

# CHAPTER 1:

## Agency Overview

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The Nebraska Department of Environmental Quality was created pursuant to passage of the Nebraska Environmental Protection Act in 1971. Although the Department has grown and been given additional responsibilities over the years, its ongoing mission has remained the same — the protection of Nebraska's air, land and water resources. Presently, the Agency is authorized a staffing level of 216 full-time employees.

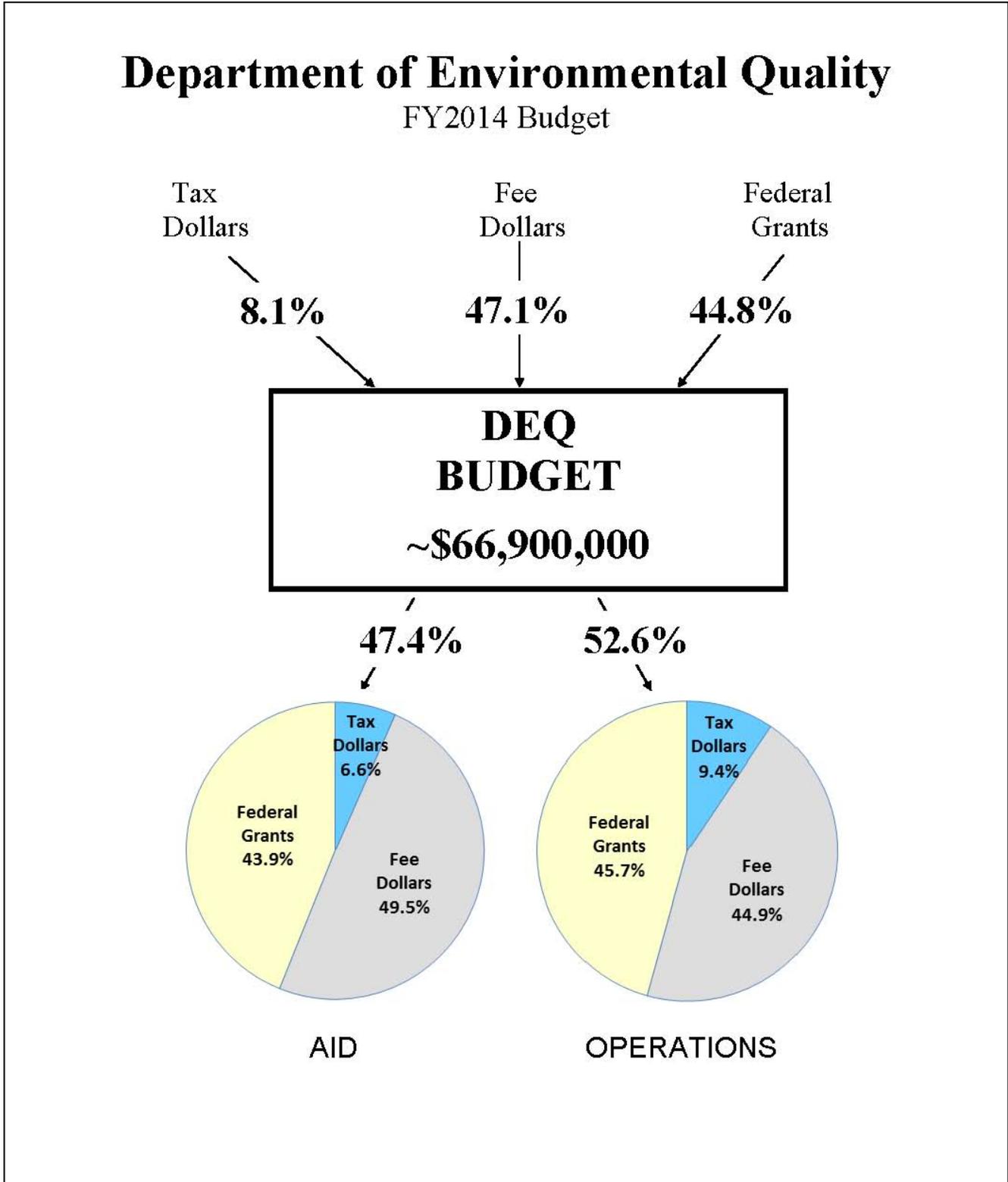
The Department has a total annual budget for FY14 of approximately \$66.9 million. This includes money collected from state taxes, fees and federal grants. Of that amount, \$31.7 million is redistributed to other agencies, organizations and individuals in the form of aid (grants and loans).

On the table below, the columns listed as aid represent the amount of the agency's budget that is redistributed to other entities as grants and loans. The operations columns represent the amounts used for the operation of the agency. However, the operations categories also include contracts where money is used on behalf of others, such as when the agency assigns a private contractor to investigate and clean up a petroleum remediation site.

This funding is derived from several sources. A major source of funding is the federal government. The state also contributes significant funding for Department activities, and certain programs are funded partially or totally by fees. A breakdown of funding by fund type is shown on the following table:

<b>Funding Type</b>	<b>Operations: \$ Amount</b>	<b>Percent of Operations Budget</b>	<b>Aid: \$ Amount</b>	<b>Percent of Aid Budget</b>
<b>Federal Funds</b> (Grants)	\$16.1 million	45.7%	\$13.9 million	43.9%
<b>State General Funds</b> (Tax \$)	\$3.3 million	9.4%	\$2.1 million	6.6%
<b>Cash Funds</b> (Fees)	\$15.8 million	44.9%	\$15.7 million	49.5%
<b>Total</b>	\$35.2 million		\$31.7 million	

The following graphic depicts the department's FY14 budget by funding source and percent anticipated to be expended by fund type and activity (aid or operations).



Several chapters of this report give the reader a more in-depth look at Department responsibilities. Other chapters address financial issues, staffing issues, aid programs, and financial responsibility requirements. Additionally, Chapter 3 lists actions of the Environmental Quality Council during FY13.

This chapter provides: 1) a brief description of agency goals; 2) significant issues in 2013; 3) significant legislation of 2013 and 4) a table that identifies initiatives over the past ten years that have impacted Agency resources.

## I. Agency Goals and Related Activities

In recent years, NDEQ Administration has established a list of agency goals. Staff from all programs were asked to identify goals consistent with the agency goals. Through a series of staff meetings, goals were discussed and specific program goals and activities to be reached and reported were identified. These goals meetings have been conducted periodically since the goals were established, to evaluate our progress and develop strategies for the future. These efforts provide greater accountability regarding work that is being accomplished and help programs and management monitor whether we are achieving the identified goals.

The main goals established by the Agency are:

- 1) **Effective work force.** The agency needs to structure and train its employees to be as effective as possible to offset declining resources.
- 2) **Timely permitting process.** Permit review and issuance needs to be streamlined and simplified to meet the needs of both the agency (effective work force) and those in need of a permit.
- 3) **Balanced enforcement.** Enforcement means compliance with the law and a balanced approach between compliance assistance and traditional enforcement tools needs to be reached.
- 4) **Simplify regulations.** Persons and entities affected or protected by our regulations need to be able to understand the requirements with as little difficulty as possible.
- 5) **Community presence and relations.** NDEQ needs to be present in the community that it serves - Nebraska. The agency also needs to open communications and relationships with citizens, those we regulate, and other governmental entities.
- 6) **"Back to the Basics."** We must excel at the fundamental things that the Legislature intends for us to do -- issue permits, inspect, assure compliance, and require remediation where necessary.
- 7) **Assistance.** We need to assist those that we regulate so they can meet or exceed minimum standards. We must make such concepts as pollution prevention and compliance assistance a natural way of doing our job.
- 8) **Measure Environmental Quality.** We need to collect information that enables us to do our job and to measure Nebraska's environmental quality. Information collected by NDEQ must measure any changes in the quality of Nebraska's environment over time and provide the information we need to make sound regulatory decisions.
- 9) **Meaningful Reporting.** NDEQ has a responsibility to the citizens of Nebraska to report our findings in an understandable and useful way.
- 10) **Assess Needs.** Meaningful information about the environment should be used by NDEQ to assess the needs of the citizens and environment of the State. That information, when shared with the public, will provide input opportunities on priority issues.

Through activity tracking and followup meetings with program staff, the agency continually evaluates whether goals are being achieved, and whether they need to be modified.

## II. Significant Issues: Proposed Keystone XL Pipeline

In January 2013, NDEQ concluded its role in the evaluation of the proposed Keystone XL Pipeline. TransCanada Keystone Pipeline, LP (Keystone) proposes to construct, operate and maintain the Keystone XL pipeline. The northern portion of the project is an 875 mile long, 36-inch diameter crude oil pipeline that runs from the U.S.-Canadian border to Steele City, Nebraska.

Legislative bills passed in the Special Session of 2011 and in the 2012 Legislative Session provided NDEQ the authority to evaluate proposed oil pipeline routes in Nebraska. In late 2011, NDEQ formed a team of agency staff and hired HDR Engineering, Inc. of Omaha as its consultant in the review of the proposed Keystone XL project. The review was halted in January 2012 when the permit was denied at the federal level.

The state evaluation resumed in April 2012, after LB 1161 was enacted and TransCanada submitted a revised route corridor report to the State of Nebraska. NDEQ conducted four information sessions in May in O'Neill, Neligh, Albion and Central City to discuss Keystone's proposed route corridor and seek public input. In July, NDEQ provided a Feedback Report to Keystone that identified public concerns and agency observations.

Keystone submitted a Supplemental Environmental Report to NDEQ on Sept. 5, 2012, which provided detailed route information and served as the basis for the state's evaluation. On Oct. 30, 2012, NDEQ released its Draft Evaluation Report and announced that a public hearing will be held in Albion on Dec. 4, 2012. Over 100 testified at the hearing, and over 350 submitted written testimony.

After considering all public comment and testimony, NDEQ produced the Final Evaluation Report, which was presented to Gov. Dave Heineman on January 4, 2013. On January 22, 2013, Gov. Heineman issued a letter to President Barak Obama and the Secretary of State, stating that he approved the route reviewed in the final evaluation report. He also requested that Nebraska's evaluation be included in the Department of State's Supplemental Environmental Impact Statement.

## III. 2013 Legislative Summary

Three pieces of legislation passed in 2013 had an impact on the agency. The legislation includes:

**LB 203** – This legislation amends the definition of solid waste found in the Nebraska Environmental Protection Act. The definition was amended to provide an exemption for slag, a material which is byproduct produced as a result of the steel manufacturing process. New language included in the definition provides an exemption for slag as long as it is managed as an item of value in a controlled manner and not as discarded material.

**LB 242** -- This piece of legislation amends the Administrative Procedure Act. Under the Act, state agencies have a specific timeline to adopt or amend rules and regulations when new legislation is passed that requires rule and regulation development or change. The new language adds oversight responsibilities for standing legislative committees with jurisdiction of a subject area to hold a public hearing with a state agency, if that agency has not promulgated rules and regulations within three years of the operative or effective date of authorized legislation. The bill specifically makes this

requirement retroactive as well as prospective. The Administrative Procedure Act was previously amended in 2011 to provide specific timeframes for state agencies to incorporate legislation into rules and regulations.

**LB 549** -- This legislation makes changes to the Waste Reduction and Recycling Incentive Act. LB549 increases the portion of the Waste Reduction and Recycling Fund that is available for new scrap tire projects only, and extends the Scrap Tire sunset date. The annual grant target for new scrap tire projects is raised from \$1 million to \$1.5 million, and the sunset date of the Scrap Tire Program is extended another five years, from 2014 to 2019.

#### IV. State and Federal Actions Affecting Agency Staffing

The following is a breakdown of legislation over the past ten years that has affected staffing requirements at the Nebraska Department of Environmental Quality. The required programs are broken into three categories: 1) programs required by the federal government which did not require additional state legislation to adopt (Federally Mandated); 2) state legislation in response to federal requirements (State Legislation/Federally Mandated); and 3) state legislation which was not federally mandated (State Legislation/ Not Federally Mandated).

##### 2004 (217 FTE)

###### **State Legislation/Federally Mandated**

- Livestock Waste Management Act

###### **State Legislation/Not Federally Mandated**

- Air Quality Permit Fees

##### 2005 (217 FTE)

###### **State Legislation/Not Federally Mandated**

- Air Emission Fees
- Petroleum Release Remedial Action Act

##### 2006 (217 FTE)

###### **State Legislation/Federally Mandated**

- Livestock Waste Management Act
- Stormwater Grants
- Emission Trading

##### 2007 (218 FTE)

###### **State Legislation/Not Federally Mandated**

- Drinking Water State Revolving Fund
- Livestock Waste Management Act
- Wastewater Treatment Operator Certification
- Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act

##### 2008 (218 FTE)

###### **State Legislation/Not Federally Mandated**

- Remedial Action Plan Monitoring Act
- Wastewater Treatment Facilities Construction Act
- Petroleum Release Remedial Action Act

**2009** (218 FTE)**State Legislation/Not Federally Mandated**

- Livestock Waste Management Act
- Integrated Solid Waste Management Act (rebate fee schedule)
- Waste Reduction and Recycling Incentive Fund (deconstruction grants)
- Waste Reduction and Recycling Incentive Fund (scrap tire projects)

**2010** (215.25 FTE)**State Legislation/Not Federally Mandated**

- LB1 Special Session

**2011** (215.25 FTE)**State Legislation/Not Federally Mandated**

- LB28 Nebraska Chemigation Act
- LB29 Emergency Response
- LB30 Integrated Waste Management (Compost)
- LB156 Clean Air Act (Emission Fee)

**2012** (216 FTE)**State Legislation/Not Federally Mandated**

- Deficit Funding Bill 1 FTE

**2013** (216 FTE)**State Legislation/Not Federally Mandated**

- LB203 Integrated Solid Waste Management Act
- LB242 Administrative Procedures Act
- LB549 Waste Reduction and Recycling Act