2009

LEGISLATIVE BILL SUMMARIES

NATURAL RESOURCES COMMITTEE

NEBRASKA LEGISLATURE

ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION

NATURAL RESOURCES COMMITTEE MEMBERS

Senator Chris Langemeier, Chairman
Senator Annette Dubas, Vice-Chairwoman
Senator Tom Carlson
Senator Tanya Cook
Senator Deb Fischer
Senator Ken Haar
Senator Beau McCoy
Senator Ken Schilz

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COMMITTEE STAFF

Laurie Lage, Legal Counsel
Barb Koehlmoos, Committee Clerk

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101st Legislature

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LB 666 (Langemeier) Change provisions relating to the Niobrara Council. *Held in Committee* (p. 55-57)

LB 18 (Christensen) Prohibit irrigation of certain educational lands. *Withdrawn 1/23*

Natural Resources Committee 2009
101st Legislature

Hearing Schedule

Hearing	Bill	Introducer	One-Liner	Status
WED. 1-21-09	LB 105	Nat.Res. Comm.	Change provisions relating to fees, licenses, permits, funds, penalties, and damages under the Game Law and the State Boat Act	**Approved by Gov 4/8**
1-21-09	LB 179	Nat.Res. Comm.	Change project limit adjustments under the Nebraska Resources Development Fund	**Approved by Gov 2/12**
1-21-09	LB 180	Nat.Res. Comm.	Change provisions relating to solid waste management	**Approved by Gov 2/12**
1-21-09	LB 42	Flood	Change provisions relating to rural water districts	**GF**
1-21-09	LB 43	Flood	Eliminate the Department of Natural Resources Interstate Water Rights Cash Fund	**GF**
THURS. 1-22-09			Confirmation Hearing – Brian Dunnigan, Director, Department of Natural Resources	**Advanced**
1-22-09			Confirmation Hearing - Rex Fisher, Game & Parks Commission	**Advanced**
1-22-09	LB 53	Fischer	Change provisions relating to formation, territory, and operating area of public power districts	**Approved by Gov 3/5**
1-22-09	LB 14	White	Provide energy conservation standards for certain state buildings	**In Comm**
1-22-09	LB 5	Christensen	Eliminate a restriction and a penalty on trapping wildlife in county road rights-of-way	**Approved by Gov 3/5**
FRI. 1-23-09	LB 134	Pankonin	Change natural resources districts eminent domain powers – Pankonin priority bill	**IPP**
1-23-09	LB 160	Gay	Authorize issuance of flood protection and water quality enhancement bonds by natural resources districts – Nelson priority bill	**Approved by Gov 5/22**
WED. 1-28-09	LB 54	Fischer	Change integrated management plan provisions under the Nebraska Ground Water Management and Protection Act – Fischer priority bill	**Approved by Gov 5/13**
1-28-09	LB 56	Fischer	Change the Livestock Waste Management Act – Speaker priority bill	**Approved by Gov 5/13**
1-28-09	LB 184	Louden	Authorize Department of Natural Resources to administer riparian water rights	**Approved by Gov 4/8**
1-28-09	LB 300	Heidemann	Change bidding requirements for public power and irrigation districts	**Approved by Gov 4/22**
THURS. 1-29-09	LB 379	Haar	Extend a scrap tire grant program	**Approved by Gov 3/18**
1-29-09	LB 482	Langemeier	Change provisions of the Nebraska Ground Water Management and Protection Act	**In Comm**
1-29-09	LB 483	Langemeier	Change provisions relating to water well permits	**Approved by Gov 4/6**

Hearing	Bill	Introducer	One-Liner	Status
FRI. 1-30-09	LB 209	Langemeier	Change provisions relating to time for construction of irrigation projects and dams	**Approved by Gov 3/26**
1-30-09	LB 246	Dubas	Reestablish the Biopower Steering Committee and provide for a strategic biotechnology plan	**Approved by Gov 5/27**
1-30-09	LB 490	Giese	Change provisions relating to nonresident hunting permits	**In Comm**
WED. 2-4-09	LB 491	Haar	Provide for home energy efficiency loans	**In Comm**
2-4-09	LB 565	Louden	Adopt the Woody Biomass Energy Act	**In Comm**
2-4-09	LB 624	Haar	Provide for energy efficiency loans for public buildings	**In Comm**
THURS. 2-5-09	LB 477	Carlson	Change provisions relating to water transfer permits	**Approved by Gov 4/22**
2-5-09	LB 438	Fischer	Prohibits instream appropriations in fully or over appropriated areas	**In Comm**
FRI. 2-6-09	LB 577	Rogert	Change provisions relating to improvement project areas of natural resources districts	**IPP**
WED. 2-11-09	LB 436	Haar	Provide for net metering of electricity – Committee priority bill	**Approved by Gov 5/13**
2-11-09	LB 663	Janssen	Adopt the Net Metering Act	**In Comm**
THURS. 2-12-09			**DAY OFF**	
WED. 2-18-09	LB 437	Haar	Create the Wind Energy Development Zone Task Force	**In Comm**
2-18-09	LB 561	Lathrop	Provide for restriction of eminent domain for wind energy projects – Committee priority bill	**Approved by Gov 5/29**
2-18-09	LB 568	Dubas	Provide requirements for wind leases and easements – Karpisek priority bill	**Approved by Gov 5/22**
THURS. 2-19-09			Confirmation Hearing – Mark Spurgin, Game and Parks Commission	**Advanced**
2-19-09	LB 471	Fulton	Change public power special generation application provisions	**IPP – AM 1210 to LB 561**
2-19-09	LB 567	Dubas	Change provisions relating to the State Energy Office and the director of the State Energy Office	**In Comm**
2-19-09	LB 591	Dierks	Change approval provisions relating to electric generation facilities	**In Comm**

Hearing	Bill	Introducer	One-Liner	Status
FRI. 2-20-09			Confirmation Hearing - Pat Bourne, Power Review Board	**Advanced**
2-20-09			Confirmation Hearing - Stephen Lichter, Power Review Board	**Advanced**
2-20-09	LB 535	Stuthman	Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts	**In Comm**
2-20-09	LB 643	Schilz	Change and provide notice requirements of road construction near electric lines	**In Comm**
WED. 2-25-09	LB 666	Langemeier	Change provisions relating to the Niobrara Council	**In Comm**
THURS. 2-26-09	LB 651	Christensen	Adopt the Water Resources Revolving Loan Fund Act	**In Comm**
FRI. 2-27-09			Confirmation Hearing - Robert Krohn, Environmental Trust Board	**Advanced**
2-27-09	LB 502	Langemeier	Change the Petroleum Release Remedial Action Act	**GF**
2-27-09	LB 504	Langemeier	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	**In Comm**
WED. 3-4-09	LB 388	Langemeier	Change public power district officials compensation provisions	**GF**
3-4-09	LB 582	Dierks	Create the Nebraska Invasive Species Council	**In Comm**
THURS. 3-5-09			Confirmation Hearing - Barbara Batie, Environmental Trust Board	**Advanced**
3-5-09			Confirmation Hearing - Rodney Christen, Environmental Trust Board	**Advanced**
WED. 3-11-09	LB 439	Fischer	Adopt the Home Energy Alternatives Act	**In Comm**
3-11-09	LB 644	Mello	Adopt the Electronics Recycling Act	**In Comm**
FRI. 4-3-09	AM769 to LB 561	Langemeier		**Advanced**
WED. 5-20-09			Confirmation Hearing - Galen Frenzen, Ethanol Board	**Advanced**
5-20-09			Confirmation Hearing - Paul Kenney, Ethanol Board	**Advanced**

SUMMARIES OF ENACTED BILLS

LB 5

LB 5 eliminates the prohibition on trapping in a county road right-of-way.

Sen. Christensen introduced a similar bill last session, LB 743, which was designated as a speaker priority bill but died at the end of session. LB 743, and now LB 5, were introduced in response to the passage of LB 299 in 2007. An amendment was adopted to that bill on Select File that put into place the prohibition from trapping in county road right-of-ways. Sen. Christensen believes that a last minute amendment adopted on the second stage of debate, containing a substantive change in the law, which did not have a public hearing, was not appropriate.

LB 5 was amended to allow counties to enact a resolution prohibiting trapping in a county road right-of-way or a designated area of the right-of-way, and to prohibit the use of traps larger than those currently allowed by the Game and Parks Commission.

The bill passed on Final Reading 30-18, without the emergency clause. The Governor signed the bill on March 5, 2009.

Details of Final Bill

Section 1 amends §37-513, relating to Game and Parks regulations and prohibited acts, by eliminating the language prohibiting trapping in a county road right-of-way. Also eliminates language defining county road right-of-way as the area designated a part of the county road system and not vacated pursuant to law. New language allows a county to prohibit by resolution trapping in a county right-of-way or a portion of a county right-of-way, and prohibits the use of traps larger than those allowed by the commission as of February 1, 2009, on land controlled by the commission.

Section 2 amends §37-614, relating to enforcement powers of Game and Parks, by eliminating the violation of trapping wildlife in the county road right-of-way found in §37-513.

Section 3 repeals the original sections.

LB 53

LB 53 changes the structure of and representation from chartered territories of a public power district by eliminating rules that apply to only one public power district.

Sen. Fischer introduced this bill on behalf of the Nebraska Public Power District. NPPD requested that there be only one set of rules to be used for all public power districts. Currently, two sets of rules apply for chartered territories – one for districts operating in 50 counties or less, and the other for districts operating in more than 50 counties (which includes only NPPD). This means that NPPD is the only public power district required to include the entire state, except Douglas and Sarpy Counties, Alliance, Blair, Fremont, Nebraska City and Sidney, in its chartered territory. All other public power districts, under their own rules, have discretion as to the areas that must be included in a chartered territory. The result is

that the city of Lincoln, where the voters have little to no financial stake in the decisions made by NPPD's board of firectors, must have representation on NPPD's board.

NPPD believed this unequal representation should be fixed by using one set of rules for all public power districts and requiring that municipalities purchase 50 percent of their wholesale annual energy from a public power district in order to be included in the chartered territory of the supplying district.

The bill passed 41-5 and was signed by the Governor on March 5, 2009.

Details of Final Bill

Section 1 amends §70-603, relating to public power and public irrigation districts, by eliminating the language that contains the method of determining chartered territory boundaries.

Section 2 amends §70-604.01, relating to chartered territory boundaries, by eliminating the "50 counties or less" requirements under which districts have discretion to determine their chartered territories.

Section 3 amends §70-604.02, relating to the definition of an operating area, by adding a requirement that a district's power contract constitutes 50 percent or more of the purchasing utility's energy requirements.

Section 4 amends §70-604.05, relating to a district's failure to comply with the provisions of this chapter, by adding the requirement that penalties collected be remitted to the State Treasurer for distribution in accordance with the state constitution. Article VII, Section 5 provides for local distribution of fines.

Section 5 amends §70-681, relating to the treatment of existing district directors, by grandfathering in districts that exist on the effective date of this act to be in compliance with the law, and eliminating the grandfather date of July 17, 1986.

Section 6 repeals the original sections.

LB 54

LB 54 provides a process to be followed by natural resources districts for developing an integrated management plan to address streamflow depletions.

Sen. Fischer introduced LB 924 last session to address offsets of streamflow depletions, among other things. That bill was designated as a committee priority bill, but did not advance and died at the end of session.

Amendments to the original bill (1) restate what the procedures must do in Section 2 of the bill, subsections (3)(c) and (3)(f). Subsection (3)(c) requires the identification of means to be utilized so new uses will not have more than a de minimis effect on existing surface water or groundwater users. Subsection (3)(f) adds the requirement that the plan be made after the parties have had an opportunity to provide input; and allows the department to not do annual evaluations for four years after a status change.

The bill passed 47-0 and was signed by the Governor on May 13, 2009.

Details of Final Bill

Section 1 amends §46-713, relating to relating to the Department of Natural Resources evaluation of hydrologically connected water supplies, by adding that the department is not required to perform an evaluation during the four years following a status change of a water supply.

Section 2 amends §46-714, relating to the Nebraska Ground Water Management and Protection Act, by adding reference to the bill's new language.

Section 3 amends §46-715, relating to integrated management plans under the Act, by adding new language that requires an integrated management plan for a fully or over appropriated basin, subbasin or reach to include clear and transparent procedures to track streamflow depletions and gains due to changes in use. Subsections (a) through (g) state the required components of these procedures. Also states that new language is not to affect existing integrated management plans.

The procedures must:

(a) use generally accepted methodologies based on the best available information;

(b) provide a methodology to estimate streamflow depletions and gains and provide information on gains as offsets to new uses;

(c) identify a procedure to prevent new uses from having more than a de minimis effect on surface and groundwater users;

(d) provide a procedure for sharing information between the department and the NRDs;

(e) identify water that could mitigate new uses;

(f) provide a plan, after consulting with and an opportunity to provide input from the interested parties, for making water available for offset for economic development purposes; and

(g) clearly identify the procedures applicants for new uses must use for approval of a new use and corresponding offset.

Section 4 amends §46-719, relating to the Interrelated Water Review Board, by adding reference to the bill's new language.

Section 5 repeals the original sections.

LB 56

LB 56 changes the effect of Livestock Waste Management Act violations on permit holders and their partners so that penalties are assigned based on the offending facility.

This bill addresses the "three strikes" provision in statute that allows revocation of a livestock producer's permit after a third charge for unlawful spilling, leaking, pumping, pouring, emitting, emptying or dumping of pollutants into waters of the state (discharge.) The intent is to no longer penalize an operation owner who has a business interest in other operations for discharge violations not committed at

his or her own facility. Currently, a discharge violation by one partner applies to all partners, regardless of who owns the offending facility.

The committee amendment eliminates that the producer's discharge must be "willfully" committed before a discharge violation can be charged, leaving only that the discharge must be intentionally or negligently committed before a discharge violation, or "strike", can be assessed. While the committee amendment also increased the number of discharges, or strikes, from three to five that a producer must commit before being determined unsuited to hold a permit, the body changed the number back to three on Select File.

The bill passed 43-3 and was signed by the Governor on May 13, 2009.

Details of Final Bill

Section 1 amends §54-2417, which contains definitions for purposes of the Livestock Waste Management Act, by eliminating the words "accidental or intentional" from the definition of discharge.

Section 2 amends §54-2422, relating to inspection and construction approval requirements, by adding the requirement that an operation discharge must have been done intentionally or negligently for that operation to lose the exemption from inspection, construction and operating permit requirements. Currently, any operation discharge, whether negligent or not, takes away an operation's exempt status under this section.

Section 3 amends §54-2431, relating to permit applications under the act, by adding new language providing definitions for applicant, discharge violation, and permit holder. Clarifies that "applicant" and "permitholder" do not include a relative or any person with a business relationship with the applicant or permit holder, and a discharge violation occurs when an applicant or permit holder has acted intentionally or negligently.

Further allows DEQ to have discretion when deciding on applicants for permits, rather than requiring the department to reject certain applicants. States that an applicant or permit holder is unsuited to hold a permit if he or she has committed three separate and distinct discharge violations within the past five years at the same animal feeding operation. Also requires an investigation and hearing process. Current law states that one is unsuited to hold a permit after three discharges at any facility owned or operated by the applicant.

Section 4 amends §54-2435, relating to the Environmental Quality Council, by authorizing the council to adopt and promulgate rules and regulations on permit suspensions and reinstatements and procedures for determining discharge violations.

Section 5 repeals the original sections.

LB 105

LB 105 is the Game and Parks Commission's "omnibus" bill that contains modifications requested by the commission on a variety of issues.

The committee introduced this bill at the request of the Game and Parks Commission. Though the commission described the bill as non-controversial, the original bill was strongly opposed and had to be re-written with several significant portions removed before the bill could move forward.

The original bill would have done the following: (1) established or revised penalties and minimum fines for violation of various Game and Parks statutes [sections 1, 3, 6, 7, 13, 16, 18, 19, 20, 31, 41, 42, 44, 45, 46, 47, and 49]; (2) revised fee structures for permits [sections 5, 8, 10, 14 to 28, 30, 31, 33 to 40, and 50 to 53]; (3) clarified that fishing using a bow and arrow from a vessel and aided by artificial light for an unprotected species is not prohibited; (4) added identification requirements for motorboat leasing and renting; (5) exempted zoos accredited by the Association of Zoos and Aquariums or Zoological Association from obtaining certain captive animal permits; (6) required 25 percent of the fees received for lifetime game permits to be invested and not spent by the commission; (7) allowed the commission to use the Nebraska Habitat Fund for access and enhancement improvements; (8) clarified how permits are to be issued to family members and nonresident property owners; (9) required written permission to administer certain drugs to wildlife under the commission's jurisdiction; and (10) revised damages payable to the state for illegally selling, purchasing, taking or possessing wildlife.

The bill passed 47-0 and was signed by the Governor on April 8, 2009.

Removed from original LB 105

The following sections revised fee structures for Game and Park permits – sections 5, 8, 10, 14 to 28, 30, 31, 33 to 40, and 50 to 53.

Some sections were kept in the bill, and all or part of the other sections were removed by AM227 to LB 105.

Section 5 37-407: Changes the fees for permits by raising the cap.
Resident hunting permit– not more than $21 (current - $13);
Resident fishing permit– not more than $28 (current - $17.50);
Resident 3-day fishing permit – not more than $18 (current - $11.50);
Resident 1-day fishing permit – not more than $13 (current - $8);
Resident fishing and hunting permit – not more than $46 (current - $29); and
Resident fur harvesting permit – not more than $32 (current - $20)
Nonresident hunting permit – not more than $416 (current - $260) for fur harvesting $1,000 or less fur-bearing animals and not more than $28 (current - $17.50) for each additional one hundred or part of one hundred fur-bearing animals;
Non-resident persons 16 years of age or older hunting permit – not more than $128 (current - $80);
Non-resident 2-day hunting permit – not more than $56 (current - $35);
Non-resident 1-day fishing permit – not more than $14 (current - $9);
Non-resident 3-day fishing permit – not more than $26 (current - $16);
Non-resident annual fishing permit – not more than $79 (current - $49.50); and
Non-resident 16 years of age or older fishing and hunting permit – not more than $200, and for non-resident under 16 years of age – not more than the resident fishing and hunting combination permit.

Section 8 37-415: Allows the commission to issue to any Nebraska resident a lifetime

fur-harvesting permit, and establishes the fee at not more than $478;

Increases the fee for a lifetime hunting permit to not more than $478 (current - $299); increases the fee for a lifetime fishing permit to not more than $552 (current - $345); increases the fee for a lifetime combination permit to not more than $957 (current - $598).

Increases a nonresident lifetime hunting permit fee to not more than $2,000 (current - $1,250) for a nonresident lifetime hunting permit;

Increases a nonresident lifetime fishing permit fee to not more than $1,360 (current - $850); increases a nonresident lifetime combination permit fee to not more than $3,200 (current - $2,000).

Section 14 37-438: Increases the annual fee for a park permit not to exceed $25 (current - $20) for a resident; a nonresident is increased to not more than $30 (current - $25).

Increases the daily fee for a park permit not to exceed $5 (current - $4); a nonresident is increased to not more than $6 (current - $5).

Section 16 37-447: Increases the deer permit for residents to not more than $46 (current- $29) and for nonresidents to not more than $342 (current - $214).

Increases the statewide buck-only permit to no more than three and one-half times the regular permit (current – two and one-half times).

Allows the commission to establish a fee of not more than $46 for residents and not more than $80 for nonresidents for an antlerless-only deer permit.

Section 17 37-448: Increases the fee to not more than $40 (current - $25) for a special depredation season permit.

Section 18 37-449: Increases the nonrefundable application fee to not more than $11 (current - $7) for an antelope permit.

Increases the antelope permit fee for residents of not more than $46 (current - $29) and for nonresidents, not more than $239 (current - $149.50).

Allows the commission to establish a fee of not more than $25 for residents and not more than $45 for nonresidents for a youth antelope permit.

Section 19 37-450: Increases the nonrefundable application fee for a resident elk permit to not more than $14 (current - $8.50), not to exceed three times such amount for a nonresident elk permit.

Allows the commission to establish a fee of not more than $239 (current - $149.50) for a resident elk permit and not to exceed three times such amount for each nonresident elk permit.

Section 20 37-451: Increases the nonrefundable application fee for mountain sheep permits to not more than $40 (current - $25).

Section 24 37-457: Establishes a fee of not more than $37 (current - $23) for resident wild turkey permit; and not more than $152 (current- $95) for nonresident wild turkey permit.

Section 25 37-458: Increases the annual fee for a special permit to use aircraft for the purpose of hunting coyotes that present a substantial threat to livestock and other domesticated animals to not more than $14 (current - $8.50).

Section 26 37-462: Increases the taxidermy permit to not more than $14 (current - $8.50).

Section 27 37-463: Increases the fur buyer's permit to not more than $221 (current - $138) for residents.

Section 28 37-465: Increases the aquaculture permit to not more than $120 (current - $75).

Section 30 37-478: Increases the permit to hold an auction of captive wildlife to not more than $104 (current - $65).

Section 31 37-479: Increases the captive wildlife permit to not more than $48 (current - $30).

Section 33 37-483: Increases the fee for a recall pen to not more than $24 (current - $15).

Section 34 37-484: Increases the fee for a controlled shooting area to not more than $239 (current - $149).

Section 35 37-497: Increases the fee for a falconry license to not more than $27 (current - $17) for persons 14 to 17 years of age; $74 (current - $46) for persons 18 and older.

Increases the fee for a captive propagation license of raptors to not more than $368 (current - $230).

Section 36 37-4,104: Increases the commercial fishing permit for residents to not more than $157 (current - $98) and for nonresidents not more than $313 (current - $195);

Increases the cost for each additional 500 lineal feet of seine or trammel net or fraction thereof to not more than $46 (current - $29) for residents and for nonresidents not more than $96 (current - $60); and

Increases the cost for each additional hoop net, wing net, or fish trap to not more than $6 (current - $3.50) for residents and for nonresidents not more than $11 (current - $7).

Section 37 37-4,105: Increases a bait dealer's permit for residents to not more than $59 (current - $37) and for nonresidents to not more than $368 (current - $230).

Section 38 37-4,106: Increases a nonresident fish dealer's permit to not more than $120 (current - $75).

Section 39 37-4,108: Increases a put-and-take fishery license to not more than $120 (current - $75).

Section 50 37-1212: Increases the fee for testing or demonstrating vessels to not more than $74 (current - $46).

Eliminates all minimum amounts.

Section 51 37-1214: Increases the application of boat registration number to not more than $37 (current - $23) for Class I boats, not more than $74 (current - $46) for Class 2 boats, and not more than $108 (current - $67.50 or Class 3 boats, and not more than $184 (current - $115) for Class 4 boats.

Eliminates all minimum amounts.

Section 52 37-1217: Allows the county to retain a fee, in addition to the registration fee, of not more than $6 (current - $4) and eliminates the minimum amount.

Section 53 37-1227: Increases the cost of a duplicate certificate of number for a boat to not more than $8 (current - $5) and eliminates the minimum amount.

Details of Final Bill

The bill now does the following: (1) establishes or revises penalties and minimum fines for violation of various Game and Parks laws; (2) clarifies that fishing using a bow and arrow from a vessel and aided by artificial light for an unprotected species is not prohibited; (3) adds identification requirements for motorboat leasing and renting; (4) exempts zoos accredited by the Association of Zoos and Aquariums or Zoological Association from obtaining certain captive animal permits; (5) requires 25 percent of the fees received for lifetime game permits to be invested and not spent by the commission; (6) allows the commission to use the Nebraska Habitat Fund for access and enhancement improvements; (7) clarifies how permits are to be issued to family members and nonresident property owners; (8) requires written permission to administer certain drugs to wildlife under the commission's jurisdiction; (9) revises damages payable to the state for illegally selling, purchasing, taking or possessing wildlife; (10) allows increases for habitat, aquatic and migratory waterfowl stamps; and (10) allows the commission to create certain new youth and nonresident permits.

Section 1 28-1335: Requires a fine of $100 upon conviction of discharge of a weapon from any public highway, road, or bridge unless otherwise allowed by law.

Section 2 37-201: Adds a citation to Game Law.

Section 3 37-314: Requires a minimum fine of $100, Class III misdemeanor, upon conviction of violation of the Game Law where penalty is not otherwise fixed.

Section 4 37-327: Allows the commission to establish fees for expired licenses, permits, stamps, bands, registrations and certificates for credit to the State Game Fund. Allows the commission to increase fees no more than 6 percent per year, and if fees were not increase the immediate previous year or raised less than 6 percent, such percentage up to 6 percent may be added to the percentage increase in the following year.

Section 5 37-407: Establishes a nonresident combination (fishing and hunting) permit for not more than $150; and a nonresident youth permit of not less than the fee required ($29) for a combination permit.

Section 6 37-410: Establishes a fine of at least $100 for violations involving a fishing permit; $150 minimum fine for violations involving small game, fur-harvesting, paddlefish, or deer permit; $250 minimum fine for violations involving an antelope permit; $500 minimum fine for violations involving an elk permit; and $1,000 minimum fine for violations involving a mountain sheep permit. These violations are all Class II misdemeanors. (Currently they are a Class III misdemeanor.)

Section 7 37-411: Establishes minimum fines for failure to hold the appropriate stamp and permit.

Decreases the fine from $75 to $50 for failure to have the appropriate stamp; establishes a minimum fine of $100 for failure to have a fishing license; establishes a minimum fine of $150 for failure to have a small game, fur-harvesting, paddlefish, or deer permit; establishes a minimum fine of $250 for failure to have an antelope permit; establishes a minimum fine of $500 for failure to have an elk permit; and establishes a minimum fine of $1,000 for failure to have a mountain sheep permit. All fines are dependent upon a conviction for the violation.

Section 8 37-415: Establishes a lifetime fur-harvesting permit at a cost of not more than $299.

Section 9 37-417: Allows the use of up to 75 percent of the fees for lifetime permits to be used by the commission. Currently, all of the fees are credited to the State Game Fund but only the investment income from those fees may be used by the commission.

Section 10 37-426: Removes the minimum that may be charged for a replacement lifetime habitat stamp but leaves in place the requirement that the replacement not cost more than $5.

Removes the minimum that may be charged for a replacement lifetime migratory waterfowl stamp but leaves in place the requirement that the replacement not cost more than $5. Increases the maximum fee for a lifetime aquatic habitat stamp to not more than $200 (current - $125); and removes the minimum that may be charged for a replacement lifetime aquatic habitat stamp but leaves in place the requirement that the replacement not cost more than $5.

Establishes the habitat stamp fee of $20 (current - $16); establishes the aquatic stamp fee of $10 (current - $7.50); increases the fee for lifetime combination hunting and fishing permits for the appropriate stamps to $200 (current - $100); increases the migratory waterfowl stamp to not more than $16 (current - $10).

Section 11 37-431: Allows the commission to spend up to 25 percent of the annual receipts from the sale of habitat stamps to be used to provide access to private wildlife lands and habitat areas and up to 75 percent of the lifetime habitat and lifetime migratory waterfowl stamps to be used by the commission, and up to 30 percent of the annual receipts for aquatic habitat stamps to be used to provide angler access enhancements and the administration of programs related to aquatic habitat and public water angler access enhancements.

Section 12 37-432: Allows up to 25 percent of the money received from the sale of habitat stamps to be used to provide access to private wildlife lands and habitat areas.

Allows up to 30 percent of the money received from the sale of aquatic habitat stamps to be used to provide public water angler access enhancements and the administration of programs related to aquatic habitat and public water angler access programs.

Section 13 37-433: Increases a minimum fine of $50 upon conviction of a Class V misdemeanor for violation of rules and regulations pertaining to the use of all habitat stamps.

Section 14 37-440: Allows the commission and county offices, as well as private permit agents, to collect and retain a fee of not more than $.35 per park entry permit for reimbursement for clerical work of issuing permits.

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Section 15 37-447: Establishes the fee for a statewide buck-only permit at no more than two and one-half times the amount of a regular deer permit; and allows the commission to provide different fees for different species.

Allows the commission to establish and charge a fee of not more than $25 for residents and not more than $45 for nonresidents for a youth deer permit.

Establishes a minimum fine of $100 for violation of this section.

Section 16 37-449: Allows the commission to establish and charge a fee of not more than $25 for residents and not more than $45 for nonresidents for a youth antelope permit.

Establishes a minimum fine of $100 for violation of this section.

Section 17 37-450: Allows for a nonresident elk permit. The nonrefundable application fee and the permit fee would not exceed three times the amount charged for a resident.

Establishes a minimum fine of $200 for violation of this section.

Section 18 37-451: Establishes a minimum fine of $500 for violation of this section on mountain sheep.

Section 19 37-455: Allows the commission to issue nonresident landowner limited permits for deer, antelope, wild turkey or elk, after preference has been given to resident landowners.

Eliminates the requirement that the immediate family member live in the same household, and restricts an applicant to applying for no more than one permit per species per year. Defines immediate family to include siblings sharing ownership in the property.

Allows for a nonresident landowner to apply for a limited antelope permit. Limits the number of limited permits not to exceed the total acreage of the farm or ranch divided by 320, removes the requirement that the family member reside in the same household, and establishes the fee as one-half of the fee for a nonresident permit to hunt such species.

Removes the restriction that the family member reside in the same household for nonresident applications for limited permits to hunt wild turkey. Removes restriction that the nonresident landowner wild turkey permit would only be available during the spring wild turkey season.

Changes the requirements for a resident landowner and nonresident landowner for a limited elk permit as follows:

- a resident who has an ownership interest in 640 acres or more of farm and ranch ground or a combination ownership interest and leasehold interest which adds up to at least 640 acres.
- a nonresident who owns at least 1,280 acres of farm or ranch land for agricultural purposes or
- a member of such owner's or lessee's immediate family.

Limits a limited bull elk permit to once every three years. (Currently the permit is limited to "any elk".)

Establishes a fee for a resident landowner limited permit not to exceed one-half the fee for a regular elk permit. Establishes a fee for a nonresident landowner permit not to exceed three times the cost of a resident elk permit. Limits the number of these permits to the total acreage of the farm or ranch divided by the minimum acreage requirements. Restricts the number of permits available for the same described property to one.

Section 20 37-455.01: Allows the commission to set a nonrefundable lottery application fee for each type of single species or combination species permits offered directly through the commission.

Section 21 37-456: Increases the maximum number of limited antelope permits from 20 percent to 50 percent of the regular permits.

Section 22 37-457: Establishes a youth hunting permit for wild turkey (no more than $25 for residents, and no more than $45 for nonresidents.)

Section 23 37-477: Language clarifying exemption for zoos accredited by the Association of Zoos and Aquariums or the Zoological Association of America.

Section 24 37-479: New placement for the language regarding the unlawful enticement of wildlife into a domesticated cervine animal facility, with a fine for violation of not less than $1,000.

Section 25 37-481: Language exempting zoos accredited by the Association of Zoos and Aquariums or the Zoological Association of America from permit requirements.

Section 26 37-4,111: Allows the commission to establish and charge no more than $35 for residents (current fee limit) and two times the resident permit fee for nonresident paddlefish permits.

Section 27 37-501: Sets the minimum fine for "over the legal limit" for turkeys, small game animals or game fish at $200 and creates a Class III misdemeanor.

Section 28 37-504: Sets the minimum fine for violation involving elk at $500 and $200 for violations involving deer, antelope, swan or wild turkey.

Sets the minimum fine at $1,000 for mountain sheep violations.

Sets the minimum fine at $100 for waterfowl violations.

Other game violations, unless specified elsewhere, are set at a minimum of $50.

Section 29 37-507: Adds the word "game" before the word "fish" for the violation of wantonly or needlessly wasted.

Section 30 37-513: Fines for shooting from roadway increased to $100.

Section 31 37-514: Allows the taking of nongame fish by means of bow and arrow from a vessel with the aid of artificial light.

Increases the fine for violation of this section to $250.

Section 32 37-523: Establishes a minimum fine of $100 for violation of trapping or hunting within 200 yards of an inhabited dwelling or livestock feedlot or passage used by livestock unless permission is given by the person who owns or is a tenant or operator of such land.

Section 33 New language:

(1) Defines drug as any substance that affects the structure or biological function of any wildlife under the commission's jurisdiction;

(2) Prohibits any person from administering a drug to wildlife without specific permission of the secretary of the commission;
(3) Allows for the treatment of wildlife to prevent disease or the treatment of sick or injured wildlife by a licensed veterinarian, holders of a federal permit, or holders of certain permits granted by the commission's authority;
(4) Does not limit employees of the state or the United States or employees of an animal control facility or animal shelter in performance of their official duties except that a drug shall not be administered by any person for fertility control or growth stimulation except as provided in this section;
(5) Allows a conservation officer to take possession or dispose of any wildlife under jurisdiction of the commission that the officer reasonably believes has been administered a drug in violation of this section;
(6) Establishes that a violation of this section is a Class IV misdemeanor.

Section 34 37-613: Deals with fines for a person who sells, purchases, takes or possesses contrary to the Game Law as follows:
$15,000 – mountain sheep;
$5,000 – elk with 12 total points and $1,500 for any other elk;
$5,000 – whitetail deer with 8 total points and inside spread of 18 inches; $1,000 for any other antlered whitetail deer, and $250 for each antlerless whitetail deer and whitetail doe deer;
$5,000 – for each mule deer with a minimum of 8 total points and inside spread of 24 inches and $1,000 for any other mule deer;
$5,000 – for each antelope with shortest horn measuring 14 inches and $1,000 for any other antelope;
$1,500 – for each bear or moose or each individual animal of any threatened or endangered species or wildlife not otherwise listed;
$500 – mountain lion, lynx, bobcat, river otter, or raw pelt thereof;
$25 – raccoon, opossum, skunk, or raw pelt thereof;
$5,000 – each eagle;
$100 – each wild turkey;
$25 – each dove;
$75 for anything else not listed or nongame wildlife in need of conservation;
$50 – wild bird;
$750 – each swan or paddlefish;
$250 – each master angler fish measuring more than 12 inches;
$50 – each game fish measuring more than 12 inches not otherwise listed;
$25 – each other game fish;
$50 – for any other species of game not listed.

Allows the commission to use a scoring system which is uniformly recognized for listing master angler fish.

Section 35 37-727: Increases the minimum fine to $200 for certain violations.

Section 36 37-1241.07: Requires the listing and signed acknowledgment of all persons who are going to operate a leased motorboat.

Section 37 37-1241.08: Adds a reference to the new boat provision.

Section 38 54-2313: Reference to the new cervine section.

Section 39 Repeals of the original sections.

LB 160

LB 160 allows a natural resources district that contains a metropolitan class city to use a portion of its existing mill levy to issue bonds.

LB 160 was redrafted through amendments to address opponents' concerns and has been described as being a "much more refined version" by its supporters. The purpose of the bill is to address the potentially catastrophic flooding problems of the Papio Creek Watershed and to satisfy certain requirements under the Federal Clean Water Act.

The bill passed 36-12 and was signed by the Governor on May 22, 2009.

Details of Final Bill

Section 1 creates new language authorizing a natural resources district covering a metropolitan class city to, if two-thirds of its board of directors vote affirmatively, issue bonds for entitled flood protection and water quality enhancement. Bonds are to be paid through a levy on all taxable property in the district. The special bond levy is to be considered when computing other limitations on a district's tax levy. If the levy exceeds 1 cent annually for each $100 of taxable property valuation, approval by the voters is required.

Section 2 creates new language stating the purposes for which the bond proceeds are to be used. Included are: design, rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management, including flood control and water quality (i.e. low-impact development best management plans, flood plain buyout, dams, reservoir basins and levees.) Bond proceeds are not to be used for combined sewer separation projects.

Projects with more than 400 surface acres in its permanent pool are not allowed. Projects with more than 20 surface acres in its permanent pool must provide public access, and only property acquired for projects described in this subsection may be conveyed to a political subdivision or federal or state government.

Allows an affected county board to pass a resolution stating it does not approve of a project within its zoning jurisdiction before bonds are issued or funds expended for such project. A hearing is to be held and a vote taken on such resolution within 90 days after notice from the district of its intent to issue bonds. If the resolution passes, no bond proceeds are to be used for costs of a reservoir or water quality basin project greater than 20 surface acres.

This section is not meant to limit a district's authority with regard to reservoirs, water quality basin or other projects less than 20 surface acres or use of funds for preliminary studies and reports to determine whether a project should be presented to the county board.

Bond proceeds may not be used to fund any project located within a watershed within a metropolitan class city and party to an agreement under the Interlocal Cooperation Act, unless a storm water management plan has been adopted by a city or county and been approved by the district board of directors encompassing such metropolitan class city. Bonds may be issued only for projects where cities and counties have adopted zoning regulations that comply with state and federal flood plain management rules and regulations.

Section 3 creates new language allowing the board of a district to issue warrants from the proceeds of the bonds for partial payments.

Section 4 creates new language authorizing a board of a district to pay fiscal agents for placement of the bonds or warrants, subject to certain restrictions.

Section 5 creates new language creating a sunset date of December 31, 2019, for bonds to be issued under this section. Bonds already issued and outstanding and refunding bonds and the associated powers and duties are not subject to this sunset date.

Section 6 amends Sec. 2-3234, relating to natural resources districts, by excluding the provisions of this bill from the eminent domain power of a district.

Section 7 amends Sec. 2-3290.01, relating to how a district may use land, by adding that projects resulting in a reservoir or other body of water with a permanent pool greater than 20 surface acres that can be used for recreational purposes must have public access.

Section 8 requires assignment of the new language to Chapter 2, article 32 in the state statutes.

Section 9 repeals the original sections.

LB 179

LB 179 corrects the level of funding authority unintentionally deleted by a 2006 bill and restores the Department of Natural Resources' original authority.

The Nebraska Resources Development Fund was established in 1974 to provide state financial assistance for the development and wise use of Nebraska's water and related land resources. A bill passed in 1993 that set a $10 million limit on Nebraska Resources Development Fund amounts available for each project and allowed an annual adjustment of that limit based on a federal cost index that the feds have since stopped using. In 2006, LB 1226 passed with the intention that the reference to the federal cost index was to be updated. However, the bill actually eliminated a reference date of 1993 for previous adjustments to the limit, meaning that the $10 million limit, and the allowed annual adjustment, was reset to start in 2006. The problem is that the department as of 2006 no longer has authority to allocate the funds at the 1993 and forward annually adjusted amounts (around $4.5 million.)

The Department of Natural Resources requested this bill to "fix" the statute so that the department can continue following the 1993 statute by reinstating the statutory authority accidentally eliminated. This change to the statute has no fiscal impact or affect on appropriations to the Nebraska Resources Development Fund.

The bill passed with an emergency clause attached 47-0 and was signed by the Governor on February 12, 2009.

Details of Final Bill

Section 1 amends §2-1588, relating to the Nebraska Resources Development Fund, by adding reference to the year 1993 as the date after which the director of the department is to annually adjust the project cost limitation.

Section 2 repeals the original section.

Section 3 inserts an emergency clause.

LB 180

LB 180 changes the frequency of landfill waste disposal fee rebates to local governments to a more efficient schedule, and allows grants for reimbursement of costs for deconstruction of abandoned buildings.

A version of this bill was before the Legislature last session but did not pass. LB 725, a committee bill, advanced from committee unanimously but died at the end of session on General File. The decision to move forward with this bill came after an interim study on LR 290, which was introduced to look at recycling construction waste and deconstruction materials rather than having them go to the landfills. The premise of the bill is to help small communities get rid of abandoned buildings, but also to encourage the recycling or reuse of the building's materials.

The bill also changes the frequency of refunds for landfill "tipping" fees. Right now, the statute requires the rebate to be distributed quarterly based on an application/report from the municipality or county. Often the rebates are for very small amounts, so allowing flexibility with distribution will make the process more efficient for the parties.

The bill passed 45-2 and was signed by the Governor on February 12, 2009.

Details of Final Bill

Section 1 amends §13-2042.01, relating to Integrated Solid Waste Management, by changing the frequency of landfill disposal fee rebates from quarterly to a schedule agreed upon between the municipality or county and the Department of Environmental Quality, but no less than annually.

Section 2 amends §81-15,160, relating to the Waste Reduction and Recycling Incentive Fund, by adding new language that the fund may be used for grants for reimbursement for deconstructing abandoned buildings. This applies only to cities of the second class, villages, and counties of 5,000 or less population, and only for deconstruction costs for recovery and processing of recyclable or reusable material.

Section 3 repeals the original sections.

LB 184

LB 184 authorizes the Department of Natural Resources to administer riparian water rights.

This bill stems from a legal dispute that began in the mid-1960s regarding riparian water rights claimed by downstream users. The Supreme Court at that time found that downstream users were entitled to riparian

water rights, but did not put into place a process to administer them. Up until now, the Department of Natural Resources had been administering the rights, but stopped when it found that it had no express authority to do so. This bill would authorize the department to administer court-recognized riparian water rights.

Riparian water rights is a common law doctrine that permits landowners whose land borders a river or stream to claim use of the water. The Hat Creek group is the only known group of claimants of riparian water rights in the state. Their case has created a great deal of difficulty for the Department of Natural Resources as it attempts to properly administer surface water rights.

The bill passed 45-0 and was signed by the Governor on April 8, 2009.

Details of Final Bill

Section 1 amends §46-226, relating to adjudication of water rights, by authorizing the department to administer riparian water rights that have been recognized by the court. Further provides that the only surface water appropriations that may be closed for a riparian water right are those held by parties to the lawsuit validating the right, or for appropriations with a priority date after the date of the court order.

Section 2 repeals the original section.

LB 209

LB 209 extends the time frame by six months in which a dam or water project must commence after receiving Department of Natural Resources approval.

Before construction can begin on a dam 25 feet or higher or which will create a reservoir of 15 acre feet or more, an approved Permit to Impound Water (also called a Storage Permit) and Approval of Plans for Dams must be obtained from the Department of Natural Resources. The Nebraska Association of Resources Districts (NARD) claims that the environmental reviews and the federal and state permit process can take more than one or two years and that surface water needs for the project may not be available simultaneously with the permit timeline. Therefore, the NARD voted 110-0 on a resolution to request this statutory change. The original resolution suggested a two year project commencement window. The Department of Natural Resources, however, would support 12 months, but not 24 months.

The bill passed 48-0 and was signed by the Governor on May 26, 2009.

Details of Final Bill

Section 1 amends §46-238, in the irrigation and regulation of water statutes, by changing the time from six months to twelve months in which a water project for irrigation, power, or other useful purpose must commence after receiving permit approval from the Department of Natural Resources. Also allows the department to grant extensions on commencement of a project.

Section 2 amends §46-1654, under the Safety of Dams and Reservoirs Act, by allowing the Department of Natural Resources to grant an extension for a project to commence if the procedures stated in §46-238(2) are followed.

Section 3 repeals the original sections.

LB 246

LB 246, in its original form, would have reestablished and provided new duties to the Biopower Steering Committee.

This bill followed an interim study on LR 350, conducted by the Agriculture Committee in the fall of 2008, that examined opportunities for the growth and development of renewable energy systems for "capturing energy values from agricultural products and waste streams." The study focused on cellulosic ethanol and biodiesel systems. Sen. Dubas led a steering committee that was developed after the resolution's public hearing that utilized the expertise of a bioenergy trade association director out of Iowa. This bill was to provide a mechanism for the development of bioenergy from agricultural products discussion to continue.

The committee amendment gutted and replaced the bill to state legislative findings and intent regarding the importance of biotechnology and the role it should play in the economic well-being of the state. An appropriation was made to allow the Natural Resources Committee to partner with a Nebraska non-profit group to further study expanding biotechnology.

The bill passed 37-5 and was signed by the Governor on May 27, 2009.

Details of Final Bill

Section 1 creates new language to: provide a statement of legislative intent; require the Natural Resources Committee to develop a statewide strategic biotechnology plan; require the Natural Resources Committee to commission a Nebraska nonprofit corporation with an interest in biotechnology to work with the committee on the plan and to agree to provide $100,000 for research on the plan; allow the State Treasurer to receive such funding for research and authority to transfer to the newly created cash fund; require presentation of the nonprofit's work to the committee by June 30, 2010, and then the committee's plan to the full Legislature; create the Biotechnology Development Cash Fund and state legislative intent to appropriate $100,000 to the fund for FY 2009-10; and define biotechnology and biotechnology economy.

Section 2 repeals outright §66-1701.

LB 300

LB 300 provides new bid thresholds that must be met before a public power district is required to use a sealed bid procedure when contracting for materials and services on facilities for power, hydrogen production, ethanol production or irrigation.

This bill was introduced on behalf of the Nebraska Public Power District. The intent is to simply raise the threshold amounts that activate the sealed bid process required of public power districts in response to the rising costs of goods and services.

The bill passed 47-0 and was signed by the Governor on April 22, 2009.

Details of Final Bill

Section 1 amends §70-637, relating to public power and irrigation districts contracting procedures, by adding language requiring a sealed bid process for service and materials contracts that (1) exceed $250,000 for districts with revenue lower than $500 million or (2) exceed $500,000 for districts with revenue greater than $500 million.

Section 2 repeals the original section.

LB 379

LB 379 would change the sunset date for a scrap tire grant program to extend it for another five years.

The Scrap Tire Reduction and Recycling Incentive Fund was created by LB 1034 in 1994 as part of the Waste Reduction and Recycling Grants Program. LB 1034 authorized the placement of the $1 tire fee into a separate fund available for programs that assist in the management of Nebraska's scrap tires. The tire fee remained in a separate fund until July 1, 1999 when it went into the Waste Reduction and Recycling Incentive Fund.

Under LB 491, passed in 2001, the first $1 million of the tire fees collected annually were available until June 1, 2004, for new scrap tire projects. These funds were available to all applicants, public and private. Funds over $1 million went to the Waste Reduction and Recycling Incentive Fund and were available to political subdivisions only for eligible waste reduction or recycling projects. LB 144, passed in 2003, extended the priority for scrap tire grants though June 30, 2007. LB 568, passed in 2007, extended the priority for scrap tire grants through June 30, 2009.

Up to 100 percent of the costs incurred by political subdivisions to clean up scrap tires at collection sites going to approved end-uses are eligible for grant funding.

The bill passed with an emergency clause attached 46-0 and was signed by the Governor on March 18, 2009.

Details of Final Bill

Section 1 amends §81-15,160, relating to the Waste Reduction and Recycling Incentive Fund, by changing the date to which grants are available from June 30, 2009 to June 30, 2014.

Section 2 repeals the original section.

Section 3 inserts an emergency clause.

LB 436

LB 436 would allow net metering of electricity.

The original bill was essentially the same bill introduced in 2007 by Sen. Preister. LB 581 was indefinitely postponed in committee. Alternatives to the provisions of this bill have been introduced over the years that have consistently been opposed by the electrical industry.

Net metering is a term that refers to a process in which a customer's total electric consumption is measured against that customer's total on-site electric production. Generally, when a customer's production exceeds use, the customer sends electricity to the grid, and when use exceeds production, the customer uses electricity from the grid. The customer then pays the provider only for the net electricity consumed. Some form of net metering takes place in all but a handful of states. Net metering done in Nebraska is voluntary by the individual utilities, for example, NPPD has a net metering policy that became effective last year.

The original bill was redrafted by the committee amendment as a result of compromises between supporters of the bill and the electric utilities. It passed 46-0 and was signed by the Governor on May 13, 2009.

Details of Final Bill

Section 1 contains new language stating legislative findings/intent regarding renewable energy.

Section 2 contains new language stating definitions applicable to the bill. (customer-generator, interconnection agreement, local distribution system, local distribution utility, net excess generation, net metering, qualified facility.)

Section 3 contains new language requiring a local distribution utility to interconnect a customer-generator's qualified facility if the customer has entered into an interconnection agreement with the distribution utility and meets the requirements of this act. The customer-generator is to pay for costs of equipment and services incurred by the utility for the interconnection service.

Requires the distribution utility to provide a free metering system to the customer-generator that can measure the flow of electricity in both directions and can be done by using a single, bidirectional electric revenue meter with a single register for billing purposes, a smart metering system, or another meter configuration that a customer-generator can easily read.

Allows a distribution utility to install additional monitoring equipment at its own expense to monitor the flow of electricity in each direction, as necessary for the reporting requirements in this act.

Requires the distribution utility to provide net metering to a customer-generator with a qualified facility. The utility is to allow a customer-generator's retail electricity consumption to be offset with its interconnected facility. Allows the utility to determine the qualified facility's net excess generation during a billing period and to credit the customer-generator at a rate equal to the utility's avoided cost of electricity supply.

Requires monetary credits to be carried forward from billing period to billing period and credited against the customer's electric bills. Excess monetary credits are to be paid out to the customer on an annual basis.

Allows the utility to not provide net metering when total generating capacity of all customers using net metering is equal to or exceeds 1 percent of the capacity necessary to meet the local utility's average aggregate customer monthly peak demand forecast for that calendar year. Does not allow a utility to require a customer-generator using net metering to require additional standards or payments.

Allows the utility to contract with customer-generators with renewable generation units with a rated capacity above 25 kilowatts.

Section 4 requires a customer-generator to: request an electrical inspection and provide documentation on the completed inspection to the utility before interconnection; notify the utility of intent to install a qualified facility at least 60 days before installation and be responsible for its costs. The utility is not required to interconnect with a facility that fails to meet the utility's requirements for safety, reliability, and interconnection.

Confirms that the customer-generator owns the renewable energy credits of the electricity it generates.

Section 5 requires the utility to produce and provide to the Nebraska Power Review Board, by March 1st each year, an annual net metering report that contains: total number of qualified facilities, total estimated rated generating capacity of qualified facilities, total estimated net kilowatt hours from customer-generators, and total estimated amount of energy produced by customer-generators.

Section 6 amends section 70-1012, relating to electric generation facilities, by adding reference to this bill's new language.

Section 7 contains a severability clause.

Section 8 repeals the original section 70-1012.

LB 477

LB 477 requires lienholder information to be recorded before a natural resources district approves of an appropriation transfer or allows a water user or landowner to participate in an incentive program.

This bill was introduced at the request of the Nebraska Bankers Association. Their concern is for the lienholders, thus the provisions requiring their identification and written approval before a transfer or participation in an incentive program can move forward.

The committee amendment clarified that the provisions of both Section 7 and Section 8 become part of the Nebraska Groundwater Management and Protection Act; revised the definition of "certified irrigated land"; clarified that the application of the lienholder identification and consent requirements apply only to ground water transfers; and provided revised language to the provisions for recording an instrument of transfer of the right to use ground water.

The bill passed 49-0 and was signed by the Governor on April 22, 2009.

Details of the Final Bill

Section 1 amends §46-290, relating to intrabasin transfers, by adding new language requiring that the name and address of each mortgage, trust deed, or other equivalent consensual security interest holder against the tract of land to which the appropriation is appurtenant be provided on the transfer application to the Department of Natural Resources.

Section 2 amends §46-291, relating to transfer applications, by requiring that a notice of application denial be provided to each mortgage, trust deed, or other equivalent consensual security interest holder identified by the applicant.

Section 3 amends §46-701, which cites the Nebraska Ground Water Management and Protection Act, by adding reference to the new language in the bill.

Section 4 amends §46-706, which defines the terms in the Nebraska Ground Water Management and Protection Act, by adding definitions of certified irrigated acres (acres approved by a district for irrigation from ground water) and certified water uses (beneficial water use identified by a district other than irrigation.)

Section 5 amends §46-707, relating to natural resources district powers, by authorizing a district to require the reporting of water uses and irrigated acres by those with control over such uses of water for purposes of certification by a district.

Section 6 amends §46-739, relating to controls to be adopted for a management area, by allowing a district to require its own approval of transfers of certified water uses or certified irrigated acres between landowners or between tracts under the control of a common landowner or other person. Further requires such approval and any incentive program to be in compliance with the new language in Section 7 of the bill.

Section 7 contains new language requiring a title report issued by an attorney or registered abstractor, to be provided to the district before approval can be given for transfers of certified water uses or irrigated acres AND before a water user or landowner is allowed to participate in an incentive program established under subsection 8 of 46-739. Further requires that the owner and land description and lien information be provided to the district.

If a title report shows evidence of any liens, written consent is to be obtained from each lienholder before a transfer or participation in an incentive program can be allowed. A district may charge a fee for review of the title report.

An approved transfer or incentive program participation by a district is not to affect any right of any lienholder that has not been identified as required. Further allows such lienholder to bring an action against the person seeking the transfer or incentive program participation for damages or injunctive relief.

Section 8 contains new language that requires the district to record a transfer with the register of deeds in the county of the area from which the transfer occurred. The record is to include information on the land affected by the transfer, the nature of the transfer, and the date of transfer. The district may recover the cost of filing the instrument, and the instrument recorded is to be treated in the same manner as other conveyances of real estate.

Section 9 contains new language stating the determination of certified water uses or certified irrigated acres shall not affect the allocations of groundwater established in 46-740, which limits ground water allocations.

Section 10 repeals the original sections.

LB 483

LB 483 provides procedures for issuing water well permits in a river basin, subbasin, or reach that had been preliminarily determined as fully appropriated, but had a final determination as not being fully appropriated.

On December 16, 2008, Department of Natural Resources Director Brian Dunnigan made a preliminary determination that, based on an evaluation of hydrologically connected water supplies, the Lower Platte River Basin was fully appropriated. Such status, under statute, requires that stays be placed on the issuance of most new water well permits. Several hearings were held in the following months at which information questioning the accuracy of the scientific methodology used was provided.

In considering the possibility that the director could reverse his preliminary decision, Sen. Langemeier recognized that if a status change in the basin were to occur from fully appropriated to not fully appropriated, the stays placed on the issuance of water well permits would be immediately removed. He believed that once the stays were removed, it was likely that an influx of well permit requests would hit the affected natural resources districts, possibly pushing the basin's status towards being fully appropriated again.

Once the director has made a *preliminary* determination that a basin is fully appropriated, a stay on new water well permits is implemented. Before a final determination is made, the department is required to hold public hearings within 90 days after publication of notice. Within 30 days after any public hearings, the department is to issue its decision. If the *final* determination is that the basin is not fully appropriated, all stays imposed terminate immediately.

To address the issue, Sen. Langemeier introduced LB 483, a bill providing for irrigated acre limits and a procedure for issuing water well permits in a river basin that had been preliminarily determined as fully appropriated, but had a final determination as not being fully appropriated. By limiting the number of irrigated acres that can result from new water well permits, the effect on the appropriation status of the affected basin can be minimized.

On March 30, 2009, Director Dunnigan announced that, based on new evidence, his final determination was that the Lower Platte River Basin was not fully appropriated. On April 6, 2009, Governor Heineman signed LB 483 into law. Two days later, the director of the Department of Natural Resources issued an official order of final determination that the Lower Platte River Basin was not fully appropriated.

The bill passed with an emergency clause 46-0 and was signed by the Governor on April 6, 2009.

Details of the Final Bill

Section 1 amends 2-32,115, relating to immediate temporary stays imposed by natural resources districts and the Department of Natural Resources, by correcting a reference to new language.

Section 2 amends 46-706, which provides definitions under the Nebraska Ground Water Management and Protection Act, by adding reference to the new language in the definition of "variance."

Section 3 amends 46-713, relating to evaluation of hydrologically connected water supplies by the Department of Natural Resources, by changing the deadline for filing a petition for reevaluation of a river basin, subbasin, or reach appropriation status from March 1 to July 1 of any year for the department to be required to issue its reevaluation findings in its next annual report. If the deadline is not met, the department may defer the reevaluation until the second annual report after the filing.

Also adds new language requiring the department to notify by certified mail the affected natural resources districts and other affected entities if the reevaluation results in a preliminary change in the determination. The department is to hold one or more public hearings within 90 days of publication of the notice required by this subsection. Any person may attend a hearing and present oral or written testimony and evidence regarding the appropriation status. Within 30 days after the final hearing, the department is to notify the appropriate districts of its final determination of the appropriation status of the river basin, subbasin, or reach.

Section 4 amends §46-714, relating to stays on a fully appropriated river basin, subbasin, or reach, by adding new language providing for a water well permit process that natural resources districts are to use when a basin receives a final determination of not being fully appropriated. Also eliminates the requirement that the department immediately terminate any stays issued under this section.

It states that a status change occurs when a preliminary or final "fully appropriated" status determination is reversed, and that hydrologically connected area means the geographic area where surface water and ground water are hydrologically connected.

The procedure requires that if a status change occurs:

- Any stays previously in force remain in force until stays are imposed under this section.
- The department is to stay issuance of new natural-flow, storage, or storage-use appropriations in the affected area.
- The department is to provide prompt notice of the status change to the affected districts and stays are to be imposed by such districts and remain in effect until new rules and regulations required under this section are adopted.
- Within 120 days, affected natural resources districts are to adopt rules and regulations for the prioritization and granting of well permits within the hydrologically connected area for the four year period following a status change.
- The rules and regulations shall: allow a limited number of total new ground water irrigated acres annually; help maintain the status of not fully appropriated; apply for at least four years; limit permits so total irrigated acres do not exceed the number designated; and have the number of acres approved by the department within 60 days of district approval, based on the most recent basin determination.
- If rules and regulations are not adopted or not approved, the affected district is to adopt rules and regulations to allow water well permits for no more than 2,500 irrigated acres or no more than 20 percent of historically irrigated acres within the affected hydrologically connected area in each affected district, whichever is less, applicable each calendar year for four years after date of determination.

- After the initial four-year period has expired, each district may annually determine whether the limitations should continue and may enforce such limitations.

The department shall not issue new natural flow surface water appropriations in the changed status area resulting in a net increase of more than 834 irrigated acres per district, for each calendar year for four years after the date of determination. Further, the department is to ensure that any new appropriation granted will not cause the basin, subbasin, or reach to be fully appropriated based on the most recent determination.

Section 5 amends §46-720, relating to proceedings after the date of the new Ground Water Management and Protection Act, by correcting a reference to a changed subsection.

Section 6 repeals the original sections.

Section 7 inserts an emergency clause.

LB 561

LB 561 was introduced to allow a public power district to limit its exercise of eminent domain to acquire wind projects. Sen. Lathrop introduced an eminent domain bill, LB 672, two years ago that was amended into LB 629, which adopted the Rural Community-Based Energy Development Act (C-BED). LB 629 was signed by the Governor on May 21, 2007. The language that was adopted allows an electric utility to limit its eminent domain power to acquire a C-BED project if the utility has a contract to purchase power for a period of at least ten years.

The adopted committee amendment put LB 471 into the bill. LB 471 removes the statutory requirement that the Power Review Board ensure that a proposed generation application will provide the most economical service. Current statutes allow an exemption from this "least cost" approval standard for projects with 10,000 kilowatts or less. This bill allows the Power Review Board to approve of projects larger than 10,000 kilowatts if:

- the facility will generate electricity using renewable energy sources;
- total production from renewable projects does not exceed 10 percent of the utility's total energy sales; and
- the utility's governing body conducts at least one advertised public hearing on the proposal.

Proponents of the bill indicated that this change is needed because the costs of renewable energy development is high, and typically does not represent the lowest cost generation option for a utility.

LB 561 advanced, but was referred back to committee in light of a proposed amendment that Sen. Langemeier determined should have a public hearing due to its substantive nature.

This amendment was presented to the committee after bill introduction by representatives from a company in Nebraska that wanted to be a more active participant in the development of wind projects in the state through the C-BED law. The change would allow a wind investor to invest in more projects if it were able to carry project debt, rather than having to provide full equity investment.

The bill passed 44-1 and was signed by the Governor on May 29, 2009.

Details of the Final Bill

Section 1 amends §70-670, relating to public power eminent domain procedure, by allowing a public power district to agree to limit its eminent domain power to acquire a renewable energy generation facility producing electricity with wind.

Section 2 amends 70-1014.01, relating to special generation applications with the Power Review Board, by allowing the filing of an application with the Power Review Board by a governmental entity for a facility that will generate more than 10,000 kilowatts of electric energy using renewable energy sources, including solar, wind, biomass, landfill gas, methane gas, or new hydropower generation or other emerging technology. The application must show that total production does not exceed 10 percent of the total energy sales indicated in the "Annual Electric Power Industry Report to the United States Department of Energy" and the applicant's governing body must hold one advertised public hearing.

The board is to approve the application if: renewable energy sources are used, total production from all renewable projects of the applicant does not exceed 10 percent of total energy sales, and the governing body has held at least one advertised public hearing.

The bill also allows a C-BED, renewable energy project for sale to a Nebraska electric utility to make an application to the board as long as the utility conducts a public hearing and the power and energy from the renewable energy sources is sold exclusively to a utility for a term of at least 20 years.

Section 3 amends 70-1903, containing definitions under the C-BED law, by adding a definition of "debt financing payments" (principal, interest, and other typical financing costs paid by the project company to a third-party financial institution for the financing or refinancing of construction of the C-BED project, but does not include repayment of principal at the time of refinancing); and "gross power purchase agreement" (total amount of payments during life of the agreement. For agreements entered into before December 31, 2011, if the qualified owners have a combined total of at least 33 percent of the equity ownership in the project, then gross power purchase agreement payments shall be reduced by debt financing payments.)

Section 4 amends 70-1904, relating to C-BED projects, by adding "gross" to the term "power purchase agreement payments", thereby redefining the term so that it excludes debt financing payments from the amount non-qualified owners are allowed to have under a C-BED project.

Section 5 amends 77-2704.57, relating to C-BED sales and use tax, by adding "gross" to the term "power purchase agreement payments", thereby revising the definition to exclude debt financing payments. Further, for agreements entered into before December 31, 2011, if the qualified owners have a combined total of at least 33 percent of the equity ownership in the project, then gross power purchase agreement payments shall be reduced by debt financing payments. Also restates the definition of "debt financing payments" found in Section 3.

Section 6 repeals the original sections.

LB 568

LB 568 creates standards for wind leases and easements between landowners and wind energy developers.

This bill is a culmination of work on wind contracts Sen. Dubas has done over the past few years. The base concern is the protection of landowners' rights in leases or agreements to allow easements of land for the development of wind turbines. The intention of this bill is to take into consideration such rights, as well as the concerns of developers and other interested parties to ensure adequate preservation of landowner rights without inhibiting the ability to make workable contracts for wind energy development.

The committee amendment replaced the original bill, which would have, among other things: required a lease to specify the amount of time allocated for an operational wind facility once it has been constructed and begins generating electricity; that wind easements were to terminate after five years; required an annual easement fee to be paid to landowners; allowed landowners to negotiate for payment on certain land uses, such as roads, transmission lines, substations, meteorological towers, and access to in-holdings; allowed landowners to protect from wind development land features in a lease, such as riparian areas, irrigation meadows, boulder formations, and view sheds or wildlife habitat; allowed landowners to explicitly reserve or waive mineral exploration and development, hunting and fishing rights, and water rights; required a set timeline for turbine removal after a lease termination and reclamation measures; and added wind to the list of leased matter that a foreign corporation and alien doing business in the state may acquire, own, hold, or operate.

The bill passed 48-0 and was signed by the Governor on May 22, 2009.

Details of the Final Bill

Section 1 provides new definitions for decommissioning security and wind agreement.

Section 2 contains new language providing: that the wind agreement runs with the land benefited and burdened and terminates according to the terms of the agreement, BUT the initial term is not to exceed 40 years, and the agreement terminates if development has not started within ten years. The parties may agree to extend the ten year requirement.

Section 3 provides that a wind agreement is to comply with Section 66-911.01, which contains provisions for solar energy or wind energy conversion system leases.

Section 4 provides new language stating that no interest in any resource on land associated with the production, or potential production, of wind energy may be severed from the surface estate.

Section 5 amends 66-911.01, relating to solar energy or wind energy conversion system leases, by replacing the term "lease" with "land right;" adding that the instrument creating a land right is to contain a description of the improvements the developer intends to make on the real property and a description of any decommissioning security; and rewording current language.

Section 6 repeals the original section.

SUMMARIES OF CARRY-OVER BILLS

Unless otherwise indicated, the committee has not advanced the following bills.

LB 14

LB 14 would create energy conservation standards for some state buildings.

Sen. White introduced LB 652 in 2007, which would have required state and political subdivisions to do energy audits and report their findings to the Legislature. The committee unanimously killed that bill, so Sen. White introduced LB 14, which was modeled after an Arizona intiative, HB 2324 that became law in 2003.

Details

Section 1 creates new language requiring the State Energy Office to adopt energy conservation standards for new capital construction projects, including school districts, community colleges and the University of Nebraska. The standards are to coincide with the energy conservation standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers and the most recent edition of the International Energy Conservation Code.

The standards are to achieve energy conservation and allow for design flexibility.

The Department of Administrative Services, University of Nebraska, Department of Roads, Department of Motor Vehicles, and Community College Board of Governors would be required to reduce energy use in their buildings. [10 percent per square foot of floor area by July 1, 2014; 15 percent per square foot of floor area by July 1, 2017; using July 1, 2007 to June 20, 2008 as the baseline year.]

The State Energy Office is to provide technical assistance and annually measure compliance, compile results, and report to the Legislature. Such report is to contain explanations for failures to achieve the goals.

The bill requires state agencies to procure energy-efficient products, certified by the U.S. Department of Energy or the EPA as "Energy Star", or certified under the Federal Energy Management Program unless such products are shown not to be cost-effective.

LB 42 and LB 43

Both bills update statutory language in the sections dealing with natural resources matters.

Every year, as the revisor updates the laws, there are often portions of statues that are no longer applicable or that contain language needing to be cleaned up. Official bills need to be introduced to take care of these administrative matters.

Both bills are on General File.

Details

LB 42

Section 1 amends §46-1011, relating to rural water district projects, by updating the language as it refers to rules and regulations and the Nebraska Safe Drinking Water Act.

Section 2 repeals the original section.

LB 43

Section 1 repeals §61-217, eliminating reference to the Department of Natural Resources Interstate Water Rights Cash Fund, which expired on June 30, 2003.

LB 388

LB 388 reduces the number of votes required to approve of public power officer compensation from two-thirds to a majority.

This bill was introduced on behalf of the Nebraska Public Power District. It stems from the concern of a board member that a "top executive" could be lost because of an easily blocked compensation issue. The two-thirds requirement has been in the statute since 1944.

LB 388 is on General File.

Details

Section 1 amends §70-624, relating to public power and irrigation districts officer compensation, by requiring a majority vote, rather than two-thirds, of the board of directors for approval of compensation for any general or assistant manager or president, or any other officer.

Section 2 repeals the original section.

LB 437

LB 437 would create the Wind Energy Development Zone Task Force.

The purpose of this bill is to facilitate the creation of a map that shows potential "wind resource generation development areas" capable of supporting an electric transmission plan for 7,880 megawatts of electricity from wind technology by June 1, 2018.

The specific generation baseline comes from the Department of Energy's "20 percent Wind Energy by 2030" report. Based on those numbers, the National Renewable Energy Lab presumes that Nebraska will generate 7,800 megawatts of wind generation over the next 20 years.

Details

Section 1 contains new language stating legislative findings of the importance of wind, and intent language stating that the work of the task force is to expand on the report, "Wind Energy and Economic

Development in Nebraska," by Eric Lantz, an energy analyst with the National Renewable Energy Laboratory.

Section 2 contains new language creating the Wind Energy Development Zone Task Force, authorized to: identify potential wind generation areas in the state; hold four public meetings between the effective date and June 1, 2010; solicit the public's comments; fairly consider any comment from any interested party; and recommend statutory changes and a map to the Governor and Legislature by June 1, 2010.

Section 3 contains new language stating that a task force member shall be the Nebraska Power Review Board director, and the Governor is to appoint the remaining 16 members, who represent a wide spectrum of interests in power and natural resources. The Legislature's Executive Board is also to appoint four members.

Further states that the chair and vice-chair are to be elected from among the members, and terms are to last until the task force terminates. Authorizes the Power Review Board director to contract with a facilitator for the task force.

Section 4 contains new language requiring the task force to develop a map of existing generation and transmission lines, and of potential wind generation development areas that can support 7,880 megawatts of wind-produced electricity by June 1, 2018. Also requires that the map shows bird flyways. The map is to be published by June 1, 2010 and submitted to the Governor and Legislature.

Requires the task force to consider: the potential use of enterprise zones; transmission requirements; landowners' rights and protections; wildlife habitats and migratory bird paths; and transportation needs.

Section 5 provides a task force termination date of June 1, 2014.

LB 438

LB 438 would prohibit instream appropriations in a basin, subbasin, or reaches that has been designated as fully appropriated or overappropriated.

The Natural Resources Committee conducted an interim study regarding the process for obtaining instream flow rights. Much of the discussion focused on the appropriateness of granting the Game and Parks Commission an instream flow right in fully or overappropriated areas. Only natural resources districts and the Game and Parks Commission may apply for an instream flow appropriation, and the request must be to protect the amount of water needed for recreation or fish and wildlife. Questions involved the necessity of granting instream appropriations and the priority status of such requests.

Details

Section 1 amends §46-290, relating to intrabasin transfers, by adding reference to the new language in Section 3 of the bill.

Section 2 amends §46-2,115, relating to applications for instream appropriations, by adding that the Department of Natural Resources director shall approve an application only if the requested instream appropriation is NOT in a river basin, subbasin, or reach that has been designated as fully or overappropriated.

Section 3 repeals the original sections.

LB 439

LB 439 would create the Home Energy Alternatives Act.

The bill was introduced to encourage discussion on the development of renewable energy resources and the barriers to their efficient utilization.

Details

Section 1 creates new language naming the act the Home Energy Alternatives Act.

Section 2 creates new legislative intent/findings language citing the importance of developing renewable sources of energy.

Section 3 creates definitions for energy alternative improvement, political subdivision, renewable resources, and residence.

Section 4 creates new language stating that a covenant, restriction, easement or deed provisions, executed after December 31, 2009, that prohibits the development of alternative energy improvements for a residence or business is void as against the public policy of the state.

Section 5 creates new language stating that any ordinance, zoning regulation, or other provision enacted by a political subdivision that prohibits energy alternative improvements on residences will terminate on December 31, 2009, is void as against the state's public policy.

Section 6 contains an exception to sections 4 and 5, stating that in order for a covenant, restriction, easement, deed provision, ordinance, zoning regulation, or other provision that regulates energy alternative improvements to be allowed under the Home Energy Alternatives Act, the grantor or governing body responsible shall declare that it is necessary to protect health, safety or welfare of residents to prohibit energy alternative development.

The act is to be construed liberally to prohibit an enforcement action that is not intended to protect the health, safety, and welfare of residents.

LB 482

LB 482 makes technical/clean-up changes to various water regulation statutes.

Details

Section 1 amends §46-713, relating to Department of Natural Resources duties with hydrologically connected water supplies, by deleting reference to obsolete dates.

Section 2 amends §46-714, relating to notification requirements for stays on new appropriations, by requiring two public hearings instead of one that a natural resources district must hold after a final determination that a river basin, subbasin, or reach is fully appropriated or overappropriated. The topic is whether the stays on the issuance of new water well permits on the construction of new wells, or increases in ground water irrigated acres, should be terminated.

Section 3 amends §46-731, relating to water contamination and management area powers of the director of the Department of Environmental Quality, by requiring the director to hold at least two, instead of one, public hearings on the measures he or she deems necessary for carrying out the intent of the Nebraska Ground Water Management and Protection Act.

Section 4 repeals the original sections.

LB 490

LB 490 proposes the applicability and length of certain permits.

Sen. Giese introduced this bill in response to a duck hunting situation in northeast Nebraska. Apparently, the area provides premium duck hunting, which attracts a large number of hunters all through the season from bordering states (apparently 90 percent nonresident to 10 percent resident). The thought is that by limiting the nonresident permits, Nebraska hunters will be able to enjoy more duck hunting.

After the Game and Parks Commission reviewed the bill, they notified Sen. Giese that the original language might have unintended consequences, and worked with his office on an amendment to replace the bill. AM 53, described below, offers another method for limiting nonresident hunters by limiting the areas in which they can hunt. It isn't clear how the geographic areas would be determined, but the bill does require the commission to adopt and promulgate rules and regulations on the matter.

Details

Section 1 amends §37-407, relating to hunting, fishing, and fur harvesting permits, by limiting the length of non-resident hunting permits to ten consecutive days.

Section 2 repeals the original section.

AM53 to LB 490 – WOULD REPLACE THE BILL

Section 1 amends §37-201, which refers to the statutes that encompass the Game Law, by adding reference to the new language.

Section 2 adds new language authorizing the Game and Parks Commission to establish geographic areas in which a nonresident special access permit would be required to hunt waterfowl. A nonresident who already has a valid license or stamp (hunting, habitat, federal migratory bird hunting and Nebraska migratory waterfowl) may apply for the special access permit. Allows the commission to limit the number of special access permits, which are to specify the geographic area in which they apply, and requires the commission to adopt rules and regulations.

Section 3 amends §37-411, relating to penalties for hunting, fishing, or fur harvesting without a permit, by adding the nonresident special access permit to the list of permits one must possess to be in compliance with the law.

Section 4 repeals the original sections.

LB 491

LB 491 creates the Home Energy Efficiency Fund for residential improvement loans.

This bill would allow public power and rural public power districts, electric cooperative corporations, nonprofits organized for furnishing electric service, joint entities organized under the Interlocal Cooperation Act, or municipalities to administer this new fund to be used for energy efficiency improvements. The bill states that funding is to come from "grants, loans, and federal funds to the extent available," so there is no way to tell how or when the fund would be used.

Details

Section 1 contains new language stating legislative intent and findings of benefits regarding the efficient use of energy.

Section 2 contains new language defining "energy-efficiency improvement" as something that reduces consumption or increases efficiency of energy use for a residence of an eligible property owner, and provides examples.

Section 3 contains new language that creates the Home Energy Efficiency Fund, states that funding is to come from available federal funds, lists entities eligible to administer the fund, and requires them to create a home energy efficiency program to become eligible. The program is to include a means to determine residential properties that need efficiency improvements, notify owners of the fund, and provide a loan administration process. Funds are allocated based on number of customers relative to funds available, but an eligible entity is to use no more than 5 percent of funds allocated to them.

Section 4 contains new language providing for a loan application approval process. Also requires consideration of a cost benefit analysis on the project, and record keeping requirements. Provides that priority for loans are to go to projects for homes in which the occupants fall below 150 percent of the federal income poverty guidelines.

Section 5 contains new language stating some loan repayment conditions. Further provides that the loans are to carry no interest or finance charges.

LB 502

LB 502 allows a Department of Revenue credit or refund for underground storage tank owners who must obtain private insurance beginning in July, 2009.

The bill was introduced on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. It would allow underground storage tank owners who, starting on July 1, 2009, must obtain private insurance as proof of financial responsibility for any new tank at a site where tanks have not been previously located, to take a credit or refund towards the amount they are paying for remedial fees and insurance expenses.

According to the Petroleum Marketers, federal law requires underground tank owners to prove financial responsibility to cover the cost of cleaning up a release from underground petroleum storage tanks. Since insurance companies were reluctant to provide coverage, states created Leaking Underground Storage Tank funds (LUST funds), to provide coverage. Money in the Nebraska fund is generated through underground storage tank fees of nine-tenths of one cent on gasoline and three-tenths of one cent on diesel.

In 2005, Sen. Beutler thought that financial responsibility should again be in the private sector. In negotiations to obtain an extension to the eligibility date to submit a claim to the Nebraska LUST fund, it was agreed that starting on July 1, 2009, sites that had never had underground storage tanks on them would have to obtain insurance through the private sector. The issue is that these tank owners are still required to pay fees into the LUST fund and they believe they are required to pay what would be the equivalent to two insurance premiums. This bill, by allowing a credit, would remedy the problem.

The bill is on General File.

Details

Section 1 amends §66-1532, relating to the Petroleum Release Remedial Action Act, by stating that new tank owners that pay for private insurance are entitled to a Department of Revenue credit or refund against the amount of remedial action fees paid, equal to the actual expenditures made, including cost of site assessment that is often required to obtain private insurance coverage.

Section 2 repeals the original section.

Section 3 contains an emergency clause.

LB 504

LB 504 provides procedures for obtaining Clean Water Act 404 permits for the Department of Environmental Quality (DEQ).

This bill was introduced on behalf of the Nebraska Association of Resources Districts. It addresses a problem that natural resources districts (NRDs) are having with getting Clean Water Act 404 permits that must be obtained before a project can begin. The permit program, which is administered by the U.S. Army Corps of Engineers Nebraska Regulatory Office, is inefficient and causes considerable roadblocks to getting infrastructure projects done in a timely manner.

The intent of the bill is to put into place a process for the state to assume the "section 404" permit program from the Army Corps of Engineers, which is allowed under federal law. The language of this bill parallels the DEQ's existing regulatory authority for a program under the Clean Water Act which the U.S. Environmental Protection Agency has already delegated to the state.

Details

Section 1 amends §81-1505, relating to the Environmental Protection Act, by adding that the Environmental Quality Council, when adopting regulations for the issuance of Clean Water Act section 404 permits, is to consider (a) when permits are required and exemptions, application, and filing requirements; (b) terms and conditions affecting permits, notice and public participation, and duration; (c) permit review; and (d) monitoring, recording, and reporting requirements.

Section 2 amends §81-1506, relating to unlawful acts under the Environmental Protection Act, by making it unlawful to discharge any dredged or fill material into state waters without obtaining a permit required under section 404 of the Clean Water Act and by rules and regulations under 81-1505.

Section 3 repeals the original sections.

LB 535

LB 535 changes the membership of the Nebraska Natural Resources Commission and changes the approval process for some natural resources district projects.

This bill has been before the committee before as it addresses an ongoing dam issue between the Lower Elkhorn NRD and residents in its area.

Details

Section 1 amends 2-1504, which creates the Nebraska Natural Resources Commission, by adding 12 business community representatives as members of the commission.

Section 2 amends 2-3229, relating to the purposes of a natural resources district, by adding new language stating that NRD projects and programs must "first be shown to be wanted by a majority of the residents" of the watershed or project area. Further, surveys may be used to determine potential utilization of the project if consistent with government statistics, and may not include the same population area to justify similar projects within a 50-year time period.

Projects are to be bid as a whole and all expenses included when determining a rate of return.

Section 3 amends 2-3234, relating to natural resources districts eminent domain power, by prohibiting the use of eminent domain until all requirements for a dam or other improvement project have been met.

Section 4 amends 2-3254.07, relating to natural resources districts improvement projects, by requiring a vote of the residents of the watershed to approve of improvement project area bonds to fund the special benefit portion of a project. Currently, only the authorization of the board is needed.

Section 5 repeals the original sections.

LB 565

LB 565 would create a revolving loan fund to assist institutions with converting their current heating and cooling systems to wood chip burning systems.

Sen. Louden introduced this bill after learning about Chadron State College's heating and cooling system that runs off of wood chips. The cost savings that the college realizes is substantial, and it is Sen. Louden's intent is to provide loans to assist public institutions with the capital costs of converting from their current energy source to the use of woody biomass. Loan amounts would depend on the size of the institution/project.

The fiscal note shows that the Energy Office believes a full-time engineer would be needed to help carry out the bill's requirements.

Details

Section 1 contains new language creating the Woody Biomass Energy Act.

Section 2 contains new language stating legislative intent is to encourage the use of alternative energy sources and to provide financial assistance for such use.

Section 3 contains new language creating the Woody Biomass Energy Revolving Loan Fund. It requires the State Energy Office to administer the fund. It states legislative intent to appropriate $2.5 million from the General Fund to the loan fund for fiscal years 2009-10 and 2010-11.

Section 4 contains new language stating how the fund is to be used and requires the State Energy Office to promulgate rules and regulations on the loan application process, the standards that loan applicants must meet to qualify, and terms of the loan.

Section 5 contains new language stating that a state or local government may apply for a loan and requires the application to include: a description of the public building to be converted, current use of the building, plans for project completion, the specific dollar amount requested, an itemized budget, a feasibility study, plan for loan repayment, and anything else the State Energy Office deems necessary.

Section 6 contains new language requiring the State Energy Office director to evaluate loan applications to ensure that all the requirements have been met, the economic feasibility of the project, the state's natural resources will be impacted only minimally, and the applicant is capable of completing the project.

Section 7 contains new language allowing the State Energy Office to approve loans based on the director's findings and available funds. Further requires the loan agreement to state: the amount of the loan, the purpose, the terms, and the penalties for defaulting on the loan.

LB 567

LB 567 would require the State Energy Office to expand its scope of duties to include activities related to renewable energy.

This bill is a follow-up to Sen. Dubas' bill last session that would have made the State Energy Office an independent agency and expanded its duties significantly. LB 921 died at the end of session, but the Governor has expanded the status of the State Energy Office. Sen. Dubas would like to expand those duties even further to include renewable energy aspects, including work on renewable portfolio standards (RPSs.) Some of the provisions in this bill were either recommended by the Energy Office or were recommendations based on public comments gathered and reported on by the Energy Office as part of its work to create a new state energy policy.

Details

Section 1 creates new language providing a definition of renewable energy for purposes of this bill.

Section 2 amends 81-1602, which states the duties of the State Energy Office, by requiring the office to take on a more active role in the state's energy activities, include renewable energy, fuels, energy efficiency measures, and transmission lines when performing its duties under this section, and be more accountable to the public and the Legislature.

New language states that the office is to (1) develop and administer a wind energy plan for the development of transmission lines; (2) pursue new research and investment funds; (3) monitor existing state and federal energy renewable energy policies; (4) establish performance standards for

measuring the state's increased attention to renewable energy; and (5) adopt and promulgate a statewide renewable portfolio standard consistent with federal government requirements.

Section 3 amends 81-1603, relating to the State Energy Office powers, by: adding that contracted services and research, meeting minutes and expenditures, and development agreements are to be reported to the Legislature annually; adding reference to renewable energy when describing energy-related activities of the office; and eliminating the requirement that the Governor approve of energy-related activity participation.

Section 4 amends 81-1607, relating to report requirements of the State Energy Office, by changing the report's due date and requiring public access to the annual report through the office or website.

Also adds to the list of items that must be included in the report (summaries of energy information provided to the public, research and investment funding efforts, and state and federal renewable energy policies; assessments of the state's renewable energy use performance; updates on development of a wind energy plan; summaries of committee activities; and updates on implementation of a statewide renewable portfolio standard.)

Section 5 repeals the original sections.

LB 582

LB 582 would create the Nebraska Invasive Species Council.

Sen. Dierks introduced this bill on behalf of a woman who, through the University, has a grant with which she has developed a group to address animal and plant species issues. She believes the research her group facilitates could be helpful to local governments and the Legislature. The intent of the bill is to provide an official forum through which the group can share their work.

Details

Each section of the bill creates new language to do the following:

Section 1 provides Legislative findings/intent regarding interest in the threat of invasive plants.

Section 2 clarifies that for purposes of this bill, invasive species includes non-native plants that cause economic or environmental harm, capable of spreading, but does not include planted argonomic crops or non-harmful exotic vegetation.

Section 3 creates the Nebraska Invasive Species Council. Provides the council membership is to include representatives from the National Park Service, Nebraska Association of Resources Districts, Nature Conservancy, Agriculture Department, Game and Parks Commission, Nebraska Forest Service, Nebraska Weed Control Association, University of Nebraska Chancellor, Animal and Plant Health Inspection Service, Natural Resources Conservation Service, United States Geological Survey, Nebraska Cooperative Fish and Wildlife Research Unit, and two at-large members appointed by the Governor.

Calls for the council to seek input from entities deemed necessary to accomplish its duties.

Section 4 provides duties for the council that include: recommend action to minimize the effects of harmful invasive vegetation on the state economy and environment; develop and update a statewide adaptive management plan for invasive vegetation; serve as a forum for invasive vegetation issues; facilitate contact with public, private and other non-governmental entities on prevention, control, and management of non-native invasive vegetation; assist with public outreach and awareness of issues; and inform the Legislature on the issues.

Section 5 states that the adaptive management plan is to address: statewide coordination and intergovernmental cooperation; prioritization of response and management; early detection and prevention when introduction is deliberate or unintentional; inventory and monitoring; identification of re-vegetation, reclamation, or restoration of native vegetation following control or eradication of invasive vegetation; identification of research and information gaps; public outreach and education; identification of funding and resources; and legislative recommendations.

Section 6 requires an annual report and the adaptive management plan, which is to be updated once every three years, to be submitted to the Governor and Legislature's Agriculture Committee. Requires: the council to complete an initial strategic plan within three years of the effective date of the act; council members to "make best efforts to implement elements of the completed plan applicable to the department or agency;" a recommendation to the Legislature at the beginning of 2012 on council extension or modification; and establishment of advisory and technical subcommittees, with the Department of Agriculture providing administrative support.

LB 591

LB 591 allows the Nebraska Power Review Board to consider different criteria for electric generation facility applications if they are using a renewable energy resource.

This bill is a reintroduction of LB 1138, which Sen. Dierks introduced last session. That bill was killed by the committee. Sen. Dierks intends to extend the benefits of C-BED through this bill.

For purposes of the explanation of the bill below, Nebraska Statute §70-1014, subsection (1), allows the Nebraska Power Review Board to approve an electric generation facility application if it finds that the application will serve the public convenience and necessity, and the applicant can most economically and feasibly supply the electric service resulting from the proposal without unnecessary duplication of facilities or operations.

Details

Section 1 amends §70-1014, relating to electric generation facilities and transmission lines applications, by allowing the Power Review Board to approve an application for a facility using a renewable energy resource even when the board does not find the conditions listed in subsection (1) as long as:

- The board finds the application will serve the public convenience and necessity and the facility will result in either (1) the reduction of pollution; (2) water conservation; (3) the displacement of domestic nonrenewable fuel sources; or (4) an economic advantage to the rural economy, AND

- Any of these criteria met are deemed to provide substantial benefits outweighing the need for the findings in subsection (1) of 70-1014 without causing significant increases in the applicant's wholesale or retail electric rates.

- "Electric generation facility using a renewable energy resource" includes: an electric generation facility using wind, solar, landfill gas, methane, geothermal energy, fuel cells, or biomass for its fuel source.

Section 2 repeals the original section.

LB 624

LB 624 creates the Public Building Energy Efficiency Fund for energy efficiency projects in public buildings.

This bill is essentially the same bill as Sen. Haar's LB 491, but covers public buildings rather than private residences. This bill, however, provides a clearer process of how the loan fund is to be administered, as all of the duties are assigned to the State Energy Office. Again, with this bill, funding would come from grants, loans and federal funds.

Details

Section 1 contains new language stating legislative findings and the benefits of encouraging energy efficiency in public buildings.

Section 2 contains new language creating the Public Building Energy Efficiency Fund which is to contain grants, loans and federal funds. The bill would allow any political subdivision to apply to the State Energy Office for a loan for approved energy-efficiency projects, and provides examples of energy-efficiency projects.

Section 3 contains new language requiring the State Energy Office to approve or deny loan applications based on certain standards, such as type of project, life expectancy, projected energy savings and "simple payback" of the project. The Energy Office would submit vouchers to the director of Administrative Services and maintain loan records.

Section 4 contains new language requiring the State Energy Office to create loan applications and contracts. Further states some terms of the loans, and requires that loans be distributed geographically throughout the state to the extent possible.

LB 643

LB 643 requires additional notification requirements on counties or natural resources districts for road ditch improvement projects that require relocating electric transmission or distribution lines, poles, or anchors or compromises their structural integrity.

Sen. Schilz introduced this bill in response to a situation encountered by Butler Public Power when it found that a 30-day notice did not provide sufficient time to move the required electric lines.

Details

Section 1 amends §70-311, relating to notice of road widening for electric transmission or electric distribution lines, by adding reference to a road ditch improvement project that will require work within ten feet of an electric transmission or distribution line, poles or anchors for which notice must be provided. The notice is to be given at least 180 days prior to commencement of the work if lines, poles,

or anchors must be moved, or if the work will compromise their structural integrity. If the equipment to be moved requires Federal Aviation Administration approval, a one-year notice is required.

Also contains new language requiring a natural resources district to provide notice if altering a road structure or grading or moving earth for flood control, recreation or other project, or if it can be reasonably expected that any work will be performed within ten feet of any electric transmission or distribution line, pole, or anchor. The notice is to be given at least 180 days prior to commencement of the work if lines, poles, or anchors must be moved, or if the work will compromise their structural integrity. If the equipment to be moved requires Federal Aviation Administration approval, a one-year notice is required.

Section 2 repeals the original section.

LB 644

LB 644 would adopt the Electronics Recycling Act.

This bill is a reintroduction of Sen. Preister's LB 986, introduced in 2008. That bill advanced unanimously from committee, passed on Final Reading and was presented to the Governor on April 17. On April 21st, the Governor returned the bill without his signature with the explanation that the bill represented an economic barrier to computer manufacturers wanting to do business in Nebraska. There was no opportunity to override the veto.

Details

Section 1 creates new language naming the act the Electronics Recycling Act.

Section 2 creates new language stating the purpose of the act is to establish a comprehensive electronic device recycling system that ensures safety and environmentally sound management, and encourages recyclable, less toxic designs.

Section 3 creates definitions for computer, department, electronic device (what it includes and does not include), manufacturer, monitor, recycling, television, and video display.

Section 4 creates new language prohibiting manufacturers, starting July 1, 2010, from selling a new electronic device in the state if the manufacturer is not in compliance with the Electronics Recycling Act.

Section 5 creates new language requiring a manufacturer, on or before January 31, 2010 and each January 31 thereafter, who sold at least 500 electronic devices in the state in the previous calendar year to register and certify with the Department of Environmental Quality (DEQ) whether the devices sold fall within (a), (b) or (c) in section 6, and if so, which one is applicable.

If a manufacturer wants to get a reduction in fees provided for in section 6, by each January 31 beginning in 2011, it must certify the number of electronic devices recycled as a percentage of the number sold in the state in the previous calendar year to the DEQ. Such recycling must be done in compliance with all applicable federal, state, and local laws, and not exported for disposal in a manner that would be harmful to the public health or environment.

Section 6 creates new language requiring a manufacturer, by January 31, 2010, to remit a registration fee to the DEQ based on the number of electronic devices sold in the state the previous calendar year.

Fees would be:

(a) $1,000 for sales of 500 to 1,000 devices;

(b) $7,500 for sales of more than 1,000 to 5,000 devices; or

(c) $20,000 for sales of more than 5,000 devices.

Further states that, beginning January 31, 2011, the registration fee in this subsection is to be reduced if the manufacturer certifies to DEQ the percentage of electronic devices recycled as described in this bill. If the certified percentage is at least 10 percent and less than 20 percent, the manufacturer is to receive a 10 percent reduction in the fee. If the percentage is 20 percent and less than 30 percent, the fee reduction is 20 percent. For 30 percent or more, the fee reduction is 50 percent.

Section 7 creates new language directing the DEQ to: collect fees for remittance to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund; review and adjust the fee structure to ensure at least $1 million and not more than $1.5 million are collected starting in fiscal year 2011-12 and; use necessary powers to carry out the act.

Section 8 creates new language requiring a manufacturer to provide a no-cost method for returning an electronic device to the manufacturer.

Section 9 creates new language requiring the DEQ director to discontinue fee collections if a federal law has become effective that applies to all electronic devices sold in the United States and establishes a program for the collection and recycling or reuse of discarded electronic devices.

Section 10 creates new language requiring the fees remitted under the act, after administration costs, to be used to award grants for education and information about electronics recycling, infrastructure development, and the collection, transportation, and recycling of such devices.

Section 11 creates new language allowing DEQ to adopt and promulgate rules and regulations.

Section 12 amends §81-1504.01, relating to DEQ report requirements, by requiring a report to the Governor and Legislature by December 1st each year on the funds credited to the Waste Reduction and Recycling Incentive Fund pursuant to the act.

Section 13 amends §81-15,160, relating to the Waste Reduction and Recycling Incentive Fund, by adding reference to the Electronics Recycling Act and allowing grants for information and education on electronics recycling from DEQ.

Section 14 contains a severability clause.

Section 15 repeals the original sections.

LB 651

LB 651 would adopt the Water Resources Revolving Loan Fund Act and provides for natural resources district project loans.

The revolving loan fund in this bill was initially to be funded by $9 million that was borrowed from the three natural resources districts in the Republican River Basin. When LB 701 was challenged in court, those districts borrowed the money from the state to pay for surface water purchased from irrigators in 2007 in an effort to comply with the Republican River Compact settlement. This bill was introduced to keep that money loaned to natural resources districts in a fund.

The bill was designed to redirect the loan repayments to a revolving loan fund that could be used for loans to all districts throughout the state to help with eligible water projects. The loans would be paid back by allowing additional taxing authority to be given to the districts and preference would be given to requests by districts that are within a river basin that is bound by an interstate compact or formal state contract or agreement.

Details

Section 1 contains new language citing the creation of the Water Resources Revolving Loan Fund Act.

Section 2 contains new language stating legislative findings and intent regarding the protection and management of the state's water resources.

Section 3 contains new language defining commission (Natural Resources Commission), construction, department (Department of Natural Resources), director, district (a natural resources district), joint public agency (of qualified natural resources districts), and project.

Section 4 contains new language creating the Water Resources Revolving Loan Fund. This trust fund is to consist of federal grants, state appropriations, loan repayments and interest, and other money. Allows the director to make loans and the department to administer funds.

Creates the Water Resources Revolving Loan Administration Fund, to be administered by the department, and used to provide for financing obligations or fees related to the Act. Allows the director to transfer funds in Administration Fund to Revolving Loan Fund to meet financing requirements after other obligations and fees are paid.

Section 5 contains new language authorizing interest-free loans from the Water Resources Revolving Loan Fund for no more than 40 percent of a project cost to an NRD or joint public agency IF the applicant agrees to match the interest-free loan amount with bonds or other funding sources. Loans for project costs over 40 percent are to bear interest rate established by commission. Maximum loan term is 10 years, and no more than 30 percent of the average annual balance in the fund may be used for a single project. Commission is to adopt and promulgate rules and regulations for disbursement and repayment terms.

Section 6 contains new language allowing loans to be made for: (1) purchase or lease of water rights pursuant to statutes on groundwater (Ch. 46, art. 6) and surface water (Ch. 46, art. 2) and including storage water rights; (2) purchase or lease, or administration and management, of canals or reservoirs constructed for irrigation from a river; (3) vegetation management and removal of invasive species; (4) augmentation of river flows consistent with Ch. 2, art. 32; and (5) development, storage, or transportation of water, or provisions of, contracting for, or furnishing of water for beneficial uses.

Projects must be owned, operated or financed by a natural resources district or joint public agency for benefit of its member natural resources districts. Preference will be given to NRDs or joint public

agencies within a basin that is bound by an interstate compact, decree or formal state contract or agreement.

Section 7 contains new language creating loan application procedures. Application is to be on department provided form, include all information such as name and location of applicant, project description, and loan amount requested. Applications are to be granted or denied within six months of receipt.

If application is approved, the parties are to make an agreement that identifies the recipient, amount, interest rate, description of project, term, repayment schedule, penalties for failure to comply, and any other terms.

Commencement on the project is to begin within six months after receipt of the loan; if not, the loan is to be returned to the department and credited to the Water Resources Revolving Loan Fund.

Section 8 contains new language authorizing a state aid deduction from the aid the loan recipient or NRD is entitled to for failure to make payment. Such amounts are to be placed in the Water Resources Revolving Loan Fund.

Section 9 contains new language authorizing the commission to: (1) complete rules and regulations for making loans under the Act; (2) adopt an intended use plan, to be reviewed annually, that gives preference to NRDs within a river basin, subbasin, or reach determined to be fully appropriated or overappropriated; (3) establish interest rates; (4) set delinquency rates or fees; (5) create an administrative fee for administering the Act; and (6) obligate the Water Resources Revolving Loan Fund to repay with interest loans to or credits into the fund.

Section 10 contains new language authorizing the department to: (1) establish a loan program for projects in accordance with the Water Resources Revolving Loan Fund Act and the rules and regulations adopted; (2) under the authority of the commission, create documents obligating the Loan Fund to repay loans or credits into the fund; (3) prepare an annual report for the Governor and Legislature; (4) establish fiscal controls and accounting procedures for the fund; (5) provide financial assistance for engineering studies and reports, research projects, water protection and other studies; and (6) exercise other duties as needed.

Section 11 contains new language stating that a loan agreement is a valid and binding obligation of the fund and payable in accordance with the terms of the agreement. Any pledge of fund assets by the department, authorized by the commission, is valid and binding. The pledged assets are subject to an immediate and binding lien. Actions by the commission, pledge agreements by the department, or any other pledge instrument needs to be recorded.

Section 12 contains new language requiring the State Treasurer to transfer remaining funds in the Water Contingency Cash Fund to the Water Resources Revolving Loan Fund at the end of the first calendar month after the effective date of this Act. Payments by NRDs are to be credited to the Water Resources Revolving Loan Fund.

Section 13 amends §2-3225, relating to natural resources district tax levy powers, by adding that the tax proceeds may be used for payment of costs and expenses of qualified projects under Section 2-3226.04, or as authorized under the Water Resources Revolving Loan Fund Act.

Section 14 amends §2-3226.04, relating to use of river-flow enhancement bonds, by adding that bond proceeds may pay for the development, storage, transportation, provision of, contracting for, and furnishing of water for domestic purposes, agriculture, manufacturing and all other beneficial uses.

Section 15 amends §2-3226.05, relating to natural resources district occupation tax authority, by adding that the tax proceeds may be used for payment of costs and expenses of qualified projects under Section 2-3226.04 or authorized under the Water Resources Revolving Loan Fund Act.

Section 16 amends §2-3226.08, relating to repayments to the Water Contingency Cash Fund, by adding that after repayment of the assistance, the district receiving loan proceeds under the Water Resources Revolving Loan Fund Act is to remit loan proceeds to the department pursuant to the loan agreement.

Section 17 amends §2-3226.09, relating to duties of the State Treasurer to the Water Contingency Cash Fund, by adding reference to the language in Section 16.

Section 18 repeals the original sections.

LB 663

LB 663 would adopt the Net Metering Act.

This bill is modeled after a law that passed in Minnesota, Minn.Stat. §216B.164. The purchase of net excess generation at retail rates distinguishes Minnesota's net metering legislation from programs in most other states (Wisconsin is the only other state that provides for retail rates.) The bill's 72 sections of new language are quite technical and detailed, so below is an abbreviated explanation.

Details

Section 1 cites the creation of the Net Metering Act.

Sections 2 through 26 provide definitions for purposes of the Act. Typically, definitions are housed in one section in bills and in statute.

Section 27 contains intent language.

Sections 28 through 36 state the requirements utilities must follow for filing tariffs with the Power Review Board. The tariff filing is to contain extensive and technical information regarding a utility's facilities and costs, including facility and cost projections for future growth.

Section 37 states the conditions to which a qualifying facility must agree before a utility is required to purchase its energy and capacity.

Section 38 prohibits an indemnity or hold harmless clause to be place in the agreement described in Sec. 37.

Sections 39 through 44 deal with rates, and provide for the following:

- Rates for qualifying facilities would be based on the tariff class to which the facility would belong outside of this Act.

- A petition process to the Power Review Board for setting certain rates.

- Rates applicable for facilities with capacities of less than 100 kilowatts (standard rates apply), and facilities with capacities of more than 100 kilowatts (negotiated rates or selection of one of three rates offered by utility, to be placed in a written contract.)

- The net energy billing rate for a qualifying facility if it has a capacity less than 40 kilowatts and does not offer power for sale on a "time of day" or "simultaneous purchase and sale" basis. Also provides for the average retail utility energy rate payable to either the qualified facility or the utility, depending on the amount of energy supplied.

- An explanation of the process to determine the "simultaneous purchase and sale rate."

- An explanation of the process to determine the "time of day rate."

Sections 45 through 48 provide that a facility with a capacity greater than 100 kilowatts is to negotiate rates for payments of avoided capacity and costs. Such a facility is entitled to the full avoided capacity costs of the utility (to be determined by a list of somewhat vague factors) and the full avoided energy costs of the utility, adjusted to reflect line losses. Does not prohibit a utility from connecting qualifying facilities with greater than 100 kilowatts under standard rates.

Section 49 provides that purchases from qualifying facilities are to be considered an energy cost to the utility when calculating its fuel adjustment clause.

Sections 50 through 53 allow a utility to provide "wheeling" or exchange agreements for selling the qualifying facility's output to other state utilities with plans for expansion. Sections further provide for a payment procedure.

Section 54 provides a dispute resolution process.

Sections 55 and 56 require utilities, after their annual filing, to provide notice to customers and publish the public information on interconnections.

Section 57 allows a utility to refuse interconnection until a qualifying facility submits an interconnection plan and receives approval from the utility.

Sections 58 to 66 state the technical facility-related requirements that a qualifying facility must meet, and that the utility may require, before an interconnection.

Section 67 provides the right to appeal excessive utility requirements.

Section 68 provides that interconnection contracts existing before the effective date of this bill may be canceled and replaced.

Section 69 provides the content of a uniform statewide contract for an agreement between a utility and qualifying facility with less than 40 kilowatts.

Sections 70 and 71 amend §70-1012, and §70-1012.01, relating to electric generation facilities, by exempting from its provisions utilities contracted with qualifying facilities under the Net Metering Act.

Section 72 repeals the original sections.

LB 666

LB 666 would change the powers and duties of the Niobrara Council under the Niobrara Scenic River Act.

This bill was introduced in response to a series of letters from late last summer between the attorney for the Niobrara Council and the Department of Natural Resources and Nebraska Public Power District. The letters put emphasis on the confusion that exists regarding the extent of the council's powers and duties.

Background: Public Law 102-50, the Niobrara Scenic River Designation Act of 1991, amended the Wild and Scenic Rivers Act to designate portions of the Niobrara River as units of the national wild and scenic rivers system. The purpose of the Wild and Scenic Rivers Act is to protect selected American rivers for the benefit and enjoyment of all.

The Wild and Scenic Rivers Act directs the administering agency to prepare a management plan and establish final boundaries for protection of the river. General management plans are developed for all units of the national park system to direct basic management concepts. The National Park Service completed a general management plan and environmental impact statement. One of the options listed in the plan required the formation of a local management council that would work in partnership with the National Park Service to manage the river. This recognized the unique situation in Nebraska of the river being located mostly on private land. The four affected county commissions, Brown, Cherry, Keya Paha, and Rock, formed the Niobrara Council. The council and National Park Service entered into a cooperative agreement and the council was delegated certain management duties.

In March 1998, the National Parks and Conservation Association and American Canoe Association filed a lawsuit against the National Park Service for "allowing the Niobrara national scenic river to be managed by a local council consisting of local landowners, business owners, and politicians." In 1999, a federal court judge ruled that the National Park Service had unlawfully delegated its management responsibility on the Niobrara and was prohibited from cooperative efforts with the council to assist with river resource management.

In response, the Legislature authorized the council's creation, forming it to be acceptable to the Park Service, to maintain management of the river, and to authorize zoning powers.

Details

Section 1 amends §19-902, relating to city planning zoning, by eliminating reference to the Niobrara Council's zoning authority.

Section 2 amends §23-114, relating to county government zoning regulations, by eliminating reference to the Niobrara Council's zoning authority.

Section 3 amends §23-373, relating to county government subdivision platting, by eliminating the requirement of approval by the Niobrara Council if property is within the Niobrara scenic river corridor.

Section 4 amends §72-2004.01, which cites the act, by referencing the new sections.

Section 5 contains new language stating legislative intent and findings that it recognizes the need for local representation and contribution for planning and management of the Niobrara scenic river corridor.

Creates the Niobrara Council to represent local interests and serve as an advisory council to the National Park Service and local county boards. The Council is to represent the cultural, economic, and agricultural attributes of the region, and to ensure local participation and collaboration for management of the Niobrara River.

The advisory council is authorized to: collaborate with the National Park Service on management; monitor water activities and related land uses in the corridor; provide information to citizens and local and state government; review and recommend proposed water uses and land resources relating to property rights in the corridor; suggest alternative water uses and land resources for resource development in the corridor; and act as facilitator between landowners and citizens and the National Park Service.

Section 6 amends §72-2007, relating to the Niobrara Council members, by changing membership requirements so that: representatives of the U.S. Fish and Wildlife Service and National Park Service are selected by the federal service rather than the governor; and certain representatives on the council reside in a county that includes land in the Niobrara scenic river corridor. These changes apply beginning with the first appointment of a representative after the effective date of the act.

Section 7 amends §72-2008, relating to powers and duties of the Niobrara Council, by stating that the council is to provide local representation to the National Park Service and report to the local county boards in all aspects of the Niobrara scenic river corridor management. Further, the council is to encourage use and enjoyment of the river for recreational, fish and wildlife, geological, historical, cultural, or other, and encourage continued agricultural, horticultural, forestry and open space land and water uses.

Eliminates language authorizing the council to perform management functions related to the corridor, including those authorized and delegated by the National Park Service. Eliminates the council's authority to hold title to real estate.

Also reduces the cost of support provided by the Game and Parks Commission from $50,000 to $25,000.

Section 8 contains new language requiring the council to submit by December 1, an annual report of its activities and actions for each fiscal year to the Governor, local county boards, and public upon request. The report is to include: a complete operating and financial statement; a summary of recommendations issued; any correspondence with federal agencies or employees; recommendations for planning and developing in the corridor consistent with the scenic river designation; and any other relevant information.

Section 9 amends §76-2,112, relating to conservation or preservation easements, by eliminating Niobrara Council approval instead of local approval for acquisitions.

Section 10 repeals the original sections.

Section 11 repeals outright Section 72-2005 (states legislative findings and intent); Section 72-2010 (authorizes Niobrara Council zoning duties); Section 72-2011 (authorizes Niobrara Council to determine what activities can take place in the corridor); and Section 72-2012 (restricts zoning authority of the council to the boundaries of the Niobrara scenic river corridor).

Section 12 inserts an emergency clause.

SUMMARIES OF BILLS INDEFINITELY POSTPONED

LB 134

LB 134 would have prohibited natural resources districts from using eminent domain for recreational purposes.

Bills to limit the natural resources districts' power of eminent domain have been introduced in the past. Generally, these bills are killed in committee. The eminent domain process statutes are §76-704 to 724.

The bill was killed in response to an agreement that the issue be studied during the interim, via LR 124.

Details

Section 1 amends §2-3234, relating to NRD eminent domain powers, by adding an exception to such power for the development and management of recreational trails or corridors unless associated with a flood control structure.

Section 2 repeals the original section.

The committee amendment, AM636, would have replaced the original bill. It amended Section 2-3234 by adding language requiring a natural resources district to obtain the consent of the Legislature before using eminent domain for the development or management of recreational trails or corridors unless associated with a flood control structure.

LB 577

LB 577 would have clarified the law on improvement project areas by natural resources districts.

This bill was another option to address the potentially catastrophic flooding problems of the Papio Creek Watershed and to satisfy certain requirements under the Federal Clean Water Act. This bill and LB 160 propose very different viewpoints on how the problem should be taken care of and centers on the question of who should pay for the needed improvements. There was also disagreement regarding the eminent domain powers of a natural resources district and whether current law adequately restricts their ability to transfer/sell taken property for private development.

The bill was killed in committee on March 4, 2009.

Details

Section 1 amends §2-3211.01, relating to NRD changes in boundaries and treatment of taxes, by updating the statutory references.

Section 2 amends §2-3226.03, relating to river-flow enhancement bonds, by updating a statutory reference.

Section 3 amends §2-3235, relating to agreements that NRDs may enter into, by adding new language stating the section should not be read as (1) giving an NRD authority to enter into agreements with business developers or (2) allowing an NRD to advertise real estate when eminent domain has been used.

Section 4 creates new language applicable to sections 4 through 16 of the bill. This section provides definitions for terms used in the improvement project area statutes. The definition of "special benefit" is meant to ensure that a project affects only small areas of the district, rather than benefiting the entire district.

Section 5 amends §2-3252, relating to NRD powers with improvement project areas, by specifying: improvement project areas may be established for purposes stated in statute except development and management of fish and wildlife habitat, or recreational and park facilities; that improvement project areas have specified geographical boundaries; and prohibiting projects by business developers (unless the developer has owned the land for at least ten years.) This section also cleans up language that has been restated elsewhere in the statutes.

Section 6 amends §2-3253, relating to petitions for improved project areas, by updating language, and clarifying that a project area is to be geographically defined and identified if it is affected by the project and not within the geographic area.

Section 7 amends §2-3254, relating to petition hearings, by updating language and requiring notice to be provided to landowners whose property may be affected by the project. Also requires a majority vote for a project in a district which contains a metropolitan class city by landowners whose land is outside of the project area boundaries but may be affected by the project.

Further allows an NRD to contract with economists, appraisers and other experts to help determine the value of a project's benefits. The rest of the section deletes language that is placed elsewhere in statute.

Section 8 contains new matter that represents language previously placed elsewhere in statute.

Section 9 contains new matter that represents language previously placed elsewhere in statute, except one sentence in the section requires benefit units be assigned to land proportionate with the benefit accruing to the land.

Section 10 contains new matter that represents language previously placed elsewhere in statute.

Section 11 contains new matter that represents language previously placed elsewhere in statute, except for one portion, lines 18 through 20, which ensure NRD general funds are not used for projects with local special benefits, unless they are replaced within one year.

Section 12 amends §3254.02, relating to bonds for improvement projects, by eliminating the requirement that a project not result in revenue-producing continuing services in order for the district to be able to issue bonds.

Section 13 amends §2-3254.03, relating to improvement projects financed with bonds, by updating language and only allows NRD general funds to be used for local improvement projects if repaid within one year.

Section 14 amends §2-3254.07, relating to warrants and bonds to fund projects, by limiting the bonds issued to 12 percent of the taxable valuation of all taxable property in the district.

Section 15 creates new language relating to delinquent assessments restating what was already in statute elsewhere.

Section 16 amends §2-3255, relating to appeals of a board decision, by clarifying jurisdiction depending on the location of the land affected, and states that land affected by a project outside of the project area may have its appeal in any district court of any county with affected land or any county in which the project are lies.

Section 17 repeals the original sections.

Section 18 repeals outright §§2-3254.01, 2-3254.04, 2-3254.05, and 2-3254.06. These sections concern improvement projects, issuance of bonds and a special assessment levy and have been moved to other sections in statute.

LB 471

LB 471 would have allowed the Power Review Board to consider applications from government entities for renewable energy electric facilities.

This bill was amended into LB 561 through AM 1210.

Details

Section 1 amends §70-1014.01, relating to approval criteria for special electric generation applications, by allowing the filing of an application with the Power Review Board by a governmental entity for a facility that will generate more than 10,000 kilowatts of electric energy using renewable energy sources, including solar, wind, biomass, landfill gas, methane gas, or new hydropower generation or other emerging technology. The application must show that total production does not exceed 10 percent of the total energy sales indicated in the "Annual Electric Power Industry Report to the United States Department of Energy" and the applicant's governing body must hold one advertised public hearing.

The board is to approve the application if: renewable energy sources are used, total production from all renewable projects of applicant does not exceed 10 percent of total energy sales, and the governing body has held at least one advertised public hearing.

The bill also allows a C-BED, renewable energy project for sale to a Nebraska electric utility to make an application to the board as long as the utility conducts a public hearing and the power and energy from the renewable energy sources is sold exclusively to a utility for a term of at least 20 years.

Section 2 repeals the original section.

INTERIM STUDY RESOLUTIONS

LR 83 (Natural Resources) Interim study relating to expanded development of wind energy in Nebraska

LR 128 (Langemeier) Interim study to examine issues relating to the laws of Nebraska governing the management and use of Nebraska surface water and ground water

LR 235 (Christensen) Interim study to examine water issues

LR 181 (McCoy) Interim study to examine the feasibility and benefits of restructuring the natural resources districts

LR 124 (Pankonin) Interim study to examine the use of eminent domain by natural resources districts for the taking of private land for development or management of recreational trails or corridors

LR 122 (McCoy) Interim study to examine the feasibility of making the Game and Parks Commission a code agency

LR 115 (Langemeier) Interim study to review issues under the jurisdiction of the Natural Resources Committee

LR 101 (Haar) Interim study to examine issues relating to the impact of additional well development on water use by domestic wells in areas of the state where ground water supplies are limited

LR 193 (Haar) Interim study to examine the impact of LB 436 which established a statewide net metering policy

LR 195 (Haar) Interim study to examine energy efficiency

LR 221 (Pirsch) Interim study to determine ways the state of Nebraska could promote energy conservation in commercial buildings and residential properties

LR 222 (Langemeier) Interim study to examine granting the Department of Environmental Quality the statutory authority to file and collect environmental liens on property