycled Content Act, a manufacturer
16 shall submit to the department documentation from a federal or state
17 agency or certified third-party expert, as appropriate, demonstrating
18 that the manufacturer cannot comply with the postconsumer recycled
19 content requirements for one of the reasons set forth in subsection (1)
20 of this section, and pay a waiver fee of one thousand dollars. The
21 department may modify the amount of the waiver fee, pursuant to the
22 Administrative Procedure Act, as necessary to reflect the department's
23 costs to administer, monitor, and enforce this section.

24 (3) The department may grant a waiver from the postconsumer recycled
25 content requirements for a period of not less than two years, as
26 determined by the department. The department shall publish any
27 determination to grant a waiver from the postconsumer recycled content
28 requirements on its website. The department shall develop a standardized
29 form and procedure for manufacturers to apply for a waiver pursuant to
30 this section.

31 **Sec. 48.** (1) Beginning three years after the operative date of this

1 act, and annually thereafter, a manufacturer shall, individually or as
2 part of a representative organization, register with the department in a
3 form and manner as prescribed by the department, and pay an annual
4 registration fee of one thousand dollars.

5 (2) The department may modify the amount of the annual registration
6 fee, pursuant to the Administrative Procedure Act, as necessary to
7 reflect the department's costs to implement, administer, monitor, and
8 enforce the Minimum Recycled Content Act.

9 (3) Notwithstanding any other provision of this section to the
10 contrary:

11 (a) A de minimis manufacturer shall not be required to pay the
12 registration fee established pursuant to this section if the manufacturer
13 demonstrates to the department and the department finds that, upon annual
14 registration, the manufacturer is a de minimis manufacturer; or

15 (b) A manufacturer that produces or generates only products that are
16 exempt from the Minimum Recycled Content Act shall be required to
17 register with the department only once and shall be exempt from the
18 registration fee.

19 (4)(a) The department shall establish an electronic registration
20 process on its website.

21 (b) The lack of an electronic registration process shall not negate
22 the requirement for a manufacturer to register pursuant to this section.

23 (5) The registration shall include information regarding:

24 (a) Each producer included under the registration;

25 (b) Each brand name of a covered product included under the
26 registration;

27 (c) The total weight of covered recycled content products sold in
28 the state in the immediately preceding calendar year, including the total
29 weight by each category of a covered product;

30 (d) The average percentage of postconsumer recycled content for each
31 category of a covered product sold in the state in the immediately

1 preceding calendar year;

2 (e) Proof of third-party certification in accordance with this
3 section; and

4 (f) Any additional information required by the department by rule
5 and regulation.

6 (6) Notwithstanding any other provision of this section to the
7 contrary, a manufacturer that fails to register with the department
8 pursuant to this section shall first receive a written warning. A
9 manufacturer that receives a written warning shall register with the
10 department no later than ninety days after receipt of the warning.

11 (7) A manufacturer that receives a written warning and that fails to
12 register with the department within ninety days after receipt of the
13 warning shall be subject to the penalties set forth in section 55 of this
14 act.

15 **Sec. 49.** (1) Beginning January 1, 2028, and annually thereafter, a
16 producer shall include proof of third-party certification of the
17 postconsumer recycled content of each covered product included in the
18 registration in a manner required by the department.

19 (2) The certification required under subsection (1) of this section
20 shall be completed by an independent, accredited certifying body as
21 required by the International Organization for Standardization.

22 **Sec. 50.** (1) Notwithstanding any other provision of the Minimum
23 Recycled Content Act to the contrary, the department may, at any time,
24 pursuant to the Administrative Procedure Act, review and adjust any of
25 the postconsumer recycled content requirements established in the act.

26 (2) In making an adjustment pursuant to this section, the department
27 shall consider:

28 (a) Changes in market conditions, including supply and demand for
29 postconsumer recycled content, collection rates, and bale availability
30 both domestically and globally;

31 (b) Recycling rates, as may be determined by the department;

1 (c) The availability of recycled material suitable for manufacturers
2 to meet the postconsumer recycled content requirements, including the
3 availability of high-quality recycled plastic and food-grade recycled
4 plastic;

5 (d) The capacity of recycling or processing infrastructure;

6 (e) The progress made by manufacturers in meeting the postconsumer
7 recycled content requirements; and

8 (f) Any other factors as determined by the department pursuant to
9 rule and regulation.

10 (3) Any adjustment to the postconsumer recycled content requirements
11 made pursuant to this section shall be only for a time period, and only
12 under such conditions, as the department may by rule and regulation
13 establish.

14 **Sec. 51.** (1) Beginning January 1, 2027, a manufacturer shall,
15 individually or as part of a representative organization, provide an
16 annual report to the department that includes the amount, in pounds, of
17 virgin plastic by resin type, and the amount, in pounds, of postconsumer
18 recycled content by resin type used and the source, by country of origin,
19 for each category of covered recycled content products that are sold,
20 offered for sale, or distributed in or into the state, including the
21 total postconsumer recycled content resins as a percentage of total
22 plastic weight.

23 (2) The report shall be submitted in a format and manner prescribed
24 by the department.

25 (3) The department shall post the information reported under this
26 section on its website, except as provided in subsection (4) of this
27 section.

28 (4) A producer that submits information or records to the department
29 under the Minimum Recycled Content Act may request that the information
30 or records be made available only for the confidential use of the
31 department, the Director of Environment and Energy, or the appropriate

1 division of the department. The director shall give consideration to the
2 request, and if this action is not detrimental to the public interest,
3 the director shall grant the request for the information to remain
4 confidential.

5 **Sec. 52.** The department may participate in the establishment and
6 implementation of a multistate clearinghouse to assist in carrying out
7 the requirements of the Minimum Recycled Content Act, including to:

8 (1) Help coordinate the review of registrations, waiver requests,
9 and certifications described in the act; and

10 (2) Implement education and outreach activities.

11 **Sec. 53.** (1) With respect to violations related to the amount of
12 recycled content contained in a manufacturer's covered recycled content
13 products, the department shall assess a civil penalty on a per-pound
14 basis for each pound of virgin material that is used by a manufacturer in
15 its products where recycled material is required pursuant to the Minimum
16 Recycled Content Act. The penalty shall be set at twenty cents per pound
17 for the first year.

18 (2) After January 1, 2029, the department may develop a formula and
19 methodology for calculating a per-pound penalty for each resin type that
20 is, over the average of the previous six months, greater than the market
21 price differential between postconsumer resin and virgin resin varieties
22 according to one or more national price indices as selected by the
23 department.

24 (3) Civil penalties collected under this section shall be remitted
25 to the State Treasurer for distribution in accordance with Article VII,
26 section 5, of the Constitution of Nebraska.

27 **Sec. 54.** (1) The department may grant a reduction in the civil
28 penalties imposed under section 53 of this act if a producer submits to
29 the department a corrective action plan and the department approves the
30 corrective action plan.

31 (2) A corrective action plan submitted under this section shall

1 include:

2 (a) The reasons the producer will fail to meet or failed to meet the
3 minimum postconsumer recycled content percentage requirements; and

4 (b) The steps that the producer will take to comply with the
5 requirements during the subsequent reporting years.

6 (3) In determining whether to grant a reduction in the civil
7 penalties, the department shall consider:

8 (a) Anomalous market conditions;

9 (b) Disruption in supply or lack of supply of recycled plastics;

10 (c) Efforts undertaken by the producer to increase the recyclability
11 of the producer's product and the supply of postconsumer recycled
12 plastic;

13 (d) Efforts taken to increase the use of postconsumer recycled
14 plastics in other applications; and

15 (e) Other factors that prevent a producer from meeting the minimum
16 postconsumer recycled content percentage requirements.

17 **Sec. 55.** (1) For manufacturers that are out of compliance with the
18 registration or reporting requirements of sections 48 and 51 of this act,
19 the department shall provide written notification and offer information
20 to producers. For purposes of this section, written notification serves
21 as notice of the violation. The department shall issue at least two
22 notices of violation by certified mail prior to assessing a penalty under
23 subsection (2) of this section.

24 (2) A manufacturer out of compliance with the registration or
25 reporting requirements of sections 48 and 51 of this act is subject to a
26 civil penalty for each day of violation in an amount not to exceed one
27 thousand dollars.

28 **Sec. 56.** For each pound of postconsumer resin purchased from a
29 source in this state or in adjacent regions, as determined by the
30 department, for use in the manufacture of covered recycled content
31 products with recycled plastic postconsumer material in compliance with

1 the Minimum Recycled Content Act, the department shall credit the
2 certifying manufacturer with having used one and two-tenths pounds of
3 postconsumer resin toward compliance with the requirements of the act.

4 **Sec. 57.** Civil penalties collected under the Minimum Recycled
5 Content Act shall be remitted to the State Treasurer for distribution in
6 accordance with Article VII, section 5, of the Constitution of Nebraska.

7 **Sec. 58.** The department shall adopt and promulgate rules and
8 regulations to carry out the Minimum Recycled Content Act.

9 **Sec. 59.** Section 81-1502, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-1502 For purposes of the Environmental Protection Act, unless the
12 context otherwise requires:

13 (1) Air contaminant or air contamination means ~~shall mean~~ the
14 presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor,
15 gas, other gaseous fluid, or particulate substance differing in
16 composition from or exceeding in concentration the natural components of
17 the atmosphere;

18 (2) Air pollution means ~~shall mean~~ the presence in the outdoor
19 atmosphere of one or more air contaminants or combinations thereof in
20 such quantities and of such duration as are or may tend to be injurious
21 to human, plant, or animal life, property, or the conduct of business;

22 (3) Chairperson means ~~shall mean~~ the chairperson of the
23 Environmental Quality Council and council means ~~shall mean~~ the
24 Environmental Quality Council;

25 (4) Complaint means ~~shall mean~~ any charge, however informal, to or
26 by the council, that any person or agency, private or public, is
27 polluting the air, land, or water or is violating the Environmental
28 Protection Act or any rule or regulation of the department in respect
29 thereof;

30 (5) Control and controlling includes ~~shall include~~ prohibition and
31 prohibiting as related to air, land, or water pollution;

1 (6) Department means shall mean the Department of Environment and
2 Energy, which department is hereby created;

3 (7) Director means shall mean the Director of Environment and
4 Energy, which position is hereby established;

5 (8) Disposal system means shall mean a system for disposing of
6 wastes, including hazardous wastes, either by surface or underground
7 methods, and includes sewerage systems and treatment works, disposal
8 wells and fields, and other systems;

9 (9) Effluent limitation means any restriction, including a schedule
10 of compliance, established by the council on quantities, rates, and
11 concentrations of chemical, physical, biological, and other constituents
12 which are discharged from point sources into waters of the state;

13 (10) (9) Emissions means shall mean releases or discharges into the
14 outdoor atmosphere of any air contaminant or combination thereof;

15 (11) Fluid means a material or substance which flows or moves
16 whether in a semisolid, liquid, sludge, gas, or other form or state;

17 (12) Garbage means rejected food wastes, including waste
18 accumulation of animal, fruit, or vegetable matter used or intended for
19 food or that attend the preparation, use, cooking, dealing in, or storing
20 of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by
21 rendering plants;

22 (13) Hazardous waste means a solid waste, or combination of solid
23 wastes, which because of its quantity, concentration, or physical,
24 chemical, or infectious characteristics may (a) cause or significantly
25 contribute to an increase in mortality or an increase in serious
26 irreversible, or incapacitating reversible, illness or (b) pose a
27 substantial present or potential hazard to human or animal health or the
28 environment when improperly treated, stored, transported, disposed of, or
29 otherwise managed;

30 (14) Injection well means a well into which fluids are injected;

31 (15) Junk means old scrap, copper, brass, iron, steel, rope, rags,

1 batteries, paper, trash, rubber debris, waste, dismantled or wrecked
2 automobiles, or parts thereof, and other old or scrap ferrous or
3 nonferrous material;

4 (16) Land pollution means the presence upon or within the land
5 resources of the state of one or more contaminants or combinations of
6 contaminants, including, but not limited to, refuse, garbage, rubbish, or
7 junk, in such quantities and of such quality as will or are likely to (a)
8 create a nuisance, (b) be harmful, detrimental, or injurious to public
9 health, safety, or welfare, (c) be injurious to plant and animal life and
10 property, or (d) be detrimental to the economic and social development,
11 the scenic beauty, or the enjoyment of the natural attractions of the
12 state;

13 (17) Livestock waste control facility has the same meaning as in
14 section 54-2417;

15 (18) Manifest means the form used for identifying the quantity,
16 composition, origin, routing, and destination of hazardous waste during
17 its transportation from the point of generation to the point of disposal,
18 treatment, or storage;

19 (19) Manufacturing facility has the same meaning as in section 6 of
20 this act;

21 (20) Mineral exploration hole means a hole bored, drilled, driven,
22 or dug in the act of exploring for any mineral other than oil or gas;

23 (21) Mineral production well means a well drilled to promote
24 extraction of mineral resources or energy, including, but not limited to,
25 a well designed for (a) mining of sulfur by the Frasch process, (b)
26 solution mining of sodium chloride, potash, phosphate, copper, uranium,
27 or any other mineral which can be mined by this process, (c) in situ
28 combustion of coal, tar sands, oil shale, or any other fossil fuel, or
29 (d) recovery of geothermal energy for the production of electric power.
30 Mineral production well shall not include any well designed for
31 conventional oil or gas production, for use of fluids to promote enhanced

1 recovery of oil or natural gas, or for injection of hydrocarbons for
2 storage purposes;

3 (22) (10) Person means shall mean any: Individual; partnership;
4 limited liability company; association; public or private corporation;
5 trustee; receiver; assignee; agent; municipality or other governmental
6 subdivision; public agency; other legal entity; or any officer or
7 governing or managing body of any public or private corporation,
8 municipality, governmental subdivision, public agency, or other legal
9 entity;

10 (23) Point source means any discernible confined and discrete
11 conveyance, including, but not limited to, any pipe, ditch, channel,
12 tunnel, conduit, well, discrete fissure, container, rolling stock, or
13 vessel or other floating craft from which pollutants are or may be
14 discharged;

15 (24) Post-use polymer has the same meaning as in section 8 of this
16 act;

17 (25) Processing means to treat, detoxify, neutralize, incinerate,
18 biodegrade, or otherwise process a hazardous waste to remove the harmful
19 properties or characteristics of such waste for disposal in accordance
20 with regulations established by the council;

21 (26) Recovered feedstock has the same meaning as in section 10 of
22 this act;

23 (27) Refuse means putrescible and nonputrescible solid wastes,
24 except body wastes, and includes garbage, rubbish, ashes, incinerator
25 ash, incinerator residue, street cleanings, and solid market and
26 industrial wastes;

27 (28) Rubbish means nonputrescible solid wastes, excluding ashes,
28 consisting of both combustible and noncombustible wastes, such as paper,
29 cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or
30 litter of any kind that will be a detriment to the public health and
31 safety;

1 (29) ~~(11)~~ Rule or regulation means shall mean any rule or regulation
2 of the department;

3 (30) Schedule of compliance means a schedule of remedial measures
4 including an enforceable sequence of actions or operations leading to
5 compliance with an effluent limitation, other limitation, prohibition, or
6 standard;

7 (31) ~~(12)~~ Sewerage system means shall mean pipelines, conduits,
8 pumping stations, force mains, and all other constructions, devices,
9 appurtenances, and facilities used for collecting or conducting wastes to
10 an ultimate point for treatment or disposal;

11 (32) Solid waste means any garbage, refuse, or sludge from a waste
12 treatment plant, water supply treatment plant, or air pollution control
13 facility and other discarded material, including solid, liquid,
14 semisolid, or contained gaseous material resulting from industrial,
15 commercial, and mining operations and from community activities. Solid
16 waste shall not include slag, a product that is a result of the steel
17 manufacturing process and is managed as an item of value in a controlled
18 manner and not as a discarded material; solid or dissolved materials in
19 irrigation return flows or industrial discharges which are point sources
20 subject to permits under section 402 of the Clean Water Act, 33 U.S.C.
21 1251 et seq., as such section existed on January 1, 2025; source
22 material, special nuclear material, or byproduct material as defined by
23 the Atomic Energy Act of 1954, 42 U.S.C. 2014, as such section existed on
24 January 1, 2025; or post-use polymers and recovered feedstocks converted
25 at a manufacturing facility or held at such manufacturing facility prior
26 to conversion through a manufacturing process;

27 (33) Solid waste management facility means a facility as defined in
28 section 13-2010;

29 (34) Solution mining means the use of an injection well and fluids
30 to promote the extraction of mineral resources;

31 (35) Storage, when used in connection with hazardous waste, means

1 the containment of hazardous waste, either on a temporary basis or for a
2 period of years, in such manner as not to constitute disposal of such
3 hazardous waste;

4 ~~(36) (13) Treatment works means shall mean any plant or other works~~
5 ~~used for the purpose of treating, stabilizing, or holding wastes;~~

6 ~~(37) Uranium means tri-uranium oct-oxide;~~

7 ~~(38) (14) Wastes means shall mean sewage, industrial waste, and all~~
8 ~~other liquid, gaseous, solid, radioactive, or other substances which may~~
9 ~~pollute or tend to pollute any air, land, or waters of the state;~~

10 ~~(39) Water pollution means the manmade or man-induced alteration of~~
11 ~~the chemical, physical, biological, or radiological integrity of water;~~

12 ~~(40) Waters of the state means all waters within the jurisdiction of~~
13 ~~this state, including all streams, lakes, ponds, impounding reservoirs,~~
14 ~~marshes, wetlands, watercourses, waterways, wells, springs, irrigation~~
15 ~~systems, drainage systems, and all other bodies or accumulations of~~
16 ~~water, surface or underground, natural or artificial, public or private,~~
17 ~~situated wholly or partly within or bordering upon the state; and~~

18 ~~(41) Well means a bored, drilled, or driven shaft or a dug hole, the~~
19 ~~depth of which is greater than the largest surface dimension of such~~
20 ~~shaft or hole.~~

21 ~~(15) Refuse shall mean putrescible and nonputrescible solid wastes,~~
22 ~~except body wastes, and includes garbage, rubbish, ashes, incinerator~~
23 ~~ash, incinerator residue, street cleanings, and solid market and~~
24 ~~industrial wastes;~~

25 ~~(16) Garbage shall mean rejected food wastes, including waste~~
26 ~~accumulation of animal, fruit, or vegetable matter used or intended for~~
27 ~~food or that attend the preparation, use, cooking, dealing in, or storing~~
28 ~~of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by~~
29 ~~rendering plants;~~

30 ~~(17) Rubbish shall mean nonputrescible solid wastes, excluding~~
31 ~~ashes, consisting of both combustible and noncombustible wastes, such as~~

1 ~~paper, cardboard, tin cans, yard clippings, wood, glass, bedding,~~
2 ~~crockery, or litter of any kind that will be a detriment to the public~~
3 ~~health and safety;~~

4 ~~(18) Junk shall mean old scrap, copper, brass, iron, steel, rope,~~
5 ~~rags, batteries, paper, trash, rubber debris, waste, dismantled or~~
6 ~~wrecked automobiles, or parts thereof, and other old or scrap ferrous or~~
7 ~~nonferrous material;~~

8 ~~(19) Land pollution shall mean the presence upon or within the land~~
9 ~~resources of the state of one or more contaminants or combinations of~~
10 ~~contaminants, including, but not limited to, refuse, garbage, rubbish, or~~
11 ~~junk, in such quantities and of such quality as will or are likely to (a)~~
12 ~~create a nuisance, (b) be harmful, detrimental, or injurious to public~~
13 ~~health, safety, or welfare, (c) be injurious to plant and animal life and~~
14 ~~property, or (d) be detrimental to the economic and social development,~~
15 ~~the scenic beauty, or the enjoyment of the natural attractions of the~~
16 ~~state;~~

17 ~~(20) Water pollution shall mean the manmade or man-induced~~
18 ~~alteration of the chemical, physical, biological, or radiological~~
19 ~~integrity of water;~~

20 ~~(21) Waters of the state shall mean all waters within the~~
21 ~~jurisdiction of this state, including all streams, lakes, ponds,~~
22 ~~impounding reservoirs, marshes, wetlands, watercourses, waterways, wells,~~
23 ~~springs, irrigation systems, drainage systems, and all other bodies or~~
24 ~~accumulations of water, surface or underground, natural or artificial,~~
25 ~~public or private, situated wholly or partly within or bordering upon the~~
26 ~~state;~~

27 ~~(22) Point source shall mean any discernible confined and discrete~~
28 ~~conveyance, including, but not limited to, any pipe, ditch, channel,~~
29 ~~tunnel, conduit, well, discrete fissure, container, rolling stock, or~~
30 ~~vessel or other floating craft from which pollutants are or may be~~
31 ~~discharged;~~

1 ~~(23) Effluent limitation shall mean any restriction, including a~~
2 ~~schedule of compliance, established by the council on quantities, rates,~~
3 ~~and concentrations of chemical, physical, biological, and other~~
4 ~~constituents which are discharged from point sources into waters of the~~
5 ~~state;~~

6 ~~(24) Schedule of compliance shall mean a schedule of remedial~~
7 ~~measures including an enforceable sequence of actions or operations~~
8 ~~leading to compliance with an effluent limitation, other limitation,~~
9 ~~prohibition, or standard;~~

10 ~~(25) Hazardous waste shall mean a solid waste, or combination of~~
11 ~~solid wastes, which because of its quantity, concentration, or physical,~~
12 ~~chemical, or infectious characteristics may (a) cause or significantly~~
13 ~~contribute to an increase in mortality or an increase in serious~~
14 ~~irreversible, or incapacitating reversible, illness or (b) pose a~~
15 ~~substantial present or potential hazard to human or animal health or the~~
16 ~~environment when improperly treated, stored, transported, disposed of, or~~
17 ~~otherwise managed;~~

18 ~~(26) Solid waste shall mean any garbage, refuse, or sludge from a~~
19 ~~waste treatment plant, water supply treatment plant, or air pollution~~
20 ~~control facility and other discarded material, including solid, liquid,~~
21 ~~semisolid, or contained gaseous material resulting from industrial,~~
22 ~~commercial, and mining operations and from community activities. Solid~~
23 ~~waste shall not include slag, a product that is a result of the steel~~
24 ~~manufacturing process and is managed as an item of value in a controlled~~
25 ~~manner and not as a discarded material; solid or dissolved materials in~~
26 ~~irrigation return flows or industrial discharges which are point sources~~
27 ~~subject to permits under section 402 of the Clean Water Act, as amended,~~
28 ~~33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material~~
29 ~~as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011~~
30 ~~et seq.;~~

31 ~~(27) Storage, when used in connection with hazardous waste, shall~~

1 ~~mean the containment of hazardous waste, either on a temporary basis or~~
2 ~~for a period of years, in such manner as not to constitute disposal of~~
3 ~~such hazardous waste;~~

4 ~~(28) Manifest shall mean the form used for identifying the quantity,~~
5 ~~composition, origin, routing, and destination of hazardous waste during~~
6 ~~its transportation from the point of generation to the point of disposal,~~
7 ~~treatment, or storage;~~

8 ~~(29) Processing shall mean to treat, detoxify, neutralize,~~
9 ~~incinerate, biodegrade, or otherwise process a hazardous waste to remove~~
10 ~~such waste's harmful properties or characteristics for disposal in~~
11 ~~accordance with regulations established by the council;~~

12 ~~(30) Well shall mean a bored, drilled, or driven shaft or a dug~~
13 ~~hole, the depth of which is greater than the largest surface dimension of~~
14 ~~such shaft or hole;~~

15 ~~(31) Injection well shall mean a well into which fluids are~~
16 ~~injected;~~

17 ~~(32) Fluid shall mean a material or substance which flows or moves~~
18 ~~whether in a semisolid, liquid, sludge, gas, or other form or state;~~

19 ~~(33) Mineral production well shall mean a well drilled to promote~~
20 ~~extraction of mineral resources or energy, including, but not limited to,~~
21 ~~a well designed for (a) mining of sulfur by the Frasch process, (b)~~
22 ~~solution mining of sodium chloride, potash, phosphate, copper, uranium,~~
23 ~~or any other mineral which can be mined by this process, (c) in situ~~
24 ~~combustion of coal, tar sands, oil shale, or any other fossil fuel, or~~
25 ~~(d) recovery of geothermal energy for the production of electric power.~~
26 ~~Mineral production well shall not include any well designed for~~
27 ~~conventional oil or gas production, for use of fluids to promote enhanced~~
28 ~~recovery of oil or natural gas, or for injection of hydrocarbons for~~
29 ~~storage purposes;~~

30 ~~(34) Mineral exploration hole shall mean a hole bored, drilled,~~
31 ~~driven, or dug in the act of exploring for a mineral other than oil and~~

1 gas;

2 ~~(35) Solution mining shall mean the use of an injection well and~~
3 ~~fluids to promote the extraction of mineral resources;~~

4 ~~(36) Uranium shall mean tri-uranium oct-oxide;~~

5 ~~(37) Solid waste management facility shall mean a facility as~~
6 ~~defined in section 13-2010; and~~

7 ~~(38) Livestock waste control facility shall have the same meaning as~~
8 ~~in section 54-2417.~~

9 **Sec. 60.** Section 81-15,160, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is
12 created. The department shall deduct from the fund amounts sufficient to
13 reimburse itself for its costs of administration of the fund. The fund
14 shall be administered by the department. The fund shall consist of
15 proceeds from the fees imposed pursuant to the Waste Reduction and
16 Recycling Incentive Act and the Extended Producer Responsibility Data
17 Collection Act.

18 (2) The fund may be used for purposes which include, but are not
19 limited to:

20 (a) Technical and financial assistance to political subdivisions for
21 creation of recycling systems and for modification of present recycling
22 systems;

23 (b) Recycling and waste reduction projects, including public
24 education, planning, and technical assistance;

25 (c) Market development for recyclable materials separated by
26 generators, including public education, planning, and technical
27 assistance;

28 (d) Capital assistance for establishing private and public
29 intermediate processing facilities for recyclable materials and
30 facilities using recyclable materials in new products;

31 (e) Programs which develop and implement composting of yard waste

1 and composting with sewage sludge;

2 (f) Technical assistance for waste reduction and waste exchange for
3 waste generators;

4 (g) Programs to assist communities and counties to develop and
5 implement household hazardous waste management programs;

6 (h) Capital assistance for establishing private and public
7 facilities to manufacture combustible waste products and to incinerate
8 combustible waste to generate and recover energy resources, except that
9 no disbursements shall be made under this section for scrap tire
10 processing related to tire-derived fuel; and

11 (i) Grants for reimbursement of costs to cities of the first class,
12 cities of the second class, villages, and counties of five thousand or
13 fewer population for the deconstruction of abandoned buildings. Eligible
14 deconstruction costs will be related to the recovery and processing of
15 recyclable or reusable material from the abandoned buildings.

16 (3) Grants up to one million five hundred thousand dollars annually
17 shall be available until June 30, 2029, for new scrap tire projects only,
18 if acceptable scrap tire project applications are received. Eligible
19 categories of disbursement under section 81-15,161 may include, but are
20 not limited to:

21 (a) Reimbursement for the purchase of crumb rubber generated and
22 used in Nebraska, with disbursements not to exceed fifty percent of the
23 cost of the crumb rubber;

24 (b) Reimbursement for the purchase of tire-derived product which
25 utilizes a minimum of twenty-five percent recycled tire content, with
26 disbursements not to exceed twenty-five percent of the product's retail
27 cost;

28 (c) Participation in the capital costs of building, equipment, and
29 other capital improvement needs or startup costs for scrap tire
30 processing or manufacturing of tire-derived product, with disbursements
31 not to exceed fifty percent of such costs or five hundred thousand

1 dollars, whichever is less;

2 (d) Participation in the capital costs of building, equipment, or
3 other startup costs needed to establish collection sites or to collect
4 and transport scrap tires, with disbursements not to exceed fifty percent
5 of such costs;

6 (e) Cost-sharing for the manufacturing of tire-derived product, with
7 disbursements not to exceed twenty dollars per ton or two hundred fifty
8 thousand dollars, whichever is less, to any person annually;

9 (f) Cost-sharing for the processing of scrap tires, with
10 disbursements not to exceed twenty dollars per ton or two hundred fifty
11 thousand dollars, whichever is less, to any person annually;

12 (g) Cost-sharing for the use of scrap tires for civil engineering
13 applications for specified projects, with disbursements not to exceed
14 twenty dollars per ton or two hundred fifty thousand dollars, whichever
15 is less, to any person annually;

16 (h) Disbursement to a political subdivision up to one hundred
17 percent of costs incurred in cleaning up scrap tire collection and
18 disposal sites; and

19 (i) Costs related to the study provided in section 81-15,159.01.

20 The director shall give preference to projects which utilize scrap
21 tires generated and used in Nebraska.

22 (4) Priority for grants made under section 81-15,161 shall be given
23 to grant proposals demonstrating a formal public/private partnership
24 except for grants awarded from fees collected under subsection (6) of
25 section 13-2042.

26 (5) Grants awarded from fees collected under subsection (6) of
27 section 13-2042 may be renewed for up to a five-year grant period. Such
28 applications shall include an updated integrated solid waste management
29 plan pursuant to section 13-2032. Annual disbursements are subject to
30 available funds and the grantee meeting established grant conditions.
31 Priority for such grants shall be given to grant proposals showing

1 regional participation and programs which address the first integrated
2 solid waste management hierarchy as stated in section 13-2018 which shall
3 include toxicity reduction. Disbursements for any one year shall not
4 exceed fifty percent of the total fees collected after rebates under
5 subsection (6) of section 13-2042 during that year.

6 (6) Any person who stores waste tires in violation of section
7 13-2033, which storage is the subject of abatement or cleanup, shall be
8 liable to the State of Nebraska for the reimbursement of expenses of such
9 abatement or cleanup paid by the department.

10 (7) The department may receive gifts, bequests, and any other
11 contributions for deposit in the Waste Reduction and Recycling Incentive
12 Fund. Transfers may be made from the fund to the General Fund at the
13 direction of the Legislature. Any money in the Waste Reduction and
14 Recycling Incentive Fund available for investment shall be invested by
15 the state investment officer pursuant to the Nebraska Capital Expansion
16 Act and the Nebraska State Funds Investment Act.

17 **Sec. 61.** This act becomes operative on January 1, 2026.

18 **Sec. 62.** Original sections 13-2001, 13-2003, 13-2010, 13-2034,
19 13-2042, 81-1502, and 81-15,160, Reissue Revised Statutes of Nebraska,
20 are repealed.