

AMENDMENTS TO LB1098

(Amendments to Standing Committee amendments, AM2594)

Introduced by Davis

1 1. Insert the following new section:

2 Sec. 7. Section 46-241, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 46-241 (1) Every person intending to construct and
5 operate a storage reservoir for irrigation or any other beneficial
6 purpose or intending to construct and operate a facility for
7 intentional underground water storage and recovery shall, except as
8 provided in subsections (2) and (3) of this section and section
9 46-243, make an application to the department upon the prescribed
10 form and provide such plans, drawings, and specifications as are
11 necessary to comply with the Safety of Dams and Reservoirs Act.
12 Such application shall be filed and proceedings had thereunder
13 in the same manner and under the same rules and regulations as
14 other applications. Upon the approval of such application under
15 this section and any approval required by the act, the applicant
16 shall have the right to construct and impound in such reservoir, or
17 store in and recover from such underground water storage facility,
18 all water not otherwise appropriated and any appropriated water
19 not needed for immediate use, to construct and operate necessary
20 ditches for the purpose of conducting water to such storage
21 reservoir or facility, and to condemn land for such reservoir,
22 ditches, or other facility. The procedure to condemn property shall

1 be exercised in the manner set forth in sections 76-704 to 76-724.

2 (2) Any person intending to construct an on-channel
3 reservoir with a water storage impounding capacity of less than
4 fifteen acre-feet measured below the crest of the lowest open
5 outlet or overflow shall be exempt from subsection (1) of this
6 section as long as there will be (a) no diversion or withdrawal of
7 water from the reservoir for any purpose other than for watering
8 range livestock and (b) no release from the reservoir to provide
9 water for a downstream diversion or withdrawal for any purpose
10 other than for watering range livestock. This subsection does not
11 exempt any person from the requirements of the Safety of Dams and
12 Reservoirs Act or section 54-2425.

13 (3) Any person intending to construct a reservoir,
14 holding pond, or lagoon for the sole purpose of holding, managing,
15 or disposing of animal or human waste shall be exempt from
16 subsection (1) of this section. This subsection does not exempt any
17 person from any requirements of the Safety of Dams and Reservoirs
18 Act or section 46-233 or 54-2425.

19 (4) Every person intending to modify or rehabilitate an
20 existing storage reservoir so that its impounding capacity is to be
21 increased shall comply with subsection (1) of this section.

22 (5) The owner of a storage reservoir or facility shall
23 be liable for all damages arising from leakage or overflow of the
24 water therefrom or from the breaking of the embankment of such
25 reservoir. The owner or possessor of a reservoir or intentional
26 underground water storage facility does not have the right to
27 store water in such reservoir or facility during the time that

1 such water is required downstream in ditches for direct irrigation
2 or for any reservoir or facility holding a senior right. Every
3 person who owns, controls, or operates a reservoir or intentional
4 underground water storage facility, except political subdivisions
5 of this state, shall be required to pass through the outlets of
6 such reservoir or facility, whether presently existing or hereafter
7 constructed, a portion of the measured inflows to furnish water
8 for livestock in such amounts and at such times as directed by the
9 department to meet the requirements for such purposes as determined
10 by the department, except that a reservoir or facility owner shall
11 not be required to release water for this purpose which has been
12 legally stored. Any dam shall be constructed in accordance with
13 the Safety of Dams and Reservoirs Act, and the outlet works shall
14 be installed so that water may be released in compliance with
15 this section. The requirement for outlet works may be waived by
16 the department upon a showing of good cause. Whenever any person
17 diverts water from a public stream and returns it into the same
18 stream, he or she may take out the same amount of water, less a
19 reasonable deduction for losses in transit, to be determined by
20 the department, if no prior appropriator for beneficial use is
21 prejudiced by such diversion.

22 (6) An application for storage and recovery of
23 water intentionally stored underground may be made only by
24 an appropriator of record who shows, by documentary evidence,
25 sufficient interest in the underground water storage facility to
26 entitle the applicant to the water requested.

27 2. Renumber the remaining sections and correct the

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1 repealer accordingly.