

2012

LEGISLATIVE BILL SUMMARIES

**NATURAL RESOURCES COMMITTEE**

NEBRASKA LEGISLATURE

ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION

***NATURAL RESOURCES COMMITTEE MEMBERS***

Senator Chris Langemeier, Chairperson

Senator Ken Schilz, Vice-Chairperson

Senator Tom Carlson

Senator Mark Christensen

Senator Annette Dubas

Senator Ken Haar

Senator Beau McCoy

Senator Jim Smith

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**COMMITTEE STAFF**

Laurie Lage, Legal Counsel  
Barb Koehlmoos, Committee Clerk

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**Natural Resources Committee 2012**  
**102<sup>nd</sup> Legislature**

**BILL INDEX**

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- LB 732 (Mello) Provide procedures for the use of eminent domain by cities and villages for trails. *Held in Committee* (p. 28)
- LB 739 (Christensen) Authorize Game and Parks Commission to transfer property to Chase County. *Signed by Governor* (p. 12)
- LB 741 (Schilz) Change application provisions relating to electric generation facilities. *Signed by Governor* (p. 13)
- LB 742 (Schilz) Change application provisions relating to development of renewable energy resources. *Signed by Governor* (p. 13)
- LB 743 (Schilz) Provide a fee relating to consideration of a variance under the Nebraska Ground Water Management and Protection Act. *Signed by Governor* (p. 14)
- LB 756 (Avery) Provide public access to documents related to major oil pipelines. (p. 23)
- LB 760 (Schilz) Change provisions relating to meetings of the Environmental Quality Council and grants made to political subdivisions. *Signed by Governor* (p. 15)
- LB 796 (Avery) Adopt the Outdoor Outfitters and Guides Registration Act. *Held in Committee* (p. 29)
- LB 828 (Dubas) Change provisions relating to wind and solar energy agreements. *Signed by Governor* (p. 15)
- LB 845 (Sullivan) Change provisions relating to wind and solar energy agreements. *Signed by Governor* (p. 16)
- LB 849 (Sullivan) Authorize the Game and Parks Commission to transfer Pibel Lake State Recreation Area to the Lower Loup Natural Resources District. *Signed by Governor* (p. 17)
- LB 857 (Larson) Provide for repayment of certain grants from the Nebraska Environmental Trust Fund as prescribed. *Held in Committee* (p. 30)
- LB 873 (Schilz) Extend sunset of the petroleum release remedial action fund. *Approved by*

*Governor* (p. 17)

LB 877 (Wallman) Require disclosure of hydraulic fracturing treatment information. *Held in Committee* (p. 33)

LB 928 (Louden) Provide for mountain lion hunting permits . *Approved by Governor* (p. 18)

LB 931 (Karpisek) Change provisions relating to flood protection and water quality enhancement bonds. *Held in Committee* (p. 30)

LB 950 (Christensen) Change crediting provisions relating to reimbursement of certain assistance to natural resources districts as prescribed. *Signed by Governor* (p. 20)

LB 1043 (Langemeier) Eliminate provisions relating to contracts or agreements for discounted rates involving public power districts. *Signed by Governor* (p. 20)

LB 1044 (Haar) Provide for Public Service Commission regulation of hazardous liquid pipeline facilities. *Held in Committee* (p. 31)

LB 1081 (Christensen) Provide for free antlerless deer hunting permits for farmers as prescribed. *Held in Committee* (p. 31)

LB 1087 (Nordquist) Adopt the Compressed Natural Gas Innovation Act. *Signed by Governor* (p. 21)

LB 1092 (Fulton) Require information and training regarding the disposal of mercury-containing light bulbs. *Held in Committee* (p. 32)

LB 1125 (Christensen) Change provisions relating to natural resources district occupation tax. *Signed by Governor* (p. 21)

LB 1161 (Smith) Provide for study and evaluation of routes for proposed oil pipelines. *Signed by Governor* (p. 22)

LB 1163 (Fulton) Provide for a deer donation program and for redistribution of deer permit fees. *Held in Committee* (p. 18)

LR 40CA (Pirsch) Constitutional amendment to declare fishing, trapping, and hunting to be rights forever preserved subject to reasonable restrictions. *Presented to Sec. of State* (p. 24)

LR 51CA (Heidemann) Constitutional amendment to change allocation of state lottery proceeds. *Held in Committee* (p. 32)

**2012 NATURAL RESOURCES COMMITTEE BILLS**

**Bills by Hearing Date**

4/18/2012

Hearing	Bill	Introducer	One-Liner	Status
<b>BILLS BY HEARING DATE</b>				
<b>WED. 1-18-12</b>				
	873	Schilz	Extend sunset of the petroleum release remedial action fund	Approved by Gov 3-7-12
	713	Haar	Provide requirements for and prevent the prohibition of the installation of solar energy systems	In Comm
	877	Wallman	Require disclosure of hydraulic fracturing treatment information	IPP
<b>THURS. 1-19-12</b>				
	741	Schilz	Change application provisions relating to electric generation facilities	In Comm - amended into LB 742 via AM 1934
	742	Schilz	Change application provisions relating to development of renewable energy resources	Approved by Gov 4-10-12
	828	Dubas	Change provisions relating to wind and solar energy agreements	Approved by Gov 3-7-12
<b>FRI. 1-20-12</b>				
	760	Schilz	Change provisions relating to meetings of the Environmental Quality Council and grants made to political subdivisions	Approved by Gov 3-14-12
	931	Karpisek	Change provisions relating to flood protection and water quality enhancement bonds	In Comm
<b>WED. 1-25-12</b>				
	739	Christensen	Authorize Game and Parks Commission to transfer property to Chase County	Approved by Gov 3-14-12
	849	Sullivan	Authorize the Game and Parks Commission to transfer Pibel Lake State Recreation Area to the Lower Loup Natural Resources District	Approved by gov 3-14-12
<b>THURS. 1-26-12</b>				
	743	Schilz	Provide a fee relating to consideration of a variance under the Nebraska Ground Water Management and Protection Act - <b>Consent Calendar</b>	Approved by Gov 4-10-12
<b>FRI. 1-27-12</b>				
			No Hearings – LR 314 Meeting	
<b>WED. 2-1-12</b>				

	1043	Langemeier	Eliminate provisions relating to contracts or agreements for discounted rates involving public power districts – <b>Committee Priority #1</b>	Approved by Gov 3-7-12
	1092	Fulton	Require information and training regarding the disposal of mercury-containing light bulbs	In Comm
<b>THURS. 2-2-12</b>				
	1081	Christensen	Provide for free antlerless deer hunting permits for farmers as prescribed	In Comm
	1163	Fulton	Provide for a deer donation program and for redistribution of deer permit fees	In Comm – amended into LB 928, Approved by Gov 4-17-12
	928	Louden	Provide for mountain lion hunting permits – <b>Speaker Priority</b>	Approved by Gov 4-17-12
<b>FRI. 2-3-12</b>				
	<del>1087</del>	<del>Nordquist</del>	<del>Adopt the Compressed Natural Gas Innovation Act</del>	<b>Canceled</b>
<b>WED. 2-8-12</b>				
	857	Larson	Provide for repayment of certain grants from the Nebraska Environmental Trust Fund as prescribed	In Comm
	732	Mello	Provide procedures for the use of eminent domain by cities and villages for trails	In Comm
<b>THURS. 2-9-12</b>				
	796	Avery	Adopt the Outdoor Outfitters and Guides Registration Act	In Comm
<b>MON. 2-13-12</b>				
	1087	Nordquist	Adopt the Compressed Natural Gas Innovation Act	Approved by Gov 4-10-12
<b>WED. 2-15-12</b>				
	950	Christensen	Change crediting provisions relating to reimbursement of certain assistance to natural resources districts as prescribed – <b>Committee Priority #2</b>	Approved by Gov 4-11-12
	1125	Christensen	Change provisions relating to natural resources district occupation tax - <b>Speaker Priority</b>	Approved by Gov 4-17-12
<b>THURS. 2-16-12</b>				
	845	Sullivan	Provide reclamation requirements under the Oil Pipeline Reclamation Act – <b>Sen. Sullivan Priority Bill</b>	Approved by Gov 4-6-12
	1161	Smith	Provide for study and evaluation of routes for proposed oil pipelines - <b>Sen. Smith Priority Bill</b>	Approved by Gov 4-17-12
<b>WED. 2-22-12</b>				
	756	Avery	Provide public access to documents related to major oil pipelines – <b>Speaker Priority</b>	In Comm – amended into LB 1161,

				Approved by Gov 4-17-12
	1044	Haar	Provide for Public Service Commission regulation of hazardous liquid pipeline facilities	In Comm
<b>CARRY-OVER BILLS</b>				
	64	Cornett	Change provisions relating to wildlife in captivity	In Comm.
	103	Schilz	Change instream appropriation provisions	In Comm.
	127	Avery	Change input into determinations and management plans for regulation of water	In Comm.
	227	Mello	Require the State Energy Office to perform a state energy assessment	In Comm.
	328	Fischer	Provide for amendment of hydropower appropriations as prescribed	In Comm.
	340	Dubas	Adopt the Hazardous Liquid Pipeline Notification Act	In Comm.
	391	Schilz	Create the Nebraska Invasive Species Council	Approved by Gov 4-5-12
	392	Schilz	Provide powers and duties relating to aquatic invasive species <b>Amended into LB 392</b>	In Comm.
	393	Schilz	Require state agencies to develop plans to use Nebraska biodiesel fuel	In Comm.
	395	Schilz	Change voting provisions for members of the Nebraska Environmental Trust Board	In Comm.
	487	Karpisek	Provide for resolution and ordinance power relating to flood protection and water quality enhancement projects	In Comm.
	498	Louden	Change water resources provisions relating to in situ uranium mining	Approved by Gov 3-7-12
	526	Carlson	Change provisions relating to water transfers	Approved by Gov 3-14-12
	529	Carlson	Change provisions relating to conservation and preservation easements and the Nebraska Environmental Trust	In Comm.
	533	Fischer	Change membership of the Niobrara Council	In Comm.
	578	Haar	Require proof of financial responsibility from persons operating pipelines	In Comm.
	579	Haar	Change provisions relating to power supply plan contents	In Comm.
	587	Nordquist	Provide grants for compressed natural gas innovation projects and funding	In Comm.
	595	Carlson	Adopt the Water Resources Revolving Loan Fund Act and change provisions regarding certain revenue	In Comm.
	596	Carlson	Provide for standing with respect to integrated management plan proceedings	In Comm.
	626	Mello	Adopt the Electronics Recycling and Job Creation Act	In Comm.
	645	Christensen	Require inclusion of established surface water and ground water uses in certain agreements as prescribed	In Comm.
	653	Christensen	Provide for interbasin transfers during times of flooding as prescribed - <b>Sen. Christensen Priority Bill</b>	GF w/AM - bracketed
	656	Janssen	Change provisions relating to flood protection and water quality enhancement bonds	In Comm.



	683	Mello	Create the Storm Water Management Commission	In Comm.
	697	Coash	Change permit issuance provisions under the Game Law – <b>AMENDED INTO LB 41</b>	GF w/AM
	LR 40CA	Pirsch	Constitutional amendment to declare fishing, trapping, and hunting to be rights forever preserved subject to reasonable restrictions	Presented to Sec. of State 3-27-12
	LR 51CA	Heidemann	Constitutional amendment to change allocation of state lottery proceeds	In Comm.

## SUMMARIES OF ENACTED BILLS

### LB 391

LB 391 creates the Nebraska Invasive Species Council to address growing concerns about harmful invasive species.

#### **Details of Final Bill**

**Sections 1 and 2** refer the new language to the Game Law.

**Sections 3 through 7** contain new language that defines aquatic invasive species, prohibits one from possessing, importing, exporting, purchasing, selling or transporting such species except as authorized, authorizes Game and Parks Commission personnel to inspect (and impound) certain conveyances for aquatic invasive species, and makes it a Class III misdemeanor for failure to submit to an inspection.

**Section 8** amends 37-524, which prohibits importation and possession of any wild vertebrate animal, by adding that aquatic invasive species possession is also prohibited. Further allows the Game and Parks Commission to regulate and limit importation and possession of an aquatic invasive species after public hearing, consultation with the Department of Agriculture, and finding that such species is a serious threat to economic or ecologic conditions.

**Section 9** amends 37-547, which states Nebraska's intent to prevent release or importation of wildlife that cause economic or ecological harm, by adding such wildlife includes aquatic invasive species. Also states intent to prevent commercial exploitation or exportation of any aquatic invasive species.

**Section 10** amends 37-548, which prohibits importation or release into the wild, or commercial exploitation or export of live wildlife unless authorized by the Game and Parks Commission, by adding that live wildlife includes aquatic invasive species. Adds that the Commission is to add aquatic invasive species to its administration of this law through rules and regulations.

**Sections 11 through 16** contains new language to do the following:

- Declare legislative findings about the harm of invasive species caused to Nebraska's resources and the need for a mechanism through which interested organizations may collaborate and develop a plan to address the threat;
- Clarify that invasive species means non-native, aquatic or terrestrial organisms that can spread and cause economic or biological harm; and does not include domestic pets, livestock, honey bees, intentional agronomic crops or non-native organisms that do not

- cause harm;
- Create the Nebraska Invasive Species Council for which the Governor is to appoint eight voting members from specific agencies or organizations, and up to five more voting members from the public representing other interests, all of whom are to serve without compensation or reimbursement;
  - Require the Game and Parks Commission to provide administrative assistance to the council;
  - Authorize non-voting, ex officio members from five federal entities from whom council members shall seek input;
  - Authorize the council to receive additional advisory support as necessary to accomplish its duties;
  - Require the council to select a chairperson from among its members.
  - Provide duties for the council, including: recommending action to minimize harm from invasive species; developing a statewide adaptive management plan; providing a forum for understanding invasive species issues; facilitating coordination between all levels of governmental entities for the prevention, control, and management of invasive species; assisting with public outreach and awareness; and providing information to the Legislature;
  - Provide the information that should be included in the adaptive management plan;
  - Require the plan to be updated at least once every three years and submitted to the Governor and Agriculture Committee;
  - Require an annual report and recommendations to be submitted to the Governor and Agriculture Committee; and
  - Require the council to establish advisory and technical committees and complete the initial plan within three years after the effective date.

**Sections 17 and 18** repeal the original sections and insert an emergency clause.

The Governor signed the bill on April 5, 2012.

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### **LB 498**

LB 498 creates an exception in the Industrial Ground Water Regulatory Act permit, issued by the Department of Natural Resources, when a permit holder needs additional water beyond that allowed under the original permit.

Currently, this type of permit can be amended unless the change would increase daily peak withdrawal or the annual volume by more than 25% from the amounts allowed in the original permit. This bill allows permits to be amended through applications for additional water, by authorizing the approval of amended permits as long as the amount of additional water requested is within the limits set by the Department of Environmental Quality in a different

permit process.

### **Details of Final Bill**

**Section 1** amends 46-683.01, Industrial Ground Water Regulatory Act permit amendments, by providing an exception for applications requesting an increase in the maximum daily volumetric flow rate or annual volume to levels allowed under a Department of Environmental Quality-issued permit, pursuant to 81-1504 and 81-1505 (9).

**Section 2** repeals the original section.

The Governor signed the bill on March 7, 2012.

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### **LB 526**

LB 526 will enable the transfer of the entire amount of a surface water irrigation right for a nonconsumptive use. The bill as passed addresses the concern that allowing a transfer that is a change in preference of use or point of diversion could be harmful to existing water appropriators.

### **Details of Final Bill**

**Section 1** amends 46-294, relating to water appropriation transfer applications, by placing conditions on such a transfer, including that the transfer or change in purpose would not diminish the available water supply or otherwise adversely affect another water appropriator or the state's ability to meet compact obligations, or result in administration of the prior appropriation policy which would not have otherwise occurred.

**Sections 2 and 3** repeal the original section and add an emergency clause.

The Governor signed the bill on March 14, 2012.

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### **LB 739**

LB 739 allows the Game and Parks Commission to transfer Champion Lake and park areas to Chase County. The Game and Parks Commission, and any other state entity, must have statutory authority before making such a conveyance of land. The Legislature grants the authority on a transaction by transaction basis.

### **Details of Final Bill**

**Section 1** puts new language into statute authorizing the Game and Parks Commission to convey Champion Mill State Historical Park and Champion Lake State Recreation Area to Chase County for public purposes. Also provides the legal descriptions of these properties.

**Section 2** amends 37-354, which lists how property conveyed by the Game and Parks Commission is to be operated and maintained, by adding reference to this bill's conveyance.

**Sections 3 and 4** repeal the original section and add an emergency clause.

The Governor signed the bill on March 14, 2012.

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## **LB 742**

LB 742 represents the combined contents of LB 741 and LB 742. Clarifying changes were made to portions of each original bill.

LB 742 was introduced to allow private developers to use the current generation exception provided under the Community-Based Energy Development Act (C-BED). Renewable energy projects in Nebraska for more than 80 MW are required to get Nebraska Power Review Board (PRB) approval. Applications made to the PRB must meet the least cost/public necessity standard to get approval. In 2009 the Legislature passed a law to allow a limited Power Review Board approval for renewable energy projects larger than 80 MW as long as the public power entity purchasing the power held a public hearing, and the project did not exceed ten percent of the entity's total energy sales. The special approval process was to be available for C-BED projects with 20 year power purchase agreements with public power entities. This bill allows privately developed renewable energy projects to take advantage of the the application process made available in 2009.

LB 741 was introduced to add to the criteria the Power Review Board uses to determine if a transmission line, and related facilities, should be approved. In 2009, Nebraska became a member of the Regional Transmission Organization (RTO) the Southwest Power Pool (SPP). RTOs are regional networks of interconnected transmission facilities that move power across the states. The SPP administers transmission services and planning in its service area which includes at least a portion of nine states. The transmission planning done by the SPP is to meet the growing needs of its members as a network in a cost-effective, reliable manner. Under current law, the Nebraska Power Review Board (PRB) must approve or deny new energy generation facilities, including transmission lines, after considering the proposed transmission's public convenience and necessity. In order for Nebraska to participate in new projects and as the transmission network grows, the PRB needs authority to consider regional benefits and the RTO planning process in order to give its approval of such applications.

## Details of Final Bill

**Section 1** amends 70-1014, relating special generation application approvals by the Power Review Board (PRB), by adding that for transmission line applications that a regional transmission organization (RTO) has planned, approved and issued a notice to a utility to construct, the PRB is to consider information from the RTO regarding its planning process and the transmission line's (or related facility's) benefits to the region when making its decision to approve or deny the application.

**Section 2** amends 70-1014.01, relating to special generation applications to the Power Review Board, by adding that a privately developed project intended to develop renewable energy sources for sale to a Nebraska utility may apply to the board if the purchasing utility conducts a public hearing and power is sold exclusively to the utility for a term of 20 years. Adds the condition that total production from all of the purchasing utility's renewable projects, other than sales to other electric generation entities, must not exceed ten percent of its total energy sales. Authorizes the PRB to approve the application if all of the conditions are met.

**Section 3** repeals the original sections.

The Governor signed the bill on April 10, 2012.

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## LB 743

LB 743 authorizes a fee relating to a natural resources district's consideration of a variance under the Nebraska Ground Water Management and Protection Act. Currently, landowners may request variances from the rules and regulations of a district for good cause shown. There are administrative and notification costs associated with each variance request for which a district is responsible.

## Details of Final Bill

**Section 1** amends 46-707, which lists the powers of a natural resources district under the Nebraska Ground Water Management and Protection Act, by authorizing a district to assess a fee of one requesting a variance to cover the administrative cost of considering the variance, including the costs associated with publishing notice.

**Section 2** repeals the original section.

The Governor signed the bill on April 10, 2012.

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## **LB 760**

LB 760, introduced on behalf of the Department of Environmental Quality (DEQ), reduces the number of required meetings of the Environmental Quality Council from four to two per year, and recognizes the fact that there are other statutes relating to grants from the department to political subdivisions that must be followed that are not consistent with the council's priorities.

### **Details of Final Bill**

**Section 1** amends 81-1503, which created the Environmental Quality Council and contains provisions on its membership, by deleting the requirement that the council hold at least four meetings once each calendar quarter, and replacing it with a requirement of at least two regular meetings each year. Also clarifies that the director of Environmental Quality is authorized to control grants to political subdivisions according to the council's priorities, unless otherwise directed by statute.

**Section 2** repeals the original section.

The Governor signed the bill on March 14, 2012.

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## **LB 828**

LB 828 clarifies terminology and synchronizes various statutes that were amended or affected by recently enacted laws relating to solar and wind energy facilities. Its purpose is to ensure that all of the statutes relating to wind and solar energy are consistent and compatible.

### **Details of Final Bill**

Most of the bills sections harmonize terminology and consolidate existing language into a different chapter of law for ease of use. Other sections of the bill do the following:

**Sections 3 and 4** define "decommissioning security" and "wind agreement" respectively.

**Sections 5 and 6** update the definitions of "solar skyspace easement" and "wind energy easement" in Chapter 66 dealing with oil, fuels and energy, by renaming the them "solar agreement" and "wind agreement" respectively, and clarifies the property owner's right to make such agreements. This reflects the more accurate and current use of such documents.

**Section 7** amends 66-911.01, relating to solar and wind agreements, by stating that the abstract used for creating a land agreement and filed with the county does not have to include certain information, such as the amount paid for the agreement.

**Sections 9 and 10** clarifies what is provided for in Chapter 76 into Chapter 66, which deals with solar or wind agreements “running with the land” and the prohibition on severing wind and solar interests from the land. New language would allow the parties to an agreement to extend the statutorily limited 40 year term or the ten year time frame within which construction must commence, if both agree in writing to do so.

**Section 16** clarifies in Chapter 76, the statutes on real property, that the recipient of a decommissioning security may be a municipality or other governmental entity.

**Sections 21 and 22** repeal the original sections or repeal outright sections that are provided for in other sections of law.

**Section 23** contains an emergency clause.

The Governor signed the bill on March 7, 2012.

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## **LB 845**

LB 845 strengthens the reclamation requirements currently in statute under the Oil Pipeline Reclamation Act.

### **Details of Final Bill**

**Section 1** adds that the new sections of this bill are to be considered part of the Oil Pipeline Reclamation Act.

**Section 2** amends 76-3303, which states the purpose of the act, by adding legislative intent language that proper reclamation is part of the oil pipeline construction process, to as close as reasonably practicable to pre-construction condition, unless otherwise agreed to by the landowner.

**Section 3** amends 76-3304, which states the duties of a pipeline carrier under the act, by adding reference to the provisions in this bill.

**Section 4** creates new language requiring a pipeline carrier to complete final grading, topsoil replacement, installation of erosion control structures, seeding and mulching within 30 days after backfill unless weather or other extreme circumstances do not permit it.

**Section 5** creates new language requiring a pipeline carrier to ensure all reclamation is conducted in accordance with the Federal Seed Act, Nebraska Seed Law, and the Noxious Weed Control Act. Also requires assurance that genetically fit and locally adapted plants and



seeds are to be used based on site characteristics and surrounding vegetation, and that mulch is installed as required by site contours, seeding methods or weather conditions, or by the request of the landowner.

**Sections 6 and 7** repeal the original sections and contain an emergency clause.

The Governor signed the bill on April 6, 2012.

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### **LB 849**

LB 849 allows the Game and Parks Commission to transfer Pibel Lake State Recreation Area to the Lower Loup Natural Resources District. The Game and Parks Commission, and any other state entity, must have statutory authority before making such a conveyance of land. The Legislature grants the authority on a transaction by transaction basis.

#### **Details of Final Bill**

**Section 1** puts new language into statute authorizing the Game and Parks Commission to convey Pibel Lake State Recreation Area to the Lower Loup Natural Resources District for public purposes. Also provides the legal description of this property.

**Section 2** creates new language that lists how property conveyed by the Game and Parks Commission is to be operated and maintained and assigns responsibility for compliance and enforcement of this section to the Lower Loup Natural Resources District. Also adds that the federally funded public boating access facilities, which are specially assigned and required through 2024, are to be kept in reasonable repair.

**Section 3** contains an emergency clause.

The Governor signed the bill on March 14, 2012.

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### **LB 873**

LB 873 extends the date for eligible claims under the Petroleum Release Remedial Action Act by four years to June 30, 2016. The Petroleum Release Remedial Action Reimbursement Fund is funded by nine-tenths of a cent on a gallon of gasoline and three tenths of a cent on diesel fuel. Costs for both underground and above ground tank releases are eligible for reimbursement.

#### **Details of Final Bill**

**Section 1** amends 66-1519, which created the Petroleum Release Remedial Action Cash Fund, by allowing reimbursement from the fund for the costs of remedial action taken by a responsible party of the department in response to a release reported on or before June 30, 2016.

**Section 2** amends 66-1523, which states the reimbursement terms under the fund, by stating that the procedures to be used only apply to remedial action for releases reported on or before June 30, 2016.

**Section 3** amends 66-1525, relating to applications for reimbursement and partial payment, by allowing for applications based on releases reported on or before June 30, 2016.

**Section 4** amends 66-1529.02, relating to remedial actions by the department, by allowing action using the fund in response to releases reported on or before June 30, 2016, as long as certain other conditions exist.

**Section 5** provides an operative date of June 30, 2012.

**Sections 6 and 7** repeal the original sections and contain an emergency clause.

The Governor signed the bill on March 7, 2012.

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## **LB 928**

This bill contains the contents of LB 928 and LB 1163. LB 928 allows, but not require, the Game and Parks Commission to issue mountain lion hunting permits to residents or by auction to residents or nonresidents. LB 1163 creates the Hunters Helping the Hungry program, administered by the Game and Parks Commission.

### **Details of Final Bill**

**Section 1** amends 37-201, which cites the Game Law, by adding reference to the new section proposed in this bill.

**Section 2** creates new language authorizing the commission to issue mountain lion hunting permits, subject to the current limitations of law for all hunting licenses. Permits are for Nebraska residents, but may be auctioned for nonresidents. A nonrefundable application fee may not be more than \$25 for residents, and no additional permit fee may be charged. Such permits are to be awarded by random drawing.

No more than one additional permit may be authorized and issued at auction open to residents

and nonresidents, conducted according to commission rules and regulations, with proceeds to be used only for “perpetuation and management of mountain lions.”

**Section 3** amends 37-448, the special deer depredation season statute, by adding that deer taken for donation in accordance with the program created in this act are to be accounted for in the permit system in the same manner as deer taken in a special season.

**Section 4** amends 37-452, which contains hunting age requirements, by adding mountain lions to the list of animals that one must be at least 12 years of age to hunt and, until the age of 16, be supervised by a validly permitted adult hunter. Such adult hunter (at least 19 years of age) may not supervise more than two people while hunting mountain lions.

**Sections 5 through 14** create a deer donation program. New language provides that:

- the intention of the act is to encourage hunters to harvest deer for donation to programs that feed Nebraskan's in need;
- deer is the only species to be included in the program and it must be an entirely field-dressed carcass. A definition for field-dressed is provided;
- the commission place on all deer hunting permit applications an option for an applicant to donate to the program an amount in addition to the regular permit fee;
- the commission set a fair market price for processing donated deer and establish an annual per-deer processing payment to meat processors, but only to the extent funds are available;
- the commission is to promote the program to the extent funds are available;
- the commission enlist and make contracts with meat processors for their services, and provide them with forms and promotional materials, subject to funds availability;
- meat processors who have entered into a contract with the commission are to meet the agreed upon terms, not assess additional costs to donors or beneficiaries, and collect required information form donors before receiving payment;
- meat processors are to determine whether a donated deer is in acceptable condition;
- the commission is absolved of liability and may enter into contracts with other entities to expand the program, including contracts with offers of matching grants to pay for processing; and
- the Hunters Helping the Hungry Cash Fund is created, but the commission is not obligated to pay for expenses in excess of the fund's available balance.

**Sections 15 though 18** provide that the mountain lion hunting permit sections become operative three months after the end of session, the deer donation sections became law when the Governor signed the bill, and the original sections are repealed.

The Governor signed the bill on April 17, 2012.

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## **LB 950**

LB 950, as introduced, would have directed loan repayment funds payable to the Water Contingency Cash Fund into the Water Resources Cash Fund instead. The final version of LB 950 represents a compromise to avoid redirecting money from one fund to another. The Legislature opted for a one-time appropriation to the Water Resources Cash Fund to provide the Department of Natural Resources with needed resources for water management projects.

### **Details of Final Bill**

**Section 1** amends 61-218, which creates the Water Resources Cash Fund, by adding the intent of the Legislature to transfer \$5,700,000 from the General Fund to the Water Resources Cash Fund in fiscal year 2012-13. This represents the one-time transfer of \$2.4 million to that cash fund.

**Section 2** creates new language requiring the State Treasurer to transfer \$2,400,000 from the General Fund to the Water Resources Cash Fund on or before June 30, 2013.

**Section 3** repeals the original section.

The Governor signed the bill on April 11, 2012.

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## **LB 1043**

LB 1043 amends the statute that authorizes public power to negotiate a short-term economic development rate to a new or expanding customer. Incentive electric rates were created as an economic development tool that could be used to encourage businesses with high electrical loads to locate in Nebraska. This bill enables eligible businesses to count on a negotiated energy rate for up to five years without the risk of a general retail rate increase. After the five year time limit, the business reverts to paying the applicable standard rate.

### **Details of Final Bill**

**Section 1** amends 70-655, which authorizes negotiated rates for public power and irrigation districts, by removing the requirement that a contract or agreement under this section contain a provision that a board-approved retail rate increase include parties that have contracted or agreed to a discounted rate. The bill also requires that the production component of an economic development rate not be less than the incremental cost of electricity production, and clarifies that all state electrical utilities may participate in offering this incentive, including municipalities.

**Sections 2 and 3** repeal the original section and insert an emergency clause.

The Governor signed the bill on March 7, 2012.

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### **LB 1087**

LB 1087, in its original form, proposed the creation of a grant program to promote the use of natural gas as a motor vehicle fuel. The committee replaced the original content of the bill with one section of new language to create the Natural Gas Fuel Board. The purpose of the board is to facilitate the discussion with state government, and advise the State Energy Office on matters such as infrastructure, distribution, and incentives that can be used to encourage the use of natural gas as a motor vehicle fuel.

#### **Details of Final Bill**

**Section 1** creates the Natural Gas Fuel Board to advise and provide recommendations to the State Energy Office regarding the promotion of natural gas as a motor vehicle fuel in Nebraska. The eight member board, appointed by the Governor, is to be comprised of one representative from each of the following: a jurisdictional utility, a metropolitan utilities district, the transportation industry, business community (fueling station owners or operators), natural gas marketers or pipelines, automobile dealerships or repair businesses, labor, and air quality/environmental interests.

The board is to be appointed by October 1, 2012 and is to meet at least once annually. Board members are to be approved by the Legislature, serve for four-year terms, and shall not be reimbursed for expenses. The State Energy Office is to provide administrative support to the board.

The Governor signed the bill on April 10, 2012.

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### **LB 1125**

LB 1125, as introduced, would have allowed a landowner to opt out of an occupation tax by certifying the nonirrigation status of his or her acres depending on when the applicable natural resources district adopted its integrated management plan.

The Legislature passed LB 862 in 2010, which authorized use of the occupation tax for natural resources districts under certain conditions. Those in the qualifying districts who had nonirrigated acres were to be able to certify such status by March 1<sup>st</sup> of each year to be exempt from the tax. To use the occupation tax, the natural resources district is required to have an adopted integrated management plan. The issue with the statute came to light when the board of a natural resources district adopted an integrated management plan and levied the occupation tax several months after the March 1 deadline provided in statute for those who

would have certified their nonirrigated acre status to claim exemption from the occupation tax.

### **Details of Final Bill**

**Section 1** amends 2-3226.05, which authorizes a natural resources district to levy an occupation tax, by allowing a natural resources district to exempt acres enrolled in temporary retirement programs from the occupation tax if irrigation is prohibited in the year the tax is levied. Further prohibits a district from exempting or providing a refund of an occupation tax on irrigated acres on which a record owner maintains irrigated status in the year the tax is levied.

Allows the record owner to present evidence of the nonirrigation status of the acres subject to the tax within twelve months after the tax was levied, and allows the district to refund the tax if (1) an occupation tax was not levied the previous year, and (2) the district had not adopted an integrated management plan by March 1.

The bill contains an emergency clause and has a termination date of October 1, 2012 for the new language.

**Sections 2 and 3** repeal the original section and insert an emergency clause.

The Governor signed the bill on April 17, 2012.

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### **LB 1161**

LB 1161 provides a mechanism for the state's Department of Environmental Quality to continue a pipeline route evaluation that was authorized in LB 4, passed last fall during the 2011 special session. LB 4 created a process that authorized the Department of Environmental Quality to collaborate with a federal agency for a National Environmental Policy Act review of oil pipeline projects.

The Legislature also passed the Major Oil Pipeline Siting Act during special session, a pipeline route application process to be administered by the Public Service Commission. As passed, LB 1 was not to apply to a pipeline that had applied for a Presidential Permit from the State Department prior to the effective date of the act. The act went into effect immediately when the Governor signed the bill last November.

This bill requires that if the Governor does not approve a pipeline route after the Department of Environmental Quality evaluation, the pipeline carrier must apply for a permit under the Major Oil Pipeline Siting Act.

## Details of Final Bill

**Section 1** amends the portion of LB 1, passed during special session, that amended 57-1101, relating to eminent domain use for oil transport, by requiring compliance with section 3 of LB 4, passed during special session and receiving the Governor's approval on the route. Also provides that if condemnation procedures have not been commenced within two years after the date of route approval, the right expires.

**Sections 2 and 3** amend the portion of LB 1 that created the Major Oil Pipeline Siting Act, by adding the portion of Sen. Avery's LB 756 that prohibits the Public Service Commission from withholding any documents or records relating to a major oil pipeline from the public unless otherwise protected under state or federal law.

**Section 4** amends the portion of LB 1 that lists the purposes of the Major Oil Pipeline Siting Act, by striking the language stating the act does not apply to a pipeline that has submitted an application to the U.S. Department of State.

**Section 5 and 6** amend the Major Oil Pipeline Siting Act created in LB 1 by restructuring the language that assumed an exemption for a pipeline that had already applied for a U.S. Department of State permit. The changes reflect that a pipeline carrier is required to file an application under the Major Oil Pipeline Siting Act if the pipeline route (or a substantive change to a route) was not approved by the Governor under the procedure provided in this bill.

**Section 7** amends section 3 of LB 4, passed during special session, by:

- authorizing the Department of Environmental Quality to evaluate any route for an oil pipeline in Nebraska submitted by a pipeline carrier to the "stated purpose of being included in a federal agency's National Environmental Policy Act review process";
- requiring at least one public hearing, and opportunities for public review and comment;
- requiring analysis of the environmental, economic, social, and other impacts associated with a pipeline route and route alternatives;
- authorizing the department to collaborate and make an agreement with federal agencies for an effective and timely evaluation or for a National Environmental Policy Act review involving a supplemental environmental impact statement;
- striking the language in the original LB 4 that required a memorandum of understanding;
- requiring a pipeline carrier to reimburse the department for the cost of the evaluation or review within 60 days after notification from the department (and eliminating the language stating legislative intent to fund this process);
- requiring the Governor to notify the pipeline carrier that he or she does not approve any route and it must file an application with the Public Service Commission pursuant to the Major Oil Pipeline Siting Act in order to obtain approval of a route;

- adding that portion of Sen. Avery's LB 756 that prohibits the department from withholding any documents or records relating to a major oil pipeline from the public unless otherwise protected under state or federal law.

**Section 8** creates an appropriation of \$2,000,000 from the Department of Environmental Quality Cash Fund to the Department of Environmental Quality to carry out the bill's provisions.

**Section 9** contains a severability clause.

**Sections 10 and 11** repeal the original sections and insert an emergency clause.

The Governor signed the bill on April 17, 2012.

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### **LR 40CA**

The passage of LR 40CA means the question of whether there should be a clause stating a protected right to hunt, fish, and harvest wildlife put into our state constitution will be placed on Nebraska ballots in the next general election.

Nebraska voters will decide whether the following language should become a new section to Article XV (Miscellaneous Provisions) of the Constitution of Nebraska:

The citizens of Nebraska have the right to hunt, to fish, and to harvest wildlife, including by the use of traditional methods, subject only to laws, rules, and regulations regarding participation and that promote wildlife conservation and management and that preserve the future of hunting, fishing, and harvesting of wildlife. Public hunting, fishing, and harvesting of wildlife shall be a preferred means of managing and controlling wildlife. This section shall not be construed to modify any provision of law relating to trespass or property rights. This section shall not be construed to modify any provisions of law relating to Article XV, section 4, Article XV, section 5, Article XV, section 6, or Article XV, section 7, of this constitution.

The resolution was presented to the Secretary of State on March 27, 2012.



## SUMMARIES OF BILLS ADVANCED, INDEFINITELY POSTPONED AT END OF SESSION

### **LB 653**

LB 653 would have allowed diversions and transportation of water from one river basin to another for storage or beneficial use during times of flood pursuant to agreements between applicable natural resources districts.

The committee advanced the bill with AM 1844, which would have replaced the language of the original bill. The new sections of LB 653 would have done the following:

**Section 1** amends 46-288, which provides definitions pursuant to interbasin transfers, by adding that the definitions apply to the new language in section 2.

**Section 2** creates new language to:

- state legislative findings that for best water resources management, interbasin transfers of unappropriated surface water from one basin to another should be allowed without a permit, but pursuant to an agreement between the natural resources or irrigation districts and the Department of Natural Resources (department);
- allow a natural resources district or irrigation district to enter into a written agreement with the department and a natural resources or irrigation district in an adjacent river basin to allow interbasin transfers of unappropriated surface water without a permit;
- state the purpose of the transfer would be to mitigate public and private property damage, when necessary;
- require that any such agreement:
- be in writing before the transfer;
- state that the destination river basin is inferior in right to all current and future surface water appropriations and internal water resources projects within the basin of origin; and
- include the prearranged purchase price of water, the location of transfer, the conditions under which the transfer can take place, and contain a requirement of notification to the department, affected rural water districts, public power and irrigation districts, or other special purpose districts in both the basin of origin and destination.

Sen. Christensen moved and the body agreed to bracket the bill. It died on General File upon adjournment sine die.

## SUMMARIES OF BILLS HELD IN COMMITTEE, INDEFINITELY POSTPONED AT END OF SESSION

LB 64, LB 103, LB 127, LB 227, LB 328, LB 340, LB 392, LB 393, LB 395, LB 487, LB 529, LB 533, LB 578, LB 579, LB 587, LB 595, LB 596, LB 626, LB 645, LB 656, LB 683, and LB 697 explanations can be found in the 2011 committee end of session book.

The content of LB 741 was amended into LB 742; the content of LB 756 was amended into LB 1161, and the content of LB 1163 was amended into LB 928.

### LB 713

LB 713 would have prohibited neighborhood covenants from banning the use of solar panels because it is in the public's interest to encourage alternative renewable energy.

#### **Section-by-section description:**

**Section 1** amends 14-102, relating to powers of a metropolitan class city, by adding the power to remove/relocate trees for the reasonable installation of solar energy systems.

**Section 2** amends 15-201, relating to primary class city powers, by adding the power to remove/relocate trees to permit the reasonable installation of solar energy systems.

**Section 3** amends 16-207, relating to first class city powers over certain obstructions, by authorizing such city to remove/relocate trees for the reasonable installation of solar energy systems.

**Section 4** amends 17-555, relating to second class city sidewalk obstructions, by authorizing such city to remove/relocate trees for the reasonable installation of solar energy systems.

**Section 5** amends 66-901, which states public policy relating to solar and wind energy, by providing a policy statement that in light of private entity restrictions on solar and wind energy devices, the purpose of this section of law is to protect the use of solar energy systems.

**Section 6** amends 66-902 by stating that the definitions already provided in 66-901 through 66-914 apply to the new sections in this act.

**Section 7** amends 66-906, which defines passive solar energy systems, by cleaning up language.

**Section 8** creates new language defining a private entity as any association of homeowners, community association, condominium association, cooperative or other nongovernmental entity with covenants with which a homeowner must comply.

**Section 9** amends 66-905 redefines “solar energy system” by including uses of incident solar energy and stating that such uses would otherwise require the use of conventional energy sources.

**Section 10** amends 66-909, which defines solar skyspace easement, by cleaning up language.

**Section 11** creates new language stating that no one is to be prevented from installing a solar energy system on a single-family or townhouse residence the person owns by a covenant, bylaws, or similar agreement. Any lease, contract, or other agreement to the contrary is void and unenforceable. Also allows a private entity to provide limited restrictions on solar energy system placement without unreasonably restricting the system's efficiency below ten percent. Prohibits a private entity from assessing fees for placement of such a system.

The residence owner must notify the private entity within 30 days after installation and comply with its other rules. If a system is to be placed in a common element, the private entity must give consent, which can be obtained after the owner agrees to: comply with design specifications, the use of a licensed contractor, provide a certificate of insurance naming the private entity as an additional insured, and provide a copy of any interconnection agreement.

The owner (and successive owners) is further responsible for damages to the system, common elements and adjacent units, and for the repair, maintenance, removal and replacement of the system, and must maintain an insurance policy covering these obligations, ensuring that a roof warranty is not voided by the system.

**Section 12** amends 66-912, relating to solar and wind energy systems, by adding that solar energy system easements may be enforced by injunction or equity or civil action.

**Section 13** amends 66-913, relating to zoning and planning considerations for counties and municipalities, by allowing a county or municipality with zoning jurisdiction to consider in its comprehensive development plans the removal or relocation of vegetation for the reasonable installation of solar energy systems.

**Section 14** provides an operative date of January 1, 2013.

**Section 15** repeals the original sections.

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## **LB 732**

LB 732 would have required a city or village to conduct a hearing and seek public approval before being allowed to exercise eminent domain for recreational trails.

### **Section-by-section description:**

**Sections 1 through 8** create new language that would do the following:

- provide procedures for use of eminent domain by a city or village to take real property for a trail;
- provide definitions, including a definition of “trail” that does not include a sidewalk;
- require a city or village to give consideration to the following before establishing a trail:
  - route and mode of transportation;
  - adjacent land to be used along route;
  - why the route is suitable for a trail;
  - development, operation and management plans;
  - anticipated problems;
  - real property needs, ownership status and potential use;
  - cost estimates for acquiring property;
  - right-of-way acquisition process.
- If this process is followed, the city or village may move forward with the trail by:
  - acquiring property through good faith negotiations with landowners; or
  - if unsuccessful, the city or village may vote (by a supermajority) to hold a public hearing, with at least 45 days notice, to determine whether eminent domain should be used to acquire property.
- After receiving evidence on whether eminent domain should or should not be used, the city or village may, by a supermajority vote, elect to use eminent domain for the trail if it finds, by clear and convincing evidence, that these criteria have been met:
  - a public hearing on the trail plan, with proper notice, was held;
  - good faith negotiation attempts have failed;
  - consideration of all other possible routes was made, with attention given to private property needs, public benefits, costs, safety, and adverse impacts;
  - good faith attempts have been made to address private landowners' concerns on design, privacy, land protection, management and maintenance; and
  - trail development and maintenance is in line with established forest or ag plans for private property.

Further, the bill would:

- Require reasonable access across a trail that divides private property;
- Require compliance with existing eminent domain laws;

- State that the landowner is not responsible for maintenance or dangers on the trail, unless intentional or negligent;
- Require a written agreement between the city or village and landowner stating their respective rights and obligations; and
- Provide an appeal process.

**Sections 9 through 13** amend the individual statute chapters applicable to metropolitan class cities (Chapter 14), primary class cities (Chapter 15), second class cities and villages (Chapter 17), all cities and villages (Chapter 18), and more than one but less than all classes of cities and villages (Chapter 19), by requiring them to comply with existing condemnation laws and the new language in this bill.

**Section 14** repeals the original sections.

**Section 15** contains an emergency clause.

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## **LB 796**

LB 796 would have required outfitters and guides located in Nebraska that are compensated for their services to become registered with the Game and Parks Commission.

### **Section-by-section description:**

***All 21 sections of the bill contain new language that describe the new act. The Outdoor Outfitters and Guides Registration act would:***

- state Legislative findings that that outfitters and guides industry is important to the state's economy;
- state the Legislature's intent to promote our natural resources through travel and tourism enhanced by the outfitters and guides industry;
- require registration of those who provide equipment, facilities or services to others for the taking of fish, birds, or wildlife, or for the navigation of waters;
- state intent is not to interfere livestock operations, activities not guided by an outfitter or guide, hunting or fishing seasons or permits, or federally-managed lands and waters;
- provide definitions;
- provide registration application requirements, which include proving liability insurance coverage of at least \$50,000/person, and a license fee of \$100;
- direct the Game and Parks Commission to issue a uniquely numbered registration certificate, valid for one year, to a successful applicant;
- require the commission provide a list of those registered on its website;
- create the Outdoor Outfitters and Guides Cash Fund;

- require incorporation, Nebraska-based outfitters or guides doing business in another state to register under this act;
  - make failure to register a Class IV misdemeanor and violator ineligible to become registered for one year from date of conviction; and
  - authorize the committee to adopt rules and regulations.
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### **LB 857**

LB 857 would have required repayment of Nebraska Environmental Trust grants from one who uses grant funds to purchase property and then sell or transfer ownership.

#### **Section-by-section description:**

**Section 1** amends 61-218, which creates the Water Resources Cash Fund, by authorizing funds to be credited under the provisions of this bill.

**Section 2** amends 81-15,167, which cites the Nebraska Environmental Trust Act, by adding reference to the new language in this bill.

**Section 3** amends 81-15,174, which creates the Nebraska Environmental Trust Fund, by authorizing payments to the fund under the provisions of this bill.

**Section 4** creates new language that would require a recipient of a Nebraska Environmental Trust Fund grant who purchases real property and subsequently sells or transfers ownership interest in such property, to repay the grant funds used to purchase the property. Repaid funds are to be credited to the Water Resources Cash Fund.

**Section 5** repeals the original sections.

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### **LB 931**

LB 931 would have allowed a county, before bonds may be issued or Natural Resources Districts (NRD) funds spent, to adopt a resolution stating that it does not approve construction of a reservoir or water quality basin project that is within its jurisdiction.

#### **Section-by-section description:**

**Section 1** amends 2-3226.11, relating to flood protection and water quality bonds, by eliminating the word “exclusive” so that a county, city council or village board may pass such an ordinance for projects within its zoning jurisdiction. The project in question would no longer have to be exclusively in the local entity's zoning jurisdiction.

**Section 2** repeals the original section.

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### **LB 1044**

LB 1044 would have authorized the state of Nebraska to partner with the federal government for oil pipeline safety oversight.

#### **Section-by-section description:**

**Section 1** amends 75-109.01 as amended by LB 1, Special Session, Section 14, which describes the Public Service Commission's (PSC) jurisdiction, by adding reference to the new language in this bill.

**Section 2** creates new language that would:

- adopt the definitions provided in 49 U.S.C. 60101;
- call for state control over safety standards and practices of hazardous liquids and applicable pipeline facilities to the full extent allowed under federal law, to be accomplished by:
  - requiring the PSC to establish appropriate safety standards and practices for public and private hazardous liquid and relevant facilities through rules and regulations;
  - complying with certifications and reports and other requirements under federal law; and
  - seeking designation by the U.S. Secretary of Transportation as an agent to conduct safety inspections of hazardous liquid pipeline facilities in Nebraska.

**Section 3** repeals the original section.

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### **LB 1081**

LB 1081 would have authorized a free deer hunting permit to farmers who can prove at least \$1,000 worth of crop damage caused by deer.

#### **Section-by-section description:**

**Section 1** amends 37-448, relating to special deer depredation hunting seasons, by adding language authorizing the commission to issue to an owner or operator of farm land who so requests, a free permit to hunt one antlerless deer for every \$1,000 of proven crop damage caused by deer. Proof of damage may be shown through an insurance estimate by a claims adjuster, a paid claim, a yield map, or an estimate by the commission. Hunting is to take place

on the land of the one to whom the permit is issued. Also would allow the owner or operator to dispose of the deer carcass in any manner, if necessary.

**Section 2** repeals the original section.

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### **LB 1092**

LB 1092 would have authorized the Nebraska Department of Environmental Quality to provide education and training programs for the proper disposal of light bulbs that contain mercury.

#### **Section-by-section description:**

**Section 1** amends 81-1504, which lists the powers and duties of the Department of Environmental Quality, by adding the power and duty to collect and disseminate information and conduct educational and training programs relating to proper disposal of mercury-containing light bulbs.

**Section 2** repeals the original section.

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### **LR 51CA**

This proposed amendment to our state's constitution would have removed the Nebraska Environmental Trust as a beneficiary of state lottery proceeds, and replacing it with the Water Resources Cash Fund and the University of Nebraska's Innovation Campus.

#### **Section-by-section description:**

**Section 1** proposes to amend Article III, Section 24 of the Nebraska Constitution by changing the distribution of lottery proceeds. Currently, the Nebraska Environmental Trust receives 44 ½% of the funds remaining after prizes, operating costs, and a transfer to the Compulsive Gamblers Assistance Fund. New distribution would be 22 ¼% to the Water Resources Cash Fund, and 22 ¼% to the University of Nebraska Board of Regents for the Nebraska Innovation Campus through 2038. After 2038, the distribution would go to the General Fund.

**Section 2** states how the question should be worded on the ballot.



## SUMMARIES OF BILLS INDEFINITELY POSTPONED

### **LB 877**

LB 877 would have required disclosure of the materials used in the process of hydraulic fracturing that involves injecting water, sand and chemicals into underground shale formations using high pressure to extract oil and natural gas.

#### **Section-by-section description:**

**Section 1** creates new language requiring a hydraulic fracturing operator to provide the composition of fluids used to, and on a form created by, the Nebraska Oil and Gas Conservation Commission for posting on its website. Information shall include the total volume of water used and each chemical ingredient; a list of chemical ingredients not listed on the form that were intentionally used for the hydraulic fracturing treatment, but the operator is not to be held responsible for reporting ingredients not purposely added or were not disclosed to the owner or operator by its service company or supplier. Excludes identification of ingredients based on the additive in which they are found and concentrations.

**Section 2** creates new language requiring a service company or supplier to provide the hydraulic fracturing well owner or operator with the information necessary to comply with the act.

**Section 3** creates new language authorizing the commission to create a process for declaring certain information as private under the Trade Secrets Act. This may include the "identity and amount of the chemical ingredient used . . ."

**Section 4** creates new language allowing challenges to the claim of trade secret protection for: the landowner and adjacent landowner of the property on which the well is located, or a state agency with jurisdiction over the matter being protected.

A challenge to a claim of entitlement to trade secret protection is to be filed no later than two years after the well completion report is filed with the commission. In the event of such a challenge, the commission is to provide notice to the service company, ingredient supplier or any other owner of the trade secret and allow each to substantiate the trade secret claim. The process for providing information is to be consistent with federal law relating to trade secrets.

**Section 5** creates new language authorizing the commission to adopt and promulgate rules and regulations.

**Section 6** states that the act applies to hydraulic fracturing treatment performed on wells for

which an initial permit was issued after this bill's operative date.

**Section 7** amends 57-905, which provides the powers and duties of the commission, by authorizing it to carry out the provisions of this act.

**Section 8** allows for an operative date, which is not specified.

**Section 9** repeals the original section.

## INTERIM STUDY RESOLUTIONS

<u>Resolution No.</u>	<u>Subject</u>
495	Interim study to examine the flood control needs of Omaha and the greater metropolitan area
556	Interim study to examine the current ground water policy contained in Nebraska's statutes
504	Interim study to examine Nebraska's statutes and regulations on hydraulic fracturing, also known as fracking
564	Interim study to examine the constitutionality of creating standing secondary surface water appropriation rights to unappropriated surface water for interbasin transfers to mitigate flood damage which are inferior in right to any future surface water appropriations that may be issued in the basin of origin
480	Interim study to examine how Nebraska's public power utilities can partner with private energy efficiency companies to offer "On Bill Pay," a process in which a consumer contracts with an energy service company to audit, finance, and manage energy efficiency
539	Interim study to examine ways in which to manage water and provide benefits to landowners and other entities for their ability to store and manage water in recharge areas
545	Interim study to examine statutes and regulations that deal with the Nebraska Power Review Board's approval of major investments in electric utility power plants
580	Interim study to examine the potential for research, development, and deployment of liquid fluoride thorium reactors in the state of Nebraska
543	Interim study to examine the potential adoption of an energy efficiency resource standard in Nebraska
482	Interim study to examine the use of eminent domain by political subdivisions for the taking of private land for the use of development or management of recreational trails or corridors
509	Interim study to examine the feasibility of a hydroelectric dam on the Platte River near Interstate 80