

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 590

Introduced by Moser, 22.

Read first time January 22, 2025

Committee: Natural Resources

1 A BILL FOR AN ACT relating to wildlife management; to amend section
2 37-335, Reissue Revised Statutes of Nebraska; to provide for a
3 mitigation bank or an in-lieu fee program relating to the incidental
4 taking of threatened or endangered species; to provide for payment
5 of a sum in lieu of ad valorem taxes lost by the county as
6 prescribed; to provide duties for the Department of Transportation;
7 and to repeal the original section.
8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 37-335, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 37-335 (1) Commencing January 1, 1977, whenever the commission
4 acquires title to private lands for wildlife management purposes, the
5 commission shall annually make payments in lieu of taxes to the county
6 treasurer of the county in which the land is located. Commencing January
7 1, 1997, the payments shall be the same as the real property taxes which
8 would have been paid on the land if it were owned by a private owner. The
9 value of the land shall be determined by the county assessor pursuant to
10 sections 77-201 and 77-1301 to 77-1371 as if it were being used for the
11 use it had immediately before acquisition by the commission excluding any
12 improvements on the land either before or after its acquisition. The
13 commission may protest the valuation of such land to the county board of
14 equalization pursuant to section 77-1502 if the commission believes the
15 land is not properly valued. The county board of equalization shall treat
16 such protest in the same manner as any other protest pursuant to sections
17 77-1502 to 77-1509. The action of the county board of equalization on
18 such protest may be appealed as provided in section 77-1510. The county
19 treasurer shall allocate such payments to each taxing unit levying taxes
20 on such property in the county in which the land has tax situs in the
21 same proportion that the levy on the property of such taxing unit bears
22 to the total levy on such real property of all the taxing units in which
23 the property is taxed.

24 (2) The Department of Transportation may by rule and regulation
25 establish, use, and operate a mitigation bank or an in-lieu fee program
26 in accordance with applicable state and federal laws.

27 (3) The purpose of the mitigation bank or in-lieu fee program is to
28 provide compensatory mitigation for the incidental take of threatened or
29 endangered species and such species' suitable habitat arising out of
30 permitted activities, and restoring, creating, enhancing, preserving, or
31 any combination thereof, habitats or resources where the Department of

1 Transportation or other individual or entity is required to provide
2 compensatory mitigation for permitted activities.

3 (4) State regulatory agencies shall make a good faith effort to use
4 and give priority to the mitigation bank and in-lieu fee program
5 established by the Department of Transportation when consulting on or
6 reviewing mitigation plans for the impacts of permitted state
7 transportation projects.

8 (5) If the Department of Transportation establishes a mitigation
9 bank or an in-lieu fee program pursuant to subsection (2) of this
10 section, the Department of Transportation may:

11 (a) Enter into one or many cooperative agreements with a state or
12 local public agency or private party for the establishment, use,
13 operation, and maintenance of the mitigation bank or in-lieu fee program;

14 (b) Acquire title to real property through purchase, bequest,
15 donation, or eminent domain for use with the mitigation bank or in-lieu
16 fee program to mitigate the impacts of permitted projects;

17 (c) Establish or restore suitable habitat and natural resources for
18 threatened and endangered species and impacts to the environment and
19 natural resources across Nebraska;

20 (d) Provide a consistent and simplified approach to address
21 mitigation requirements associated with permits or authorizations issued
22 by federal and state agencies;

23 (e) Streamline the permitting process, minimize delays in permit
24 decisions, and decrease the burden of permit applicants of planning and
25 performing compensatory mitigation for suitable habitat losses and
26 adverse environmental and natural resources effects of permitted
27 projects;

28 (f) Increase the ecological efficiency and effectiveness of
29 compensatory mitigation;

30 (g) Achieve replacement of impacted acres of land by providing for
31 the establishment of a net increase in suitable habitat acres, functions,

1 and values for endangered and threatened species and other natural
2 resources through using a fair, reasonable, and practicable ratio of
3 compensatory mitigation acres to offset the impacts of a permitted
4 project; and

5 (h) Achieve a net increase in conservation land functions and values
6 for endangered and threatened species and other natural resources
7 impacted by permitted projects.

8 (6) A state or local agency or private party that owns the
9 mitigation bank acquired to restore, enhance, preserve, or create
10 suitable habitat shall also pay a sum in lieu of ad valorem taxes lost by
11 the county.

12 **Sec. 2.** Original section 37-335, Reissue Revised Statutes of
13 Nebraska, is repealed.