



Hundredth Legislature - Second Session - 2008
Introducer's Statement of Intent
LB 924

Chairperson: LeRoy Louden
Committee: Natural Resources
Date of Hearing: February 7, 2008

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Sections 1 and 2 establish a procedure for natural resources districts to offset any new depletions to stream flow resulting from a new use. Existing law requires offsets for new uses in areas designated as fully or over appropriated but provides no process. Unless a procedure is created to allow natural resources districts to offset those new uses, no change in water use can occur in areas designated as fully or over appropriated.

Section 3 modifies the state endangered species act to more closely resemble the federal act in two respects: (1) Allows the Nebraska Game and Parks Commission to develop a reasonable and prudent alternative to a project that has been judged to jeopardize the continued existence of a protected species or adversely impacts designated critical habitat. This is similar to what is authorized to the U.S. Fish and Wildlife Service under the federal Endangered Species Act. Existing state law does not so provide, although the Game and Parks Commission Rules and Regulations allow it. (2) Creates a committee to grant exceptions for projects that may harm a species. However, the project must have great value, and there is no reasonable and prudent alternative. Although authorized to the U.S. Fish and Wildlife Service under the federal Endangered Species Act, existing state law does not provide this exemption. It should be noted that under the state law, all federally listed species are also protected by the state law. The state law, however, allows for the listing of species as threatened or endangered that may not meet the federal criteria.

Section 4. When applying for an instream flow right, the changes would require the Nebraska Game and Parks Commission and the natural resources districts to agree on an application prior to filing the application with the Department of Natural Resources. The parties would have to work together, no matter which entity initially is seeking the flow right.

Section 5. The change would require the Department of Natural Resources to review existing surface water rights nonuse prior to the department making a preliminary conclusion that a river basin, subbasin, or reach presently is fully appropriated. If the right has been forfeited or abandon, the right would be adjudicated under section 46-229.02.

Eliminates the reference of all other applicable state or federal laws for the department to consider for determining whether a basin, sub-basin or reach is fully appropriated. This change eliminates uncertainty and/or interpretation of which other laws to consider.

Principal Introducer:

_____ **Senator Deb Fischer**