

AMENDMENTS TO LB 1226

(Amendments to Standing Committee amendments, AM2578)

Introduced by Beutler, 28

1           1. Insert the following new section:

2           Sec. 31. (1) The Department of Natural Resources may  
3 establish and collect a contingency deposit as provided in this  
4 section. The contingency deposit may be collected commencing in  
5 2009.

6           (2)(a) The contingency deposit, if required, shall be  
7 collected on all taxable irrigated real property located in natural  
8 resources districts that have land area subject to a three-state  
9 water compact. The contingency deposit shall be collected on a  
10 per-acre basis for acres actually irrigated and on municipal water  
11 service in such natural resources districts on a per-resident basis  
12 in amounts determined by the department under subsection (3) of  
13 this section.

14           (b) The contingency deposit collected on irrigated real  
15 property is not a property tax but shall be collected by the county  
16 with the property taxes due, and the amount shall be included on  
17 the property tax statement provided for in section 77-1701. County  
18 assessors and county treasurers shall provide access to property  
19 information and assistance to the department for purposes of  
20 calculating and collecting the contingency deposit. The department  
21 shall provide each county with the parcels of land subject to  
22 the contingency deposit the information necessary to include

1 the contingency deposits on property tax statements by October  
2 15. County treasurers shall remit the amounts collected, less a  
3 three-percent collection fee, to the State Treasurer for credit to  
4 the Compact Contingency Deposit Fund. County treasurers shall have  
5 no obligation to take any legal action to enforce collection of the  
6 contingency deposit. Such action may be brought by or on behalf  
7 of the department. Each county treasurer shall annually provide  
8 the department a list of the amounts of contingency deposits  
9 uncollected along with the names and addresses of property owners  
10 who did not remit the contingency deposit. The county shall not be  
11 liable for such uncollected amounts. The contingency deposit shall  
12 be due on December 31 of the year of imposition and shall become  
13 delinquent on the same dates property taxes become delinquent.  
14 County treasurers shall remit the contingency deposits collected  
15 to the department within thirty days after collection. Delinquent  
16 contingency deposit amounts shall have a penalty of twenty-five  
17 percent of the contingency deposit due added to the amount due  
18 when payment is made. The department shall have a lien on the  
19 land subject to the contingency deposit unless otherwise prohibited  
20 by law and the lien shall have the same priority as a special  
21 assessment. Notice of such lien shall be filed with the office of  
22 the register of deeds of the county where the land is located. The  
23 lien may be foreclosed in the manner provided in sections 77-1901  
24 to 77-1917. The remedy provided in this section for collection of  
25 delinquent contingency deposits shall be cumulative and in addition  
26 to other existing methods.

27 (c) The contingency deposit collected on municipal water

1 service shall be based on the number of residents in the  
2 municipality according to the most recent federal decennial census.  
3 Municipalities shall remit contingency deposits to the State  
4 Treasurer for credit to the Compact Contingency Deposit Fund  
5 by December 31 of the year following imposition. A municipality may  
6 impose a surcharge for water service for this purpose.

7       (3) Upon receipt of a report from the administrative  
8 authority of a three-state water compact that determines that the  
9 streamflow depletions caused by withdrawal of ground water and  
10 use of surface water appropriations in natural resources districts  
11 that have land area subject to the compact exceeds the amount of  
12 depletion that is permissible for the state to remain in compliance  
13 with the compact involved, the department shall notify the affected  
14 natural resources districts, irrigation districts, reclamation  
15 districts, public power and irrigation districts, mutual irrigation  
16 companies, and canal companies. Beginning in 2009, the department  
17 shall determine for such natural resources districts whether  
18 withdrawals in previous years from water wells and use of surface  
19 water appropriations located in the land area subject to the  
20 compact caused streamflow depletions in the immediately preceding  
21 year that were in excess of the permissible amount of depletion  
22 for that district in that year. If those depletions exceeded that  
23 permissible amount, the department shall determine a dollar amount  
24 that the department concludes would likely be adequate to cover  
25 any damages for which the state could be held liable because  
26 of noncompliance with the compact to the extent caused by such  
27 excess depletion. The department shall set the contingency deposit

1 amounts to recover that dollar amount of damages. The contingency  
2 deposit per irrigated acre shall not exceed three dollars. In  
3 setting the contingency deposit amounts per irrigated acre and  
4 per municipal resident, the department shall estimate the total  
5 annual water use for irrigation and municipal purposes in natural  
6 resources districts that have land area subject to a three-state  
7 water compact and determine the portions of such total use for  
8 irrigation purposes and for municipal purposes. Each contingency  
9 deposit amount set by the department shall reflect those portions  
10 of total use so that the amounts collected on irrigated acres  
11 and from municipalities are approximately the same portions of  
12 the total use. The department may equitably establish different  
13 contingency deposit amounts in natural resources districts to  
14 correspond with streamflow depletions among the various natural  
15 resources districts that have land area subject to the compact. If  
16 the contingency deposit amounts set at the maximum rates permitted  
17 in this section would not produce sufficient funds to pay the  
18 damage amount determined by the department, the contingency deposit  
19 amounts shall be set at the maximum rates. Natural resources  
20 districts, irrigation districts, reclamation districts, public  
21 power and irrigation districts, mutual irrigation companies, and  
22 canal companies that have land area subject to a three-state water  
23 compact shall provide information requested by the department for  
24 purposes of administration of the contingency deposits by May 1.

25 (4) The Compact Contingency Deposit Fund is created.  
26 The fund shall be used to make possible future payments to  
27 another state required by a three-state water compact and for

1 administrative costs of the Department of Natural Resources  
2 incurred under this section. Any money in the fund available  
3 for investment shall be invested by the state investment officer  
4 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
5 State Funds Investment Act. Investment earnings shall be credited  
6 to the fund.

7 (5) If the streamflow depletions caused by withdrawals  
8 from water wells and surface water appropriations in natural  
9 resources districts that have land area subject to a three-state  
10 water compact in any given year are less than the permissible  
11 depletions for those districts, and if, in accordance with the  
12 provisions of the compact, the streamflow depletions caused by  
13 such withdrawals or appropriations in those districts for any  
14 multiyear period that is used to determine compact compliance  
15 do not exceed the permissible depletions for those districts  
16 during that multiyear period, the department may credit contingency  
17 deposits already paid to future contingency deposits or may refund  
18 such amounts.

19 (6) If a person makes a payment of a contingency deposit  
20 and claims the deposit was not required because the real property  
21 was not actually irrigated, he or she may file a written claim for  
22 refund of the payment from the department. If the department finds  
23 that the real property was not irrigated in the particular year for  
24 which the claim was filed, it shall refund the contingency deposit  
25 paid from the fund. The department shall make a decision on the  
26 claim within sixty days after the date of filing of the claim. The  
27 decision of the department may be appealed in accordance with the

1 Administrative Procedure Act.

2                   2. Correct the operative date section so that the section  
3 added by this amendment becomes operative on its effective date  
4 with the emergency clause.

5                   3. Renumber the remaining sections and correct internal  
6 references accordingly.