

2018

LEGISLATIVE BILL SUMMARIES

**NATURAL RESOURCES COMMITTEE**

NEBRASKA LEGISLATURE

ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

***NATURAL RESOURCES COMMITTEE MEMBERS***

Senator Dan Hughes, Chairperson  
Senator Bruce Bostelman, Vice-Chairperson  
Senator Joni Albrecht  
Senator Suzanne Geist  
Senators Rick Kolowski  
Senator John McCollister  
Senator Dan Quick  
Senator Lynne Walz

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**COMMITTEE STAFF**

Laurie Lage, Legal Counsel  
Mandy Mizerski, Committee Clerk

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**Natural Resources Committee 2018**  
**105<sup>th</sup> Legislature**

**BILL INDEX**

- LB 713 (Erdman) Change compensation of members of the Nebraska Oil and Gas Conservation Commission. *Held in Committee, amended into LB 1008 in AM2292* (p. 15)
- LB 722 (Wayne) Provide a renewable energy electric power generation requirement for certain public power and irrigation districts. *Held in Committee* (p. 15)
- LB 723 (Wayne) Change net metering provisions by redefining qualified facility and increasing the rated capacity limit as prescribed. *Held in Committee* (p. 16)
- LB 754 (Brewer) Authorize purchase of state park permits while registering a motor vehicle online. *Held in Committee* (p. 16)
- LB 758 (Hughes) Provide for voluntary payments in lieu of taxes on water augmentation project lands as prescribed. *Signed by Governor* (p. 10)
- LB 761 (Hughes) Change compensation provisions relating to the Nebraska Oil and Gas Conservation Commission. *Held in Committee* (p. 17)
- LB 762 (Hughes) Change a date for certain scrap tire recycling grants. *Held in Committee, amended into LB 1008 in AM2292* (p. 17)
- LB 820 (Hughes) Change provisions relating to privately developed renewable energy generation facilities. *Held in Committee, amended into LB 1008 in AM2292* (p. 17)
- LB 821 (Hughes) Change provisions relating to assessments by the Nebraska Power Review Board. *Withdrawn* (p. 23)
- LB 822 (Hughes) Change provisions relating to the Department of Natural Resources. *Held in Committee, amended into LB 1008 in AM2292* (p. 18)
- LB 908 (Baker) Provide a disposal exception for tires used in a building system and eliminate obsolete provisions under the Integrated Solid Waste Management Act. *Held in Committee* (p. 19)
- LB 1008 (Bostelman) Change provisions relating to the Game Law, the compensation of certain commission members, the withholding of certain competitive information, certain privately developed renewable energy generation facilities, and certain scrap tire projects. *Signed by Governor* (p. 10)
- LB 1017 (Krist) Change and eliminate pipeline siting provisions and eminent domain provisions. *Withdrawn* (p. 23)

LB 1054 (Brewer) Change provisions relating to hearings before the Nebraska Power Review Board and electric generation using wind. *Held in Committee* (p. 20)

LB 1123 (Groene) Provide for streamflow augmentation projects and retention of water rights as prescribed. *Indefinitely Postponed* (p. 22)

LB 1124 (Groene) Provide notice and hearing requirements for public entities relating to land acquisition and ground water pump installations. *Held in Committee* (p. 20)

LR 266 (Hughes) Urge the U.S. Dept. of the Interior, Bureau of Reclamation, the Nebr. congressional delegation, and the Game and Parks Commission to find a solution regarding policy changes that affect Hugh Butler Lake, Harry Strunk Lake, and Swanson Reservoir. *Passed* (p. 13)

**2018 NATURAL RESOURCES COMMITTEE BILLS**

**Bills by Hearing Date**

4/31/2018

Hearing	Bill	Introducer	One-Liner	Status
<b>BILLS BY HEARING DATE</b>				
<b>WED. 1-17-18</b>				
	758	Hughes	Require collaboration between natural resources districts and counties under the Nebraska Ground Water Management Protection Act - <b>Committee Priority #1</b>	Signed by Gov. 2-28-18
<b>THURS. 1-18-18</b>				
	822	Hughes	Change provisions relating to the Department of Natural Resources – <b>rehearing on AM2191, March 7, 2018</b>	In Comm Amended into LB 1008 via AM2292
<b>FRI. 1-19-18</b>				
			<b>Briefing: Jeff Fassett, Dept. of Natural Resources</b>	
<b>WED. 1-24-18</b>				
	LB 762	Hughes	Change a date for certain scrap tire recycling grants	In Comm Amended into LB 1008 via AM2292
<b>THURS. 1-25-18</b>				
	754	Brewer	Authorize purchase of state park permits while registering a motor vehicle online	In Comm
<b>FRI. 1-26-18</b>				
			<b>No Hearing</b>	
<b>WED. 1-31-18</b>				
	820	Hughes	Change provisions relating to privately developed renewable energy generation facilities	In Comm Amended into LB 1008 via AM2292
<b>THURS. 2-1-18</b>				

	1054	Brewer	Change provisions relating to hearings before the Nebraska Power Review Board and electric generation using wind – <b>Brewer priority bill</b>	In Comm
<b>FRI.</b> <b>2-2-18</b>				
			<b>No Hearing</b>	
<b>WED.</b> <b>2-7-18</b>				
	1123	Groene	Provide for streamflow augmentation projects and retention of water rights as prescribed	IPP
	1124	Groene	Provide notice and hearing requirements for public entities relating to land acquisition and ground water pump installations	In Comm
<b>THURS.</b> <b>2-8-18</b>				
	<del>821</del>	Hughes	<del>Change provisions relating to assessments by the Nebraska Power Review Board</del>	
			<b>Briefing: Jim Macy, Department of Environmental Quality</b>	
<b>WED.</b> <b>2-14-18</b>				
	1008	Bostelman	Increase amounts of liquidated damages for certain violations of the Game Law – <b>Committee Priority #2</b>  <b>AM2292 includes LBs 713, 822 as amended, 820, and 762</b>	Signed by Gov.
	LR 266	Hughes	Urge the U.S. Dept. of the Interior, Bureau of Reclamation, the NE congressional delegation, and the Game & Parks Commission to find a solution regarding policy changes that affect Hugh Butler Lake, Harry Strunk Lake, and Swanson Reservoir	GF
<b>THURS.</b> <b>2-15-18</b>				
	908	Baker	Provide a disposal exception for tires used in a building system and eliminate obsolete provisions under the Integrated Solid Waste Management Act	In Comm

			<b>Briefing: David Bracht, Nebraska Energy Office</b>	
<b>WED.</b> 2-21-18				
	722	Wayne	Provide a renewable energy electric power generation requirement for certain public power and irrigation districts	In Comm
	723	Wayne	Change net metering provisions by redefining qualified facility and increasing the rated capacity limit as prescribed	In Comm
<b>THURS.</b> 2-22-18				
	713	Erdman	Change compensation of members of the Nebraska Oil and Gas Conservation Commission	In Comm Amended into LB 1008 via AM2292
	761	Hughes	Change compensation provisions relating to the Nebraska Oil and Gas Conservation Commission	In Comm

**In Comm:** Bill is held in committee

**GF:** The committee has advanced the bill to General File

**GF w/AM:** The committee has advanced the bill to General File with a committee amendment

**SF:** The Legislature has voted to advance the bill from the first stage of debate (GF) to Select File

**FR:** The Legislature has voted to advance the bill from the second stage of debate (SF) to Final Reading. If the bill advances from Final Reading it will be sent to the Governor for his signature or veto.

**IPP:** A bill that the committee has killed – indefinitely postponed

**CC:** Consent Calendar

**PB:** Priority bills



### **Carry-Over Bills, Held in Committee**

LB 218	Groene	Provide for installation of ground water pumps by public entities
LB 390	Albrecht	Change provisions relating to flood protection and water quality enhancement bonds
LB 392	Larson	Adopt the Wind Friendly Counties Act
LB 448	Chambers	Eliminate provisions relating to the hunting of mountain lions
LB 504	Brewer	Provide for a moratorium on industrial development of wind energy projects and for a task force study as prescribed
LB 536	Hughes	Clarify disbursement provisions for natural resources districts
LB 610	Kolowski	Adopt the Community Solar Energy Economic Development Act
LB 635*	Bostelman	Change certain violations and penalties under the Game Law
LB 636*	Bostelman	Prohibit interference with hunting, trapping, or fishing by intimidation using a telephone or other communication device

\* Amended into other bills

## SUMMARIES OF ENACTED BILLS

### LB 758

LB 758 amends the statute that provides duties for natural resources districts and the Department of Natural Resources under the Ground Water Management and Protection Act for fully or overappropriated basins. New language would require a natural resources district, if it acquires private land for a streamflow augmentation project, to collaborate with the affected county's representatives in an effort to lessen impacts to the county's property tax base.

#### **Final Bill**

- Authorizes a natural resources district or joint entity created under an Interlocal Cooperation agreement that acquires private land for an augmentation project to make voluntary payments in lieu of taxes to the affected county;
- Allows such joint entity or natural resources district to make payments for any year it owns the property, even if prior to this bill's effective date.
- States that payments may not exceed the amount that property taxes would have been on the land if it were subject to taxation.
- Requires the county assessor to allocate payments to the county's taxing units in the same proportion they would have received if the land were subject to taxation;
- Requires a joint entity or natural resources district seeking to develop an augmentation project to provide public notice with the details of the project, to hold a public hearing, and to seek input from the affected county and adjoining landowners to minimize effects of the project;
- Requires a joint entity or natural resources district to publish an annual report with details on: the project's operation; the amount of water pumped; leases and revenue gained; taxes paid; the project's financial data; the project's effectiveness; the effect on ground water supplies; and projections for future use;
- Requires that a public hearing be held for public comment on the report; and
- Requires a joint entity or natural resources district to submit leases on the property to the appropriate county assessor within 30 days of the effective date of the lease.

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### LB 1008

LB 1008 was a bill to increase the limits on liquidated damages the Nebraska Game and Parks Commission could collect for certain Game Law violations. The bill, through AM 2292, became the vehicle for other Natural Resources Committee bills as described below.

## Final Bill

LB 1008 contains 5 bills that were heard in front of the Natural Resources Committee:

1. LB 1008, which raises liquidated damages caps on certain game;
2. LB 713, which raises the per diem for Oil & Gas Conservation Commissioners from \$50 to not more than \$400, with an annual \$4000 cap;
3. LB 822, as amended. The committee held a public hearing on AM 2191 on March 7<sup>th</sup>, which proposed removing the original content of LB 822 and replacing it with language that would allow public power entities to deny public records requests if proprietary information is sought and releasing the records would give competitors an advantage. AM2191 was revised. The resulting language is in LB 1008 and is described below.
4. LB 820, which authorizes the Power Review Board to assess a fine on a private electric supplier who fails to notify of new construction;
5. LB 762, which extends the sunset date of the scrap tire program to 2024;

Section-by-section explanation of AM 2292 to LB 1008:

### Section 1 - LB 1008

Page 1, line 3 to page 3, line 4:

**Section 1** amends 37-613, which lists the liquidated damages for wildlife violations in the Game Law, by increasing the amount for mountain sheep from \$15,000 to \$25,000; for 12-point elk from \$5,000 to \$10,000; for all other elk from \$1,500 to \$3,000; for 8-point whitetail deer with at least a 16 inch spread between beams and for each mule deer between 8-16 inch spread from \$5,000 to \$10,000; for other antlered whitetail deer from \$1,000 to \$2,000; for antlerless whitetail and whitetail doe deer from \$250 to \$500; for mountain lions, lynx, bobcats, river otters, or raw pelt from \$500 to \$5,000; for wild turkey from \$100 to \$500.

Also decreases the spread between beams from 24 to 22 inches for 8-point mule deer that are subject to damages, and increases the amount from \$1,000 to \$2,000 for any other mule deer.

### Section 2 - LB 713

Page 3, line 5 to line 31

**Section 2** amends 57-904, which creates the Nebraska Oil and Gas Conservation Commission

and contains provisions relating to commissioners, by changing the amount of compensation from \$50 to not more than \$400 per day for each day spent conducting commission business. Also raises the annual cap on compensation from \$2,000 to \$4,000.

**Section 3 - LB 822 as amended**  
**Page 4, line 1 to line 10**

**Section 3** would add new language to Chapter 70, article 6, the statutes governing public power and public power and irrigation districts, stating that the public power industry may withhold competitive or proprietary information that would give an advantage to business competitors. The language defines competitive information as that which a reasonable person, knowledgeable of the electric utility industry, could conclude gives competitors an advantage. New language also clarifies that records requests under Chapter 70 are to be procedurally treated the same as public records requests under the Chapter 84 public records statutes.

**Background:** This amendment was introduced in response to a Nebraska Supreme Court case, *Aksamit Resource Mgmt v. Nebraska Pub. Power Dist.*, 299 Neb. 114 (2018), that was issued on Friday, February 23, 2018. The case involved a potential competitor of a public power entity in Nebraska who was denied a request for records showing cost and revenue information, and rate outlooks for each of the entity's generation facilities. The potential competitor sued, and the district court ruled that the records should not be provided because of an exclusion in the public records statute, 84-712.05(3) for proprietary or commercial information which, if released, would give an advantage to competitors.

The state Supreme Court reversed the lower court, holding that the last part of 84-712.05(3), which states that public records are excluded "which, if released would give advantage to business competitors and serve no public purpose." The court found that the public power entity did not prove that the release of information would serve no public purpose. The court liberally construed the meaning of "public purpose" and that, absent a statute clarifying how competing policy interests should be balanced, a policy debate on fossil and renewable fuels was serving a public purpose.

**Section 4 - LB 820**  
**Page 4, line 11 to page 6, line 17:**

**Section 4** amends 70-1015, which describes what happens when there is a violation of the law authorizing the construction of special generation facilities, by adding the following new language:

- Requires the Power Review Board Director to provide notice to a private electric supplier that has started construction less than 30 days before notifying the board that they are subject to a \$500 fine;

- Allows the private electric supplier 20 days after receiving notice to submit the required notice and pay the fine;
- Requires the board director to provide written acknowledgement of the conditions being met;
- Requires the private electric supplier, after failing to submit notice and pay the fine, to immediately cease construction and operation of their privately developed renewable energy generation facility;
- Allows the private developer to request a hearing for disputes;
- Requires the board to set a hearing date, within 60 days of the hearing request;
- Requires the board to issue a written decision within 60 days of the hearing;
- Requires the private electric supplier to pay the \$500 fine and submit the proper notice if found to have been in violation of 70-1014.02, or cease construction or operation of the facility.

**Section 5 - LB 762**

**Page 6, line 18 to page 9, line 24:**

**Section 5** amends 81-15,160, which creates the Waste Reduction and Recycling Incentive Fund, by changing the sunset date of the scrap tire program from June 30, 2019 to June 30, 2024.

**Sections 1, 2, and 5 become operative 3 calendar months after the Legislature adjourns.**

**Sections 3 and 4 contain an emergency clause and become operative with the Governor's signature.**

**LR 266**

LR 266 requests that the Legislature urge the U.S. Department of the Interior, Bureau of Reclamation, the Nebraska Congressional delegation, and the Nebraska Game and Parks Commission to find a solution regarding policy changes affecting Hugh Butler Lake, Harry Strunk Lake, and Swanson Reservoir.

This resolution was introduced on behalf of constituents living in Sen. Hughes' district who are trying to find a solution to their problem with the Bureau. In 2008, federal regulations were adopted that allowed for conditional continuation of residential exclusive use on recreational lands administered by the U.S. Bureau of Reclamation. The Department of Interior required the Bureau, as a part of its management duties, to establish public access and health and

safety guidelines to ensure continued residential exclusive use was justified. As a part of this process, residents in the three lake areas named in the resolution found that their trailers are required to be moved by 2020.

The Nebraska Game and Parks Commission holds the leases on the properties on the lakes. They manage the areas for the U.S. Bureau of Reclamation and are required to follow the Bureau's policies.

## **Final Bill**

### ***New language acknowledges:***

- New federal policies will restrict the transferability of permits for lots around certain water bodies that will require mobile homes to be removed;
- These new policies change long standing practices;
- Residents who live near the bodies of water are concerned about the economic impact of the new policies; and
- Affected permit holders have worked with the Bureau of Reclamation to resolve the issue.

### ***New language requests:***

- That the Legislature urge the U.S. Bureau of Reclamation and Nebraska's congressional delegation to assist with a solution that allows affected lot owners to freely transfer permits and be allowed to leave mobile homes on the lots;
  - That the Legislature urge the Nebraska Game and Parks Commission to consider action to do the same; and
  - That a copy of this resolution be sent to the U.S. Secretary of the Interior, Commissioner of the Bureau of Reclamation, the NE Game and Parks Commission, and each member of congress from Nebraska.
-

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

### LB 713

LB 713 proposed to change the compensation of members of the Nebraska Oil and Gas Conservation Commission. The bill's provisions were revised and amended into LB 1008 in AM 2292.

#### Section-by-section description

**Section 1** amends 57-904, which creates the Nebraska Oil and Gas Conservation Commission and provides for commissioners, by changing the amount of compensation from \$50 to \$500 per day for their work. The total amount paid in a year may not exceed \$6,000, raised from \$2,000. Also requires the director to make a recommendation to the commissioners every five years on whether the compensation should be changed.

**Section 2** contains an operative date of January 1, 2019.

**Section 3** repeals the original section.

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### LB 722

LB 722 would have required that certain public power districts generate no less than twenty percent of their electricity output from renewable energy sources by July 1, 2020.

#### Section-by-section description:

**Section 1** amends 70-601.01, the "legislative findings" section that lists a sort of statement of intent for the statutes in the sections on public power and irrigation districts, by adding a legislative finding that it's in the public interest to develop and use renewable energy resources while protecting health and economic wellbeing of residents and environment, and economic benefits. Also that renewable energy needs to be integrated into existing generation and transmission.

**Section 2** creates new language stating that by July 1, 2020, that public power districts with more than 50% of all or part of all the counties in Nebraska in its territory, which have generation and transmission facilities, shall produce at least 20% of its generation from renewable sources.

**Section 3** repeals the original section.

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## **LB 723**

LB 723 would have raised the cap of the kilowatt capacity allowed for consumers using net metering.

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

**Section 1** amends 70-2002, the definitions section of the state's net metering law, by raising the capacity cap from 25 to 100 kW.

**Section 2** amends 70-2003, which describes the processes of Nebraska's net metering law, by referring to the proposed raised capacity limit from 25 to 100 kW.

**Section 3** repeals the original sections.

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## **LB 754**

LB 754 would have authorized the purchase of state park permits while registering a motor vehicle online.

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

**Section 1** amends 37-201, which provides which statutes are included in the Game Law, and **Section 5** amends 60-301, which provides which statutes are included in the Motor Vehicle Registration Act, by adding reference to the new language in this bill.

**Section 2** amends 37-438, which provides the fees for annual and temporary park entry permits, by adding an additional category of permits, which would be the Nebraska state park system permit decal. Further adds new language providing that a person may purchase such a decal for half the price of an annual permit. It would authorize permit decals to be bought online at the same time a resident registers a motor vehicle online. The decal is to be placed on the rear license plate, and is valid for the time period of the vehicle registration.

**Sections 3 through 6** create new language that:

- Requires the Game and Parks Commission and the Director of DMV to agree to facilitate the design and sale of the new state park system permit decals;
- Requires the parties to develop a secure online purchasing process for the new decals, including a mechanism to allow the DMV to electronically transmit information and fees to the Game and Parks Commission;
- Requires DMV to set an implementation date, no later than January 1, 2020;



- States the new decal expires upon transfer of ownership of a vehicle or loss of the vehicle, when a salvage title is issued, when a registration is no longer valid, when a vehicle is surrendered under a lease, or if the vehicle owner becomes a non-resident;
- Requires DMV to furnish a decal upon its purchase during registration of a motor vehicle.

**Section 7** repeals the original sections.

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### **LB 761**

LB 761 would have changed the compensation of commissioners of the Nebraska Oil and Gas Conservation Commission.

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

**Section 1** amends 57-904, which creates the Nebraska Oil and Gas Conservation Commission and provides for commissioners, by changing the compensation from \$50 to \$300 per day for each day conducting NOGCC duties. Also raises the annual cap from \$2,000 to \$12,000.

**Section 2** repeals the original section.

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### **LB 762**

LB 762 called for extending the sunset date of the scrap tire grant program under the Department of Environmental Quality. The bill was amended into LB 1008, through AM 2292.

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

**Section 1** amends 81-15,160, which creates the Waste Reduction and Recycling Incentive Fund, by changing the sunset date from June 30, 2019 to June 30, 2024.

**Section 2** repeals the original section.

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### **LB 820**

LB 820 sought to clarify the authority of the Nebraska Power Review Board to assess a penalty under a provision of LB 824 (2016). The bill was amended into LB 1008 through AM 2292.

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

**Section 1** amends 70-1015, which describes what happens when there is a violation of the law authorizing the construction of special generation facilities, by adding the following new language:

- Requires the Power Review Board Director to provide notice to a private electric supplier that has started construction less than 30 days before notifying the board that they are subject to a \$500 fine;
- Allows the private electric supplier 20 days after receiving notice to submit the required notice and pay the fine;
- Requires the board director to provide written acknowledgement of the conditions being met;
- Requires the private electric supplier, after failing to submit notice and pay the fine, to immediately cease construction and operation of their privately developed renewable energy generation facility;
- Allows the private developer to request a hearing for disputes;
- Requires the board to set a hearing date, within 60 days of the hearing request;
- Requires the board to issue a written decision within 60 days of the hearing;
- Requires the private electric supplier to pay the \$500 fine and submit the proper notice if found to have been in violation of 70-1014.02, or cease construction or operation of the facility.

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### **LB 822**

LB 822 was introduced as a shell bill, which became the vehicle for the introduction of AM 2191, on which the committee held a public hearing on March 7, 2018. AM 2191, which took the place of LB 822's original content, is described below.

**Background:** This amendment was introduced in response to a Nebraska Supreme Court case, *Aksamit Resource Mgmt v. Nebraska Pub. Power Dist.*, 299 Neb. 114 (2018), that was issued on Friday, February 23, 2018. The case involved a potential competitor of a public power entity in Nebraska who was denied a request for records showing cost and revenue information, and rate outlooks for each of the entity's generation facilities. The potential competitor sued, and

the district court ruled that the records should not be provided because of an exclusion in the public records statute, 84-712.05(3) for proprietary or commercial information which, if released, would give an advantage to competitors.

The state Supreme Court reversed the lower court, holding that the last part of 84-712.05(3), which states that public records are excluded “which, if released would give advantage to business competitors and serve no public purpose.” The court found that the public power entity did not prove that the release of information would serve no public purpose. The court liberally construed the meaning of “public purpose” and that, absent a statute clarifying how competing policy interests should be balanced, a policy debate on fossil and renewable fuels was serving a public purpose.

**Section-by-section description:**

The one section of the bill as amended was to add new language to Chapter 70, article 6, the statutes governing public power and public power and irrigation districts, stating that the public power industry may withhold competitive or proprietary information that would give an advantage to business competitors. The language defines competitive information as that which a reasonable person, knowledgeable of the electric utility industry, could conclude gives competitors an advantage. New language also clarifies that records requests under Chapter 70 are to be procedurally treated the same as public records requests under the Chapter 84 public records statutes.

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**LB 908**

LB 908 would have allowed the use of scrap tires for building walls for single family dwellings after receiving approval from the Department of Environmental Quality.

**Section-by-section description:**

**Section 1** amends 13-2039, which describes prohibitions and exceptions to solid waste types that are allowed in landfills, by adding that tires are not considered disposed if they are used for building walls in a single family home with the permission of the Department of Natural Resources. Also deletes some obsolete language.

**Section 2** repeals the original section.

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## **LB 1054**

LB 1054 would have required the Nebraska Power Review Board to accept public comment as part of its assessment on whether a project serves the “public convenience and necessity” standard before approval.

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

**Section 1** amends 70-1001.01, which provides definitions for the Nebraska Power Review Board’s processes, by removing “wind” from the definition of “privately developed renewable energy generation facility”.

**Section 2** amends 70-1014, which provides the standards for approval of electric generation facilities and transmission lines, by adding a new subsection stating that if a petitioner’s request to intervene is granted, the NPRB is to consider the petitioner’s evidence as part of its public convenience and necessity consideration.

Also strikes from the law reference to the separate approval process for privately renewable energy generation facilities.

**Section 3** repeals the original sections.

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## **LB 1124**

LB 1124 was introduced to ensure public input before a natural resources district would proceed with a streamflow augmentation project.

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

**Section 1** creates new language that would:

- Require a governmental entity seeking to pump ground water for augmenting water supplies to comply with an interstate compact, before acquiring, using, or pumping from land, to hold a public hearing, after three consecutive weeks of notice, and receive written or in-person testimony regarding the need and expected amount and duration of pumping, and the governmental use of the groundwater;
- Require a governmental entity to adopt a resolution describing the need and expected amount and duration of pumping, and the governmental use of the groundwater;

- Require a governmental entity to hold a public hearing every five years after beginning pumping to review the adopted resolution to consider: 1) the governmental entity's compliance with its resolution; 2) need to continue pumping; 3) effect of pumping on others in five mile radius; 4) effect of pumping on surface water rights; 5) effect of pumping on ground water resources; 6) the sustainability of ground water pumping; and 7) expected continued amount and duration of pumping; and
- Require a governmental entity within 60 days of any such hearing to adopt a resolution stating the continued need for pumping, expected amount and duration of pumping, and the governmental use of the groundwater.

## BILLS INDEFINITELY POSTPONED

### **LB 1123**

LB 1123 would have created new language to allow natural resources districts owning an augmentation project to sell the land attached to the project but retain the right to the water underlying the land. The bill was aimed at the Nebraska Cooperative Republican Platte Enhancement project, or N-CORPE, an augmentation project in Lincoln County.

### **Section-by-Section Description**

**Section 1** creates new language that would do the following:

- Provide an intent statement that each natural resources district has the power and authority to develop augmentation projects as described in the Ground Water Management and Protection Act, and to acquire real property for such projects;
- Authorize the project owner to sell the overlying surface interest and retain and reserve the right to the ground water located beneath the land;
- Entitle the project owner to the reasonable and beneficial use of ground water to which the right was retained and reserved;
- Allow the quantity of ground water available for the augmentation project to be the same amount as if the augmentation project owner still owned the overlying surface interest.

**Section 2** assigns this language to Chapter 2, article 32, the statutes governing natural resources districts.

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## BILLS WITHDRAWN

### LB 821

LB 821 would have amended section 70-1020 to provide the Power Review Board with express authority to conduct special assessments subsequent to the agency's annual initial assessment.

The Power Review Board is funded entirely through an assessment levied against Nebraska's consumer-owned electric power suppliers. Historically the Board has collected its entire appropriation using one annual assessment, which provides the agency with all its funds for the fiscal year. That is the process established in section 70-1020. The Governor must approve the assessment figure the Board will use when collecting its assessment. The Board typically has excess funds left at the end of each fiscal year, which are used to offset the assessment for the next fiscal period.

During the last budget cycle the State Budget Division requested that when the Board sets future assessment figures, they should be calculated based on the Board's historical spending, not on the Board's entire appropriation to reduce the annual assessment on electric power suppliers. However, if the Board's expenses were to run substantially higher than normal, the Board would need to conduct a special assessment to collect the additional funds provided for in its Legislative appropriation, but not collected in the initial assessment. Current law does not provide the Board with authority to conduct subsequent assessments for its general funding.

**Section 1** would have amended section 70-1020 to provide the Board with express authority to use the funding mechanism it would need to use in future budget cycles if the Board's expenses were to be significantly higher than initially anticipated. **Section 2** repealed the original section.

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### LB 1017

LB 1017 would have amended the statutes on eminent domain, the Major Oil Pipeline Siting Act, state contracting, and the statute created in a special session in 2011 to allow the Governor to authorize an oil pipeline route.

The bill would have:

- Required a show of evidence that the pipeline was for public use and just compensation was provided before allowing the power of eminent domain;

- Repealed the sections of law created in 2011 and 2012 for oil pipeline routing procedures;
- Required a pipeline applicant to show proof of a construction and performance bond of at least \$100 million;
- Required a pipeline applicant to plan for periodic payments to landowners, reflective of the economic benefit received by the applicant for their interest in the private property; and
- Required a decommissioning plan.



## INTERIM STUDY RESOLUTIONS

Resolution No.      Subject

<u>Resolution No.</u>	<u>Subject</u>
387	Interim Study to examine issues relating to the spread of Eastern Redcedar trees
464	Interim study to review public power
466	Interim study to review issues pertaining to water quality
394	Interim study to examine policies and practices designed to assist low-income Nebraskans at risk of utility shutoffs due to overdue payments
450	Interim study to examine methods of increasing solar development in Nebraska
463	Interim study to examine statutes related to augmentation projects in relationship to the Nebraska Cooperative Republican Platte Enhancement interlocal project in Lincoln County