

2014

LEGISLATIVE BILL SUMMARIES

NATURAL RESOURCES COMMITTEE

NEBRASKA LEGISLATURE

ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

NATURAL RESOURCES COMMITTEE MEMBERS

Senator Tom Carlson, Chairperson
Senator Lydia Brasch, Vice-Chairperson
Senator Annette Dubas
Senator Ken Haar
Senators Jerry Johnson
Senator Rick Kolowski
Senator Ken Schilz
Senator Jim Smith

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COMMITTEE STAFF

Laurie Lage, Legal Counsel
Barb Koehlmoos, Committee Clerk

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**Natural Resources Committee 2014
103rd Legislature**

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- LB 391 (Davis) Change water law provisions relating to water storage. *Amended into LB 1098* (p. 17)
- LB 513 (Carlson) Change notice provisions under the Nebraska Ground Water Management and Protection Act. *Signed by Governor* (p. 11)
- LB 514 (Carlson) Provide for new funding mechanisms under the Wastewater Treatment Facilities Construction Assistance Act. *Signed by Governor* (p. 11)
- LB 671 (Chambers) Eliminate provisions relating to hunting and killing of mountain lions. *Failed to override Governor's Veto* (p. 20)
- LB 683 (Scheer) Change a reference to federal rules and regulations relating to storm water management. *Signed by Governor* (p. 13)
- LB 686 (Christensen) Change a certification date relating to nonirrigated acres. *Amended into LB 1098* (p. 17,20)
- LB 699 (Larson) Change hunting permit and hunter education provisions, provide reports to a firearm database, and eliminate certain firearm provisions. *Signed by Governor* (p. 13)
- LB 710 (Christensen) Provide requirements for entering into certain ground water augmentation projects. *Amended into LB 1098* (p. 18,21)
- LB 762 (Christensen) Change provisions relating to integrated management plans. *Held in Committee* (p. 24)
- LB 767 (Schilz) Change provisions relating to operator training for underground storage tanks and provide funding. *Held in Committee* (p. 24)
- LB 798 (Christensen) Authorize power districts to use a fiscal year rather than a calendar year. *Signed by Governor* (p. 14)
- LB 818 (Haar) Change provisions relating to net metering. *Held in Committee* (p. 25)
- LB 840 (Haar) Require rules and regulations for mandatory water well permits in management

areas. *Held in Committee* (p. 25)

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LB 896 (Carlson) Change provisions of the Erosion and Sediment Control Act. *Advanced to General File* (p. 21)

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LB 1003 (Kolowski) Provide for natural resources districts to issue general obligation bonds. *Held in Committee* (p. 27)

LB 1005 (Avery) Create the Surface Water and Ground Water Review Board and provide powers and duties. *Held in Committee* (p. 28)

LB 1040 (Karpisek) Create an energy conservation grant program. *Held in Committee* (p. 28)

LB 1074 (Lathrop) Change provisions relating to the regulation of ground water. *Amended into LB 1098* (p. 30)

LB 1098 (Carlson) Adopt and change provisions relating to water, irrigation, and natural resources. *Signed by Governor* (p. 15)

LB 1100 (Haar) Create the Public Power Task Force. *Held in Committee* (p. 31)

LB 1111 (Christensen) Provide duties relating to integrated management plans. *Held in Committee* (p. 32)

LB 1112 (Christensen) Change provisions relating to an occupation tax on irrigated land. *Held in Committee* (p. 33)

LB 1113 (Christensen) Provide powers and duties relating to surface water appropriations. *Held in Committee* (p. 33)

LB 1115 (Davis) Appropriate funds to the Nebraska Power Review Board for a study and state

public policy. *Signed by Governor* (p. 18)

2014 NATURAL RESOURCES COMMITTEE BILLS
Bills by Hearing Date

4/10/14

Hearing	Bill	Introducer	One-Liner	Status
BILLS BY HEARING DATE				
WED. 1-22-14				
	699	Larson	Change provisions relating to hunting permits and hunter education programs - Committee Priority Bill #1	Approved by Gov. 4-2-14
THURS. 1-23-14				
	762	Christensen	Change provisions relating to integrated management plans	In Comm.
FRI. 1-24-14				
	844	Schilz	Extend the termination date of the Nebraska Litter Reduction and Recycling Act – Committee Priority Bill #2	Approved by Gov. 3-28-14
WED. 1-29-14				
	671	Chambers	Eliminate provisions relating to hunting and killing of mountain lions - Sen. Chambers priority bill	Vetoed, override motion failed
THURS. 1-30-14				
	686	Christensen	Change a certification date relating to nonirrigated acres	GF w/AM (amended into LB 1098)
	710	Christensen	Provide requirements for entering into certain ground water augmentation projects	GF w/AM (amended into LB 1098)
FRI. 1-31-14				
	798	Christensen	Authorize power districts to use a fiscal year rather than a calendar year	Approved by Gov. 4-10-14
	965	Haar	Change public policy provisions and findings required by the Nebraska Power Review Board relating to the provision of electric service – Sen. Haar priority bill	GF w/AM
WED. 2-5-14				
	683	Scheer	Change a reference to federal rules and regulations relating to storm water management	Approved by Gov. 4-10-14
	767	Schilz	Change provisions relating to operator training for underground storage tanks and provide funding	In Comm.
THURS. 2-6-14				
	896	Carlson	Change provisions of the Erosion and Sediment Control Act	GF w/AM
	1074	Lathrop	Change provisions relating to the regulation of ground water – Sen. Lathrop priority bill	In Comm. (portions amended into LB 1098)

FRI. 2-7-14				
	856	Wallman	Require water well metering relating to hydraulic fracturing	In Comm.
WED. 2-12-14				
	1040	Karpisek	Create an energy conservation grant program	In Comm.
	1115	Davis	Appropriate funds to the Nebraska Power Review Board for a study and state public policy – Speaker Priority Bill	Approved by Gov. 4-16-14
THURS. 2-13-14				
	818	Haar	Change provisions relating to net metering	In Comm.
	1100	Haar	Create the Public Power Task Force	In Comm.
WED. 2-19-14				
	840	Haar	Require rules and regulations for mandatory water well permits in management areas	In Comm.
	959	Carlson	Provide a permit application exemption for certain water storage reservoirs	In Comm.
THURS. 2-20-14				
	985	Davis	Provide standing to natural resources districts and provide requirements for water appropriations	In Comm.
	1111	Christensen	Provide duties relating to integrated management plans	In Comm.
FRI. 2-21-14				
	1003	Kolowski	Provide for natural resources districts to issue general obligation bonds	In Comm.
WED. 2-26-14				
	1098	Carlson	Change membership and powers and duties of the Nebraska Natural Resources Commission – Sen. Carlson priority bill	Approved by Gov. 4-16-14
	1005	Avery	Create the Surface Water and Ground Water Review Board and provide powers and duties	In Comm.
THURS. 2-27-14				
	1112	Christensen	Change provisions relating to an occupation tax on irrigated land	In Comm.
	1113	Christensen	Provide powers and duties relating to an occupation tax on irrigated land	In Comm.

**2013 NATURAL RESOURCES COMMITTEE BILLS
Carry-Over Bills**

LB	Introducer	One-Liner	Status
57	Larson	Change provisions relating to grants from the Nebraska Environmental Trust Fund	Select File – 2013 Larson priority bill, no plans to put on agenda again unless it is prioritized.
272	Carlson	Change provisions relating to chemigation permits and fees	Approved by Gov 2-13-14
325	Brasch	Change provisions relating to approval of natural resources district boundary changes	Held – no plans to debate or advance.
353	Christensen	Restrict rule and regulation authority of natural resources districts	Held – no plans to debate or advance.
362	Avery	Change state park entry permit provisions and provide for a motor vehicle registration fee	General File w/AM – 2013 Avery priority bill, debated, will not be put on calendar again.
391	Davis	Change water law provisions relating to water storage	GF (but amended into LB 1098, 2014)
402	Mello	Change power purchase agreement provisions relating to rural community-based energy development	FR
454	Haar	Adopt the Electronics Extended Producer Responsibility and Job Creation Act	Held – no discussions have taken place.
494	Davis	Change number of districts and members of Game and Parks Commission	GF
514	Carlson	Provide for new funding mechanisms under the Wastewater Treatment Facilities Construction Assistance Act	Approved by Gov 2-13-14
513	Carlson	Change notice provisions under the Nebraska Ground Water Management and Protection Act	Approved by Gov 2-13-14
522	Christensen	Provide state financial assistance to irrigation districts to compensate water appropriators	Select File – 2013 Christensen priority bill, will not be on agenda again unless prioritized.
557	McGill	Change provisions relating to net metering and authorize community solar gardens	Held – no discussions have taken place.
67	Haar	Change provisions relating to approval of electric generation facilities and transmission lines	Held – no discussions have taken place.
598	Larson	Change provisions relating to net metering	Held – no discussions have taken place.
601	Bloomfield	Require notice for natural resources district subcommittee meetings	Held – no discussions have taken place.
622	Haar	Change provisions relating to a report filed with the Nebraska Power Review Board	Held – no discussions have taken place.
635	Wallman	Provide powers and duties regarding hydraulic fracturing to the Nebraska Oil and Gas Conservation Commission	Held – rules and regs are still being processed, no plans to move on bill.

SUMMARIES OF ENACTED BILLS

LB 272

The purpose of the Chemigation Program is to protect irrigation water sources from contamination by fertilizer or pesticides, as established in the Nebraska Chemigation Act. The NRDs are responsible for inspecting and permitting the specific safety equipment that must be installed on an irrigation system, receive permit applications and fees, and issue chemigation site permits. The Department of Environmental Quality develops the statewide regulations, coordinates the overall program, and issues chemigation applicator certifications. This bill updates some of the act's provisions.

Final Bill

Sections 1 and 2 amend 46-1101, which cites the sections included in the Nebraska Chemigation Act, and 46-1103, which cites the location of the definitions in the act, by adding reference to the new language in section 3.

Section 3 creates new language defining a "working day" as Monday through Friday, not Saturday, Sunday or federal or state holidays. Further states that when computing "two working days", the day of receipt of the permit is not to be included.

Section 4 amends 46-1119, which describes how emergency chemigation permits are to be handled, by changing the time period that a natural resources district has to review and decide on such a permit from 48 hours to two working days.

Also changes the emergency permit fee from \$100 to no more than \$500, and requires that \$10 be paid to the Department of Natural Resources.

Section 5 amends 46-1121, which creates and authorizes the use of the Chemigation Costs Fund, by adding new language requiring the natural resources district to collect initial application, special permit, emergency permits, and annual renewal fees to help defray the cost of administering the act. The fees, to be set by the natural resources districts, are to cover the costs of the natural resources districts and the department, but are not to exceed the following amounts: permits and special permits - \$150; renewals - \$100; emergency permits - \$500.

Also requires that \$5 from every initial permit or special permit be paid to the department, and that \$2 be paid for renewal of a permit or special permit.

Section 6 repeals the original sections.

LB 513

LB 513 reduces the time frame before an action by a natural resources district becomes effective. To strengthen a district's authority to require compliance during a notice period, this statutory change would reduce the days' notice required before a natural resources district could issue a cease and desist order from ten days to three days. This bill is intended to help districts more effectively implement and manage groundwater through rules and regulations.

Final Bill

Section 1 amends 46-707, which lists the natural resources districts' powers under the Nebraska Ground Water Management and Protection Act, by changing the notice that must be provided to affected persons before a cease and desist order may be issued from ten to three days.

Section 2 amends 46-708, which states the natural resources districts' power to control or prevent runoff of groundwater runoff, by changing the notice that must be provided to the affected person before a cease and desist order may be issued under this section from ten to three days.

Section 3 repeals the original sections.

LB 514

The Nebraska Clean Water State Revolving Loan Fund (CWSRF) program provides low interest loans and small community matching grants to municipalities for construction of wastewater treatment facilities and sanitary sewer collection systems to alleviate public health and environmental problems. The Program is administered by the Nebraska Department of Environmental Quality (NDEQ). LB 514 allows for the creation of a linked deposit program under the Wastewater Treatment Facilities Construction Assistance Act to promote projects for improved water quality. The DEQ is authorized to create and regulate the linked deposit program and promote loans for the construction, rehabilitation, and enhancement of nonpoint source control systems. The bill authorizes a portion of loan funds to be deposited with eligible financial institutions in low-yielding deposit accounts, certificates of deposit, or other agreed upon deposits, for loans at a rate lower than the prevailing rate for such loans. The bill further authorizes the department to buy or refinance debt of municipalities for wastewater treatment.

Final Bill

Section 1 amends 81-15,147, which cites the Wastewater Treatment Facilities Construction Assistance Act, by adding reference to the new material in LB 514.

Section 2 amends 81-15,148, which states legislative findings, by adding a statement that the Legislature finds that a linked deposit program will improve water quality in the state.

Section 3 amends 81-15,149, which contains the Act's definitions, by adding that "director" means the Department of Environmental Quality director, and that "eligible financial institution" means a Nebraska-chartered bank or any bank authorized to do business in Nebraska that agrees to participate in the program. Also defines "linked deposit program" as being associated with the Wastewater Treatment Facilities Construction Assistance Act.

Section 4 amends 81-15,151, which creates the Wastewater Treatment Facilities Construction Loan Fund, by authorizing the director to designate linked-deposit program amounts that are to be deposited with eligible financial institutions. Also provides authorization for the funds to be deposited as provided by the linked deposit program and to buy or refinance debt of municipalities for wastewater treatment works and cleans up obsolete language.

Section 5 creates new language that authorizes the department to establish and administer the linked deposit program and to promote loans for the construction, rehabilitation, and enhancement of nonpoint source control systems. Further authorizes the director to deposit a portion of the loan fund with eligible financial institutions in low-yielding deposit accounts, CDs, or other agreed upon deposits. Loans are to be at a rate lower than the prevailing rate for construction, rehabilitation and enhancement of nonpoint source control systems. Both public and private owners are eligible for onsite wastewater and private septic systems, local water protection projects, and eligible nonpoint source activities under the Livestock Waste Management Act.

Section 6 amends 81-15,152, which lists the powers and duties of the Environmental Quality Council, by adding the power to adopt and promulgate rules and regulations on the linked deposit program and for refinancing debt obligations of municipalities.

Section 7 amends 81-15,153, which lists the power and duties of the Department of Environmental Quality, by adding the power to establish a linked deposit program and to refinance debt obligations of municipalities in accordance with the Wastewater Treatment Facilities Construction Assistance Act and the applicable rules and regulations.

Section 8 repeals the original sections.

LB 683

LB 683 updates a Federal Register reference in the Storm Water Management Plan Program statute. The Storm Water Management Plan Program is a grant program that funds a portion of the storm water management duties of certain cities and counties within urbanized areas as required by the Clean Water Act. Grant funds are distributed to cities and counties according to their designation as being in or outside of urbanized areas. After the 2010 Census, such urbanized areas changed and are identified in the Federal Register.

Final Bill

Section 1 amends 46-2,139, which creates the Storm Water Management Plan Program, by changing a reference to the Federal Register. The Federal Register is the publication of federal rules and regulations.

Section 2 repeals the original section.

LB 699

LB 699 allows those with developmental disabilities to obtain a hunting permit after being issued a license-purchase exemption certificate by the Game and Parks Commission. The original bill eliminated the bow hunter education program. The committee amendment reinstated the program, and clarified the language of the license-purchase exemption certificate process.

Final Bill

Section 1 amends 37-201, which cites the Game Law, by making reference to the new language of this bill.

Section 2 contains new language authorizing the Game and Parks Commission to issue license-purchase exemption certificates to developmentally disabled persons to allow them to purchase hunting permits. Exemption certificates are to be issued at no cost and shall state that the holder is to at all times be accompanied by a licensed hunter who is at least 19 years old. A person who has been declared by a court or mental health board to be a danger to him or herself or others is not eligible, and a physician must provide written authorization that such person is at all times capable of understanding and following directions.

Section 3 amends 37-404, which states how a person qualifies for a hunting permit, by adding reference to the exception created in section 2.

Section 4 amends 37-413, which contains the firearm hunter education program requirements, by eliminating reference to “crossbow” training and replacing it with “air gun” training (crossbow hunting will be covered in the next section). Also eliminates language specifying that firearm hunter training is to include 10 hours of classroom instruction or independent study sufficient to pass an examination and requiring four hours of practical instruction. Adds reference to the provisions of section 2 for the license-purchase exemption certificate.

Section 5 amends 37-414, which contains the bow hunter education program requirements, by eliminating language specifying that bow hunter training is to include 10 hours of classroom instruction or independent study sufficient to pass an examination and requiring four hours of practical instruction. Adds reference to the provisions of section 2 for the license-purchase exemption certificate.

Section 6 (Sen. McGill's LB 1035) amends 69-2409.01, relating to the Nebraska State Patrol's automated criminal history files, by requiring the Nebraska State Patrol and the Department of Health and Human Services to submit a report to the Legislature every six months, regarding particular aspects of the criminal history and mental health background check database. The report would also be published on the web sites of the Nebraska State Patrol and the Department of Health and Human Services.

Sections 7 and 9 repeal the original sections and insert an emergency clause.

Section 8 (Sen. Lathrop's LB 392) repeals outright 28-1211, to eliminate certain firearms provisions no longer authorized by federal law.

LB 798

LB 798 allows a public power district with only one wholesale customer that is a city or village to use the same fiscal year as such city or village instead of a calendar year.

Final Bill

Section 1 amends 70-623, which states the fiscal year and audit requirements for public power districts, by authorizing a district with only one city or village wholesale customer to use the same fiscal year as that city or village. Accordingly, the time frame within which audit documents are to be filed with the State Auditor and Power Review Board is adjusted to account for different fiscal years.

Section 2 repeals the original section.

LB 844

LB 844 changes the termination date for the Nebraska Litter Reduction and Recycling Act from October 30, 2015 to October 30, 2020. The Department of Environmental Quality provides grants under the act for litter reduction and recycling programs. Funds are applied for and awarded to support programs to reduce litter, provide education, and promote recycling in Nebraska. Grants may be awarded to both public and private entities. Around \$1.5 million is available annually through the fund.

Final Bill

Section 1 amends 81-1566, which provides a termination date for the Nebraska Litter Reduction and Recycling Act, by changing the termination date from 2015 to 2020.

Section 2 repeals the original section.

LB 1098

LB 1098 created a new membership and duties for the Natural Resources Commission.

Final Bill

Section 1 adds reference to the new language in the Natural Resources Commission's definitions section, and adds a definition for combined sewer overflow project.

Section 2 reconstructs the membership of the Natural Resources Commission (NRC) so that, in addition to the current 13 basin representatives elected by the natural resources districts, the Governor would appoint 14 members representing: **(1)** agribusiness interests; **(2)** agricultural interests; **(3)** ground water irrigators; **(4)** irrigation districts; **(5)** manufacturing interests; **(6)** metropolitan utilities districts; **(7)** primary class city municipal users of water; **(8)** 1st or 2nd class city or village municipal users of water; **(9)** outdoor recreation users; **(10)** public power districts; **(11)** public power and irrigation districts; **(12)** range livestock owners; **(13)** surface water irrigators; and **(14)** wildlife conservation interests.

Currently, in addition to the 13 basin members, there are 3 Governor-appointed members to the NRC who represent municipal water users, surface water and ground water users. Those 3 members are included in the new language that provides for 14 members to be appointed by the Governor, but the bill only requires the Governor to immediately appoint 11 additional members and to set terms for the 3 members that are currently serving so that they can continue to serve and not have to be replaced by new members until their terms expire.

The Governor is to appoint geographically diverse members, with knowledge of and experience with water, give importance to water quantity and quality, and appoint members who represent, to the extent possible, the racial and ethnic diversity of the state.

The NRC is authorized to adopt and promulgate rules and regulations necessary to administer the fund.

Section 3 provides the goals of the fund, and provides a Legislative finding that the goals can be met by giving equal consideration to programs, projects and activities (PPAs) in four categories: research, infrastructure, management, and compliance.

Section 4 provides the following general guidelines: **(1)** the fund is to be equitably distributed statewide to the greatest extent possible; **(2)** sewer infrastructure projects to reduce combined sewer overflow are to equal 10% of annual appropriations to the fund, as long as requests for such projects have gone through and been approved under the process laid out in statute, and if more than one municipality demonstrates need for funding, funds are to be distributed proportionally; **(3)** money for qualified applicants may be in the form of grants or loans; **(4)** only natural resources districts (NRDs) that have or are in the process of adopting an integrated management plan are eligible for funds; **(5)** collaboration with relevant state agencies and the University of Nebraska is required as the NRC makes decisions on water funding and planning; and **(6)** a biennial report is to be filed with the Legislature.

Section 5 requires the NRC to rank and score applications for funding and provides the criteria upon which the ranking and scoring is to be based.

Section 6 provides requirements for an application process and evaluation and investigation duties for the DNR to conduct related to applications for funding.

Section 7 requires application review by the DNR before the NRC may approve of fund grants or loans. In the review, the DNR must make findings that the PPA doesn't conflict with state land plans, is economically feasible, has a satisfactory plan, minimizes adverse impacts to the environment, has a qualified and legally capable applicant, has a borrower (if a loan is recommended) capable of repayment; and has given consideration to other state resources development plans.

Requires the DNR staff to carry out their duties under this act independently of and without prejudice to their other powers and duties. Prohibits NRC members from participating in decisions in which a member has an interest. Clarifies that it is the sole responsibility of the NRC to determine the priority in which funds are allocated for PPAs.

Section 8 requires the DNR to make recommendations on applications based on its review of the criteria of the fund and recommendations on the form of allocation deemed appropriate.

Authorizes the NRC to act upon such recommendations pursuant to a process it creates in rules and regulations.

Requires the DNR to enter into agreements with the applicant and other relevant parties stating the specifics of allocations before final approval is given by the NRC. For allocations that are for loans, the agreements made must contain additional provisions related to loans.

Requires the state to have a lien on projects under certain circumstances.

Section 9 authorizes the DNR to apply for funding and describes for what purposes it may do so.

Section 10 requires the Appropriations Committee to conduct a biennial analysis of the Water Sustainability Fund and to base recommendations for transfers to the fund on such analysis.

Section 11 (Sen. Christensen's LB 686) amends 2-3226.05, which authorizes the use of the occupation tax for natural resources districts with integrated management plans, by changing the date a record owner must certify the nonirrigated status of his or her acres to avoid being subject to the occupation tax from March 1st to June 1st of each year. The certification of nonirrigated status, done by June 1st of a calendar year, means that the owner certifies that he or she will be nonirrigated for that entire calendar year.

Section 12 (Sen. Davis' LB 391) clarifies the prohibition against storing water in reservoirs when water is required for direct irrigation "downstream." Adding the word "downstream" would prevent the Department of Natural Resources from issuing a closing notice to a reservoir only for a direct irrigation demand upstream of such reservoir.

Section 13 amends 46-701, which cites the NE Ground Water Management and Protection Act, by adding reference to the new sections.

Section 14 amends 46-715, which requires integrated management plans for fully and over appropriated river basins, by adding that ground water uses in place at the time of the DNR's determination of fully appropriated may be regulated if necessary to carry out the basin-wide plan.

Section 15 requires basin-wide planning if three or more NRDs in a basin are required to complete integrated management plans.

- Such plan shall be developed jointly with the DNR and the NRDs in the same basin and shall be based on the hydrologically connected areas of the basin.
- NRDs that have already developed or are in the process of developing a basin-wide plan are not subject to this bill.
- A basin-wide plan may include additional basins if appropriate.

- Integrated management plans are to be consistent with any basin-wide plan developed under this bill.
- A basin-wide plan shall:
 - take effect within 3 years after the bill's effective date;
 - have clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety and welfare of the basin can be achieved and maintained for the near and long term;
 - ensure compact, agreement, and law compliance;
 - provide a time line for the goals to be met within 30 years;
 - use a process for gathering data and for using the best science to evaluate the water supplies;
 - contain a schedule showing the dates by which the goals are to be achieved and measurable hydrologic objectives that will be used to measure progress;
 - be developed using a consultation and collaboration process involving representatives from named interests who may become official participants in the planning process;
 - be adopted by the DNR and NRDs or by the Interrelated Water Review Board.
- Every 5 years the DNR and NRDs are to conduct a technical analysis of the plan to determine whether progress is being made, with the results being presented to the public;
- A public hearing is to be held before adoption of a basin-wide plan;
- The Interrelated Water Review Board may be utilized for disputes.

Section 16 (Sen. Christensen's LB 710) requires a natural resources district to hold a public hearing, with notice provided, before voting on whether to enter into a ground water augmentation project

Section 17 (Sen. Christensen's LB 723) changes property tax provisions relating to the valuation of irrigated cropland and comparable sales, and clarify statutory guidelines for valuation of such irrigated crop land.

Sections 18 through 21 Repealers, effective date, emergency clause.

LB 1115

LB 1115 provides funding for an electricity transmission study to be conducted by the Nebraska Power Review Board.

Final Bill

Sections 1 through 6 create new language to:

- Provide legislative intent to appropriate \$200,000 from the General Fund to the Nebraska Power Review Board for a study of state, regional, and national transmission infrastructure and the future needs for transmission infrastructure to serve Nebraska electric consumers, utilities, and generation facilities seeking to export electricity from Nebraska.
 - Provide that it is the state's policy to encourage and allow opportunities for development and operation of renewable energy export facilities in Nebraska.
 - Provide that the purpose of the study is to identify electric transmission and generation constraints and opportunities as well as identification of regulatory requirements and practices, transmission plans, possible markets for export, barriers to export, and economic benefits to expanded state, regional, and national transmission.
 - Require that the scope of the study receive input from a working group consisting of members of the legislature, the State Energy Office, the Department of Economic Development, public power districts and other electric providers, renewable energy development companies, municipalities, the Southwest Power Pool, the Western Area Power Administration, and other transmission owners, transmission operators, and transmission developers, and environmental interests.
 - Authorize the Power Review Board to issue a request for proposals.
 - Require the Power Review Board to submit the results of the study to the Legislature by December 15, 2014.
-

SUMMARIES OF BILLS ADVANCED

LB 671

LB 671 would have eliminated the statute that authorizes the Game and Parks Commission to issue permits to hunt mountain lions. The bill passed Final Reading, but the Governor vetoed the bill. The body failed to override the veto.

Details of bill as amended

Section 1 amends 37-452, which lists the age limits for hunting permits, by removing reference to mountain lions.

Sections 2 and 3 reinstate section 37-472 and the portions of section 37-559 472 that allow a farmer or rancher to kill a mountain lion that is a threat to livestock on his or her property and allows a person to defend him or herself against a mountain lion. The original bill would have eliminated those provisions. 37-473 would also be repealed, which allows the Game and Parks Commission to issue mountain lion hunting permits.

Section 4 contains an emergency clause.

LB 686

LB 686 would have amended 2-3226.05, which authorizes the use of the occupation tax for natural resources districts with integrated management plans, by changing the date a record owner must certify the nonirrigated status of his or her acres to avoid being subject to the occupation tax from March 1st to June 1st of each year.

The bill advanced to General File, and was amended into LB 1098.

Details of bill as amended

Section 1 amends 2-3226.05, which authorizes the use of the occupation tax for NRDs with integrated management plans, by changing the date a record owner must certify the nonirrigated status of his or her acres to avoid being subject to the occupation tax from March 1st to June 1st of each calendar year.

Also, obsolete language in this section is stricken.

Section 2 repeals the original section.

LB 710

LB 710 would have required a natural resources district to hold a public hearing before voting on whether to enter into a ground water augmentation project outside of its geographical boundaries, and would have required two-thirds approval vote of the district's board members before entering into any such project.

The bill advanced to General File and was amended into LB 1098.

Details of bill as amended

Section 1 amends 46-701, which cites the Nebraska Ground Water Management and Protection Act, by adding reference to the new language in this bill.

Section 2 creates new language stating that an NRD board may not vote on a ground water augmentation project without providing notice and having a public hearing.

Section 3 repeals the original section.

LB 896

LB 896 would have revised provisions of the Erosion and Sediment Control Act and clarify the authority of the natural resources districts to address excess erosion as required under the act.

Details of bill as amended

Section 1 amends 2-4603, which provides definitions for the Erosion and Sediment Control Act, by adding a definition of "excess erosion" and replacing the words "soil-loss limit" to "soil-loss tolerance level." To have excess erosion, it must cause or contribute to an accumulation of sediment on another person's land and it must be to the detriment or damage of that person. In the definition of "soil-loss tolerance level" language is added that would broaden the scope of what conditions impact "soil loss."

Section 2 amends 2-4604, which states the standards that an erosion and sediment control program must meet, by adding that the director of DNR must work with the Natural Resources Conservation Service when developing the program, and by removing obsolete language that is no longer applicable and rewording the requirements for revising the program.

Section 3 amends 2-4605, which requires each natural resources district to implement the state's erosion and sediment control program, by removing obsolete language and changing references from "soil-loss limits" to "soil-loss tolerance levels."

Section 4 amends 2-4608, which authorizes natural resources districts to deal with complaints of excess erosion, by updating references to certain terms, and by authorizing an NRD to petition the district court for a cease and desist order to stop an owner or operator from causing excess erosion.

Section 5 amends 2-4610, which lists the conditions of the “farm unit conservation plan” exception to the Erosion and Sediment Control Act, by eliminating language that excuses an owner or operator from having to install permanent soil and water conservation practices unless cost sharing assistance is available, and instead stating that lack of cost-sharing assistance does not relieve the owner or operator from compliance with the terms of the farm unit conservation plan.

Section 6 amends 2-4612, which allows an NRD to petition the district court to order compliance with an administrative order, by updating references to terms changed by this bill.

Section 7 amends 2-4613, which provides for the district court process under this act, by updating a reference to a term changed by this bill.

Section 8 repeals the original sections.

LB 965

LB 965 would have required the Power Review Board to consider additional benefits and costs in its “public purpose” evaluation before deciding whether to grant a power generation or transmission facility permit. Currently, the board is required to find that the application will serve the public convenience and necessity, and that the applicant can most economically and feasibly supply the service without unnecessary duplication.

Details of bill as amended

The committee amendment removes language from the bill relating to health and environmental considerations. As amended, the bill would do the following:

Sections 1 and 3 amend two statutes that declare the state's policy of providing customers with electric service at the lowest cost possible. 70-1001 applies to the Power Review Board, and 70-1501, applies to electric suppliers. New language added to both sections would add that the electric service provided is to be reliable in addition to adequate, and that it is to provide as many benefits to customers as possible. Also adds language defining “cost” as including: generation, fuel, regulatory compliance, energy portfolio risks, water usage, and the fiscal impact of customer-owner dollars being sent out of state.

New language also defines benefits as including, but not limited to, economic benefits, efficient use of resources, portfolio diversification, and impacts to water. Cost and benefit analysis is to include local and statewide impacts.

Customer-owner is defined as a Nebraska citizen who resides within a service area of a Nebraska electric supplier.

Section 2 amends 70-1014, which provides procedures for approval or denial of electric generation or transmission line applications, by requiring the Power Review Board to find that the applicant gave consideration to the costs and benefits described in this bill when deciding whether to approve or deny an application.

Section 4 repeals the original sections.

SUMMARIES OF BILLS HELD IN COMMITTEE

LB 762

When LB 962 passed, it was generally understood that the Department of Natural Resources represented surface water, but since then the department has made it clear that it does not represent the interests of surface water irrigators.

Section-by-section description

Section 1 amends 46-715, which contains the rules of creating integrated management plans (IMP) under the Ground Water Management and Protection Act, by adding language requiring that the department represent the interests of surface water appropriators, or designate a representative, in the development of an integrated management plan. Also requires that the IMP provides for equal water allocations between surface water and groundwater users, or that allocations to surface water users be equal to the average allocations delivered to surface water irrigators from 2009 to 2011.

Section 2 repeals the original section.

LB 767

A \$90 fee per tank is paid to the State Fire Marshal for the Petroleum Release Remedial Action Fund. The Petroleum Release Remedial Action Reimbursement Fund helps pay for investigation and cleanup costs for owners/operators of facilities which have leaking petroleum tanks. This fund is administered by the Nebraska Department of Environmental Quality.

Section-by-section description:

Section 1 amends 66-1519, which creates the Petroleum Release Remedial Action Cash Fund, by adding that money in the fund may be used to reimburse a responsible person or qualified trainer the cost of operator training as required by federal law.

Section 2 amends 81-15,123, which requires the State Fire Marshal to adopt and promulgate rules and regulations for the Petroleum Products and Hazardous Substances Storage and Handling Act, by adding that the Fire Marshal is to establish training and experience requirements for qualified trainers to insure operators get appropriate training necessary to protect health, safety and the environment.

Section 3 repeals the original sections.

LB 818

The “net metering” law allows residential and small-business customers to set up renewable electricity generators on their property, self-generate a portion of the electricity they need, and receive a credit of their utility bill for any excess electricity they are able to put onto the grid. The customer pays the provider for only the net electricity consumed. Some form of net metering takes place in all but a handful of states.

Section-by-section description:

Section 1 amends 70-2002, the definitions portion of Nebraska’s net metering law, by changing the allowable rated capacity of a qualified facility from 25 to 125 kilowatts.

Section 2 amends 70-2003, which requires utilities to interconnect with customer-generator qualified facilities, by changing the rated capacity of a renewable customer-generated unit with which a utility is authorized to enter into net metering agreements, from 25 to 125 kilowatts.

Section 3 repeals the original sections.

LB 840

Under current law, any person intending to construct a water well on land he or she owns, leases, or controls must apply for a permit through the applicable natural resources district before construction begins. Test holes or dewatering wells with an intended use of 90 days or less, and water wells designed and constructed to pump 50 gallons per minute or less do not require a permit. Most wells for domestic purposes pump less than 50 gallons per minute and therefore do not require permits.

Section-by-section description:

Section 1 amends 46-735, which requires a permit for construction of a water well in a management area, by adding the requirement that water well permits in a management area be obtained only if a natural resources district has required them in rules and regulations. Also adds that an NRD may require that a permit be obtained for new and replacement wells.

Section 2 repeals the original section.

LB 856

This bill would have required the installation of water meters to measure water used for hydraulic fracturing, a process through which oil and natural gas are extracted from underground.

Section-by-section description:

Section 1 amends 46-677, which states the permit requirements under the Nebraska Ground Water Management and Protection Act, by adding that a person who gets a permit under this section to withdraw water for hydraulic fracturing, be required to install a water meter to measure the water used and the fracturing fluid recovered. Such person is to report such measurements annually to the Department of Natural Resources.

Section 2 repeals the original section.

LB 959

This bill was introduced in response to a letter from the Department of Natural Resources sent out last spring to owners and operators of surface water storage reservoirs. The letter stated that such owner or operator was prohibited from storing or using surface water until it was determined whether a proper permit had been issued, and that civil or criminal penalties could be assessed if one were to store water in violation of the notice.

The letter was perceived as a sudden and drastic change to the status of these small dams that have been used for decades with the understanding that they met regulatory requirements.

Section-by-section description:

Section 1 amends 46-241, which provides the regulatory requirements for constructing a storage reservoir, by adding language exempting any reservoir with a maximum storage capacity of 50 acre-feet and constructed prior to 1973, as long as the reservoir is maintained for safety, not altered to increase capacity and not utilized for irrigation.

Sections 2 and 3 amend 46-242, relating to stored water permit applications, and 46-2,119, which provides for instream appropriations, by making a reference change.

Section 4 repeals the original sections.

LB 985

This bill was introduced in response to decisions by the Nebraska Supreme Court that are interpreted as limiting standing to object to permits granted by the Department of Natural Resources.

Section-by-section description:

Section 1 creates new language stating that natural resources districts are authorized to bring, defend, or intervene in legal actions affecting ground water and surface water quantity and quality.

Section 2 amends 46-233, which provides the process for water appropriations applications, by adding that the DNR is to consult with affected NRDs before granting surface water permits. NRDs are to determine whether granting an appropriation would be contrary to the public interest which, if the NRD finds it would be contrary, would lead to a hearing for the NRD to make its case.

Section 3 requires the revisor of statutes to place the new language in section 1 in the sections dealing with the natural resources districts.

Section 4 repeals the original section.

LB 1003

In 2009, the Legislature passed LB 160, which allowed the Papio-Missouri River Natural Resources District (NRD) to use a portion of its existing mill levy to issue bonds for flood protection and water quality enhancement purposes. The NRDs have held since then that all NRDs should have the authority to use bonding to help pay for flood protection, water quality, and water management purposes.

Section-by-section description:

Section 1 amends 2-3226, which authorizes NRDs to issue revenue bonds for financing construction of facilities, by adding a new section authorizing NRDs to issue general obligation bonds for non-revenue-producing projects authorized by law. Requires 2/3 approval by the relevant NRD board of directors. Requires that bonds be retired using the ad valorem tax revenue and other funds available that is not otherwise obligated.

Section 2 repeals the original section.

LB 1005

The Interrelated Water Review Board was created as a part of LB 962, so that an independent entity could resolve disputes relating to water management when the stakeholders could not agree. The Governor never has called the board into action.

Section-by-section description:

Section 1 amends 46-703, which states legislative findings for the Ground Water Management and Protection Act, by eliminating reference to the need for the Interrelated Water Review Board.

Sections 2, 3 and 4 amend 46-706, containing the definitions for the Ground Water Management and Protection Act, 46-714, which provides the procedures for declaring a river basin fully appropriated, and 46-715, which provides for integrated management procedures, by removing all references to the Interrelated Water Review Board.

Section 5 amends 46-718, which provides integrated management plan implementation procedures, by removing language calling for the Governor to be notified and the Interrelated Water Review Board to be activated for disputes during the development of basin-wide or integrated management plans.

Section 6 amends 46-719, which creates the Interrelated Water Review Board, by eliminating and replacing current language with language that would create the Surface Water and Ground Water Review Board, provide membership requirements, provide policy guidelines, duties, and procedures for the board to follow while it reviews and approves ground water and surface water usage and conservation (including permits) in the state's water basins or natural resources districts. The language refers to the state's "23 water basins" so I'm not sure which one is intended.

Section 7 amends 46-720, which contains the transitional procedures when LB 962 was implemented, by removing reference to work done by the Interrelated Water Review Board.

Section 8 repeals the original sections.

LB 1040

The Low-Income Home Energy Conservation Act, LB 1001 (2008), provides assistance for certain energy-related home improvements by making funds available to eligible low-income Nebraska residents through grants offered by participating utilities.

The grants are available from funds deposited in the Energy Conservation Improvement Fund, which is administered by the Nebraska Department of Revenue. Beginning July 1, 2014, an eligible utility provider may remit up to \$50,000 for deposit into its fund subaccount. That amount will be matched with an equal amount of funds by the state and deposited into the utility's subaccount. The state matching funds are limited to \$250,000 annually and will be available on a first-come, first-served basis. Once the matching funds are depleted, no further deposits from utility providers will be accepted.

The entities eligible to designate monies for deposit into the fund include: public power districts; rural public power districts; electric cooperative corporations; nonprofit corporations organized for the purpose of furnishing electric service; joint entities organized under the Interlocal Cooperation Act; or municipalities. Participating utilities are to establish and administer a program of eligible energy conservation grants beginning on or after July 1, 2014.

An "eligible person" is any resident of Nebraska who: is a customer of the participating utility provider; who owns his or her residence; and whose household income is at or below 150% of the federal poverty level. An eligible person can apply for a grant through this program for installing an "eligible energy conservation improvement" in his or her residence.

Section-by-section description:

Section 1 amends 66-1013, which states the Legislature's intent behind the Low-Income Home Energy Conservation Act, by changing the type of costs the act is intended to affect, and by changing the intention that funding be provided to the State Energy Office, rather than to eligible persons for energy conservation improvements.

Section 2 amends 66-1014, which defines terms under the Low-Income Home Energy Conservation Act, by removing reference to the Department of Revenue, eligible energy conservation grant, and eligible entity. Also removes the requirement that an eligible person own their residence. Adds reference to the State Energy Office and subgrantee.

Section 3 amends 66-1015, which creates the Energy Conservation Improvement Fund, by eliminating the program as administered by the Department of Revenue, and simply says the fund is to be administered by the State Energy Office.

Section 4 amends 66-1016, which provides how the grant program is to be administered, by removing public power and similar entities as the administrators of the program, instead requiring a subgrantee to administer a program for installing energy conservation improvements after receiving a grant from the State Energy Office.

Section 5 amends 66-1018, by eliminating the report to the Department of Revenue requirement, and adding that a report is to be sent to the Legislature.

Section 6 amends 66-1019, by authorizing the State Energy Office to adopt and promulgate rules and regulations.

Sections 7 and 8 repeals original sections.

Section 9 contains an emergency clause.

LB 1074

LB 1074 proposed that several sections of the Ground Water Management and Protection Act be amended to authorize the Department of Natural Resources to determine that a river basin is overappropriated. The original bill contained the following general provisions:

- When the department conducts its annual basin evaluations on the availability of hydrologically connected water supplies, it is to determine whether the current uses of hydrologically connected groundwater and surface water will cause: an insufficient surface water supply to sustain beneficial or useful purposes in the long term; an insufficient streamflow to sustain beneficial uses from wells constructed in recharge-dependent aquifers; or river or streamflow reductions that will cause noncompliance with a compact, agreement, or state or federal law.
- Based on such evaluation, the department is to make a preliminary determination of whether a basin is fully or overappropriated, and to what extent additional uses will cause current supplies to be insufficient or cause compact or other agreement noncompliance due to streamflow reductions.
- If evidence presented at a hearing shows that current uses already caused insufficient supply or noncompliance with a compact, agreement or law, the department is to declare the basin overappropriated.
- If there is a change in the status of a basin, the department and natural resources districts may create rules and regulations to restrict water uses until an IMP is adopted. If a district already has an IMP, that IMP is to remain in effect until a new IMP is adopted.
- Integrated management plans are to identify not only the differences between current and fully appropriated levels of development, but also streamflow depletions.
- No more than three IMP goal reevaluations will be allowed.

The committee held a public hearing on AM2360 to LB 1074, which would have replaced the original provisions of LB 1074 and become the bill.

AM 2360 would have required:

- A basin-wide plan be adopted within three years from the date of this act by the relevant natural resources districts and the Department of Natural Resources for every river basin in Nebraska;
- Natural resources districts adopt integrated management plans if they do not already have one or are not in the process of creating one;
- Clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies, ensuring permitted uses of hydrologically connected water will be sustained to the greatest extent possible, and ensuring compact compliance;
- That goals and objectives be met within 30 years and, if not met, authorize the Department of Natural Resources to take over management of the basin;
- A schedule to measure progress towards the goals and objectives;
- A consultation and collaboration process with official participants and other stakeholders in the plan's development;
- Invocation of the Interrelated Water Review Board if the department or affected natural resources districts conclude that an agreement on the plan cannot be reached;
- Technical reviews every five years by the department and natural resources districts to determine whether modifications to the plan are needed in order to meet the goals and objectives; and
- A public hearing process before adoption of the plan and before subsequent modifications.

LB 1100

This bill would have required a study to determine if and how the state's public power system should be modified.

Section-by-section description:

Section 1 creates new language of Legislative findings recognizing that public power has provided many benefits to the state, but purchasing power generated outside of the state is not one of them.

Section 2 creates new language creating the Public Power Task Force to study whether public power should be restructured and modernized by examining a number of factors listed in the bill. The task force is to submit a report with recommendations and a strategic plan for reorganizing public power to the Legislature by December 1, 2014.

Section 3 creates new language stating the makeup of the task force is to include the Natural Resources Committee; various legislators from other committees; and governor appointees from the Nebraska Power Review Board, State Energy Office, Department of Economic

Development, a statewide health organization, a statewide environmental organization, a wind energy advocacy organization, a solar energy advocacy organization, a labor union, the University of Nebraska, and a variety of other electric energy entities and customers.

The bill further requires the chairperson of the Natural Resources Committee to convene the task force, and authorizes the task force to hire a consultant.

Section 4 creates new language terminating the task force on December 31, 2014.

LB 1111

Nebraska statutes, beginning with 2-3226.01, allow natural resources districts to use the proceeds of river flow enhancement bonds to help them fulfill their obligations under the Ground Water Management and Protection Act. Allowed uses of the occupation tax must be in response to meeting the requirements of the Integrated Management Plan (IMP). LB 1111 would have amended the Nebraska Ground Water Management and Protection Act so that bonds could be used for water sustainability purposes.

The bill would have:

- required a natural resources district, before it can utilize river flow enhancement bonds for qualified projects (includes augmentation projects), to amend its integrated management plan to provide for procedures to achieve district-wide and basin-wide water sustainability by January 1, 2025.
 - required the plan to:
 - provide for the annual water sustainability level;
 - provide the annual reductions in allocations needed to reach sustainability within 10 years;
 - state that, during the 10-year plan, surface water available is to be used for compliance in compact call years;
 - limit banked or carry-forward allocations to the equivalent of one year of the 2013 base allocation during the 10-year plan;
 - at the end of the 10-year plan, reduce any banked or carry-forward allocations, and base allocations, to one year of a water sustainability level;
 - require the director of the DNR to ensure surface water allocations do not exceed ground water allocations (which is to include carry-forward water);
 - defined water sustainability as the maximum annual amount of water per irrigated acre determined by the U.S. Geological Survey (or DNR that would, as a base allocation, sustain water levels, short-term and long-term).
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LB 1112

This bill would have changed how the occupation tax is levied and collected.

Section-by-section description:

Section 1 amends 2-3226.05, which authorizes certain natural resources districts to levy an occupation tax on the activity of irrigation, by requiring a new method of determining the tax rate based on acre-feet of irrigation used and the revenue needed by the district to use for qualified projects.

Section 2 repeals the original section.

LB 1113

This bill would have given surface water irrigators flexibility in their own operations regarding how they apply the volume of an appropriated water right on the acres attached to their land.

Section-by-section description:

Sections 1 and 2 create new language to:

- require irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies or canal companies to allocate water to the owner of a water right based on the percentage of the owner's total acreage of the water right;
- provide powers and duties of the entities listed;
- allow the water right owner to distribute water to applicable delivery points owned by the appropriation holder; and
- entitle a water right owner to receive and use the water that is a percentage of the total acreage right to the total ownership of the allocated volume of water of the relevant entity, but no more than the allocated annual water volume.

Section 3 contains an emergency clause.

INTERIM STUDY RESOLUTIONS

<u>Resolution No.</u>	<u>Subject</u>
491	Interim study to examine the need to clarify and expand application of LB985 (2014), which provided standing to natural resources districts and requirements for water appropriations.
589	Interim study to evaluate the local and statewide health impacts of burning coal .
590	Interim study to examine the organizational structure of public power.
597	Interim study to examine methods by which to find balance between water resources and water uses in areas under interstate compacts, cooperative agreements, or decrees.
628	Interim study to examine the role of Nebraska state government in establishing and implementing standards of performance for existing carbon dioxide emissions from public power plants within the state.