

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 103**

Introduced by Schilz, 47.

Read first time January 06, 2011

Committee: Natural Resources

A BILL

- 1 FOR AN ACT relating to water; to amend section 46-2,115, Reissue
- 2 Revised Statutes of Nebraska; to change provisions
- 3 relating to instream appropriations; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 46-2,115, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   46-2,115 An application for an instream appropriation  
4 which is pending on or filed after January 1, 1997, shall be approved  
5 by the director if he or she finds that:

6                   (1) In order to allow for future beneficial uses, there  
7 is unappropriated water available to provide the approved instream  
8 flow rate at least twenty percent of the time during the period  
9 requested;

10                  (2) The appropriation is necessary to maintain the  
11 existing recreational uses or needs of existing fish and wildlife  
12 species;

13                  (3) The appropriation will not interfere with any senior  
14 surface water appropriation;

15                  (4) The rate and timing of the flow is the minimum  
16 necessary to maintain the existing recreational uses or needs of  
17 existing fish and wildlife species; and

18                  (5) The instream appropriation is not in a river basin,  
19 subbasin, or reach that has been determined or designated by the  
20 department to be fully appropriated or overappropriated. Nothing in  
21 this subdivision shall be construed to prohibit the approval of a  
22 proposed transfer or change of a natural-flow appropriation pursuant  
23 to subdivision (3)(c) of section 46-290; and

24                  ~~(5)-(6)~~ (6) The application is in the public interest.

25                  The application may be granted for a rate of flow that is

1 less than that requested by the applicant or for a shorter period of  
2 time than requested by the applicant.

3                   Sec. 2. Original section 46-2,115, Reissue Revised  
4 Statutes of Nebraska, is repealed.