

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 235**

FINAL READING

Introduced by Adams, 24; Howard, 9.

Read first time January 13, 2009

Committee: Education

A BILL

- 1 FOR AN ACT relating to school lands; to provide for leases
- 2 involving the production of solar energy or wind energy;
- 3 and to declare an emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Leases involving the production of wind or  
2 solar energy on lands under the control of the Board of Educational  
3 Lands and Funds shall be regulated by sections 1 to 5 of this act.

4           Sec. 2. For purposes of sections 1 to 5 of this act:

5           (1) Board means the Board of Educational Lands and Funds;

6           (2) Lease means any lease, easement, covenant, or other  
7 such contractual arrangement;

8           (3) Lessee means any individual, corporation, or other  
9 entity that enters into a lease with the board;

10          (4) Solar energy means radiant energy, direct, diffuse,  
11 or reflected, received from the sun at wavelengths suitable for  
12 conversion into thermal, chemical, or electrical energy; and

13          (5) Wind energy means the use of wind to produce  
14 electricity.

15          Sec. 3. The board may authorize leases of any school  
16 or public lands belonging to the state and under its control  
17 for exploration and development of wind or solar energy for such  
18 durations and under such terms and conditions as the board shall  
19 deem appropriate, except that the initial term for any such wind  
20 energy lease and any amendment thereto shall not exceed forty  
21 years. In making such determinations, the board shall consider  
22 comparable arrangements involving other lands similarly situated  
23 and any other relevant factors bearing upon such leases. Any such  
24 lease authorized by the board shall be created in writing and shall  
25 be filed, duly recorded, and indexed in the office of the register

1 of deeds of the county in which the real property subject to the  
2 lease is located. Such leases shall run with the land benefited and  
3 burdened and shall include, as applicable, the contents specified  
4 in sections 66-911 and 66-911.01.

5           Sec. 4. (1) If a wind or solar energy lease is authorized  
6 by the board on land already being leased for agricultural or other  
7 purposes by a prior lessee, the existing rights of the prior lessee  
8 shall not be impaired, and the board shall reduce the rental amount  
9 due from such prior lessee in proportion to the amount of land that  
10 is removed from use as a result of the wind or solar energy lease.

11           (2) A lessee for agricultural or other purposes shall  
12 be compensated for all damages to personal property owned by  
13 such lessee or to growing crops, including grass, caused by  
14 operations under a concurrent lease of such land for wind or  
15 solar energy purposes, and the board shall require the lessee  
16 under the wind or solar energy lease to provide such insurance and  
17 indemnity agreements which the board determines are necessary for  
18 the protection of the state and its lessees.

19           (3) If a wind or solar energy lease is authorized by the  
20 board on land concurrently being leased for agricultural purposes,  
21 the lessee for agricultural purposes shall have priority as to  
22 the use of the water on the land, but lessees for other purposes,  
23 including wind or solar energy lessees, shall be allowed reasonable  
24 use of the water on the land.

25           Sec. 5. The board may adopt and promulgate such rules

1 and regulations as it shall deem necessary and proper to regulate  
2 the leasing of school and public lands for wind or solar energy  
3 exploration and development pursuant to sections 1 to 5 of this act  
4 and to prescribe such terms and conditions, including bonds, as it  
5 shall deem necessary in order to protect the interests of the state  
6 and its lessees.

7           Sec. 6. Since an emergency exists, this act takes effect  
8 when passed and approved according to law.