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Title 97 - Board of Educational Lands and Funds  
Chapter 4 - SUBSURFACE LEASES

001 Oil And Gas Leases

001.01 General. The Board will grant an industry standard lease.

001.02 Form. The lease application and agreement form as adopted, and which is subject to amendment or supplementation will be set out in Appendix A of these rules. Said lease application and agreement form will be hereinafter referred to as the lease.

001.03 Information Contained. The lease must be executed under oath by the applicant, or his authorized agent or attorney, or an authorized officer or agent of a corporation.

001.04 Certified Remittance. Lease applications must be accompanied by a certified remittance in the amount of fifty cents (50¢) or one dollar (\$1.00) per acre. The application will specify a minimum annual delay rental of fifty cents (50¢) per acre with the exception of the following counties which will be one dollar (\$1.00) per acre minimum annual delay rental:

BANNER	FRONTIER	KIMBALL
CHASE	FURNAS	MORRILL
CHEYENNE	GARDEN	RED WILLOW
DEUEL	HAYES	SCOTTS BLUFF
DUNDY	HITCHCOCK	

If the applicant is not the successful bidder at the sale, all checks will be returned.

001.05 Location of Sale. Location of the sale will be contained within the sale publication.

001.06 Notification of Sale.

001.06A Notice of tracts offered for sale will be published for two consecutive weeks in a newspaper of general circulation in the county and in such additional publications as the Board may direct.

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001.06B Sale notices will be circulated to those who place their names on the Board's mailing list.

001.07 Sale Procedure

001.07A Upon the date advertised as sale date, an authorized representative of the Board shall sell at public auction by oral bidding all leases that have been requested for sale.

001.07B Leases will be sold to the highest bonus bidder. All bidding will begin at 50¢ per acre with the exception of the above-stated counties, which will begin at \$1.00 per acre or applicant's bid, and bids must be increased in increments of a 10¢ or more per acre.

001.07C The successful bidder will also assume the proportionate cost of the sale advertising according to the number of tracts sold.

001.07D An eligible bidder may submit an irrevocable written bonus bid, which bid must be accompanied by a certified check or cashier's check in an amount equivalent to the first year's annual delay rental and the bonus bid. Said bonus bid will thereby become the opening bid at the public auction.

001.08 Bidder and Leaseholder Eligibility. Any person who is eligible to make a contract in accordance with Nebraska Laws is eligible to bid on school land leases and hold said lease.

001.09 Term of Years. Leases will provide for a term not to exceed ten (10) years, and as long thereafter as oil and gas is produced in paying quantities from the land covered thereby.

001.10 Territorial Limits. There is no maximum limit on acres leased by any one person, corporation or other legal entity.

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However, no lease will be offered for sale unless all Board controlled, State-owned acres in the section are included in the lease.

001.11 Bonding Requirement

001.11A Every successful bidder shall be required to furnish a bond in the amount of \$1,000.00 per tract after the auction, and file said bond with the Board prior to delivery of the lease to the lessee. However, a person may furnish a blanket bond of \$5,000.00 to cover any amount of leases obtained.

001.11B Bonds must be executed by a corporate surety authorized to do business in the State and countersigned by a resident agent.

001.12 Royalties And Accounting

001.12A Leases reserve a royalty of not less than 12½% of all oil, gas and hydrocarbons and all other petroleum products produced and saved from the land covered thereby and not used in connection with the development and operation of the leased premises, or 12½% of the market value thereof at the leased premises.

001.12B The interest so reserved must be produced free of cost to the lessor and the lessee or reporting agent designated by him shall, on or before the last day of the month next following production, and on that date each month thereafter, file with the Board a monthly report on the form provided by it.

001.12C The monthly report must be accompanied by a full settlement for the royalty due, or a valid examination for any necessary delay. After production has been achieved, should a lease fail to produce during a month, the reason for such non-production shall be indicated upon the monthly report in the same order as if there were production.

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001.12D When more than one company is purchasing petroleum products from a lease, the reporting agent will indicate the names and total amount of sale to each purchaser.

001.12E The report will show, in the space provided, the location and number of wells covered by the report.

001.13 Assignments

001.13A Assignments of leases are permitted by the Board upon receipt of a Ten Dollar (\$10.00) filing and recording fee, and a bond as hereinabove set out.

001.13B No assignment shall be approved which covers an undivided interest in the lease until a showing, satisfactory to the Board has been made evidencing which of the parties, assignor or assignee, will pay the delay rentals. No assignment of an undivided interest shall be made covering less than forty (40) leasehold acres, subject to the discretion of the Board.

001.13C No assignment shall be deemed valid nor recognized by this agency until Board approval.

001.14 Surrender of Lease

001.14A The lessee under any oil and gas lease granted by the state shall have the right at the termination of any rental year, by giving to the Executive Secretary thirty (30) days previous notice in writing of such intended surrender, to surrender and relinquish such lease to the state in whole or as to any legal subdivision of the lands covered thereby, and be thereupon discharged from any obligation not theretofore accrued as to the land so surrendered and relinquished without prejudice to the continuance of the lease as to the lands not surrendered or relinquished.

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001.14B Although no particular form of surrender is required, such surrender must be in writing, must sufficiently identify the lease sought to be surrendered, and must specifically describe the lands to be surrendered, whether all of the lease premises or a portion only.

001.14C Such written instrument of surrender and relinquishment must be signed by the owner of the lease as shown by the records of the commissioner or by his duly authorized agent. If more than one person owns the working interest in a lease, either all such owners must join in a joint surrender of the lease or each must submit a separate, written surrender.

001.14D If operations have been conducted on a lease which the lessee desires to surrender, the lessee shall also submit with his written instrument of surrender evidence of the proper plugging and abandonment of any hole drilled on the lease premises, together with evidence that he has restored the premises, insofar as practicable, to their condition prior to the drilling of the hole.

001.15 Forfeiture, Cancellation, And Termination Of Leases.

001.15A General. Every oil and gas lease granted by the State is subject to forfeiture and cancellation thereof upon failure of the lessee to fully discharge the obligation provided therein, after written notice from the Board and reasonable time allowed to the lessee for performance of any undertaking or obligation specified in such notice concerning which the lessee is in default. Before any lease is declared forfeited or cancelled by the Board, the Board shall issue written notice to the lessee of the proposed forfeiture or cancellation and if, within ten (10) days after such notice, the lessee makes written application to the Board for a hearing on the matter, the lessee shall be granted a hearing before the Board, and no forfeiture or cancellation

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shall become effective until after such hearing and until the Board shall confirm its original decision and intent to forfeit or cancel the lease, based upon such hearing. Following such hearing, notice of the decision of the Board shall be given to the lessee. Such decision may be for immediate cancellation of the lease without further extension of time within which to perform certain specified required acts in order to continue the lease, failing which the lease will automatically terminate without further notice or hearing.

001.15B(1) Promptly upon receipt of such notice from the Board that a lease is to be cancelled or forfeited, if the lessee does not, within the permitted ten (10) days period apply for hearing of such notice, and (2) promptly after receipt of final decision of the Board to cancel or forfeit the lease, following hearing on the matter, if the lessee does not appeal to the Court from such decision, the lessee shall furnish the Board with written instrument of surrender of the lease and other evidence as required under the provisions of Section 001.14 above.

001.16 Pooling And Unit Agreements. The Board is authorized to enter into pooling and unit agreements for the purpose of pooling and unitizing State educational lands held under oil and gas leases with other lands. In connection with such agreements the Board is authorized to modify any State lease with respect to delay rentals and royalties in accordance with such pooling agreements and such unit plans of operation.

001.17 Operating Agreements. Any lessee may enter into agreements with another person for drilling and other operations for oil and gas on State educational lands under his lease or leases.

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001.18 Operations On State Leases.

001.18A Compliance with all rules and regulations of the oil and gas conservation commission of the State of Nebraska relating to operations for the production of oil or gas and relating to the exploration and drilling therefor will be required of each lessee of State lands.

001.18B Each lessee, in conducting his explorations and mining or drilling operations shall use all reasonable precautions to prevent waste of oil or gas developed in the lands and to prevent the entrance of water through wells drilled by him to the oil and gas sands or oil or gas bearing strata to the destruction or injury of the oil or gas deposits.

001.18C Report of Lessee. On or before the last day of each month every holder of a producing oil or gas lease shall make a report to the Commissioner for the preceding calendar month, which report shall be in such form as the Board may prescribe. Such report shall show the amount of oil or gas produced and saved during such preceding month, the price obtained, the total amount of all sales, and such additional information as may be required on the reporting form. Such reports shall be signed by the lessee or some responsible person having knowledge of the facts reported, and shall be accompanied by payment of the amount due the State as royalty for the month covered by the report, unless the State's royalty is being or has been paid direct by the purchaser of the production.

001.18D A lessee is required, upon completing a commercially productive oil or gas well upon the lease premises, to proceed with reasonable diligence to drill such additional wells to the depth of the formation found commercially productive, or to such

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depth as may be necessary to economically test, develop and operate the deposits discovered. As to lands found valuable for oil production, no lessee will be required to drill to completion more than one well under any one lease during any one calendar year, or a total number of wells under any one lease in excess of the total number of forty (40) acre subdivisions of land held under such lease. As to lands found valuable for gas production only, the drilling obligation of the lessee shall be confined to a total number of wells equal to the total number of tracts comprising 160 acres of land included in the lease, of which total number of wells not more than one will be required in any one calendar year. However, notwithstanding the foregoing general rules, if wells drilled on lands contiguous to the State lands require, in the opinion of the Board, greater diligence in drilling and a greater number of wells to be drilled on the State lands to protect the lease premises and deposits from loss, depletion or uncompensated drainage due to such wells on the contiguous lands, such greater diligence and greater number of wells may be required by the Board. All such requirements, however, shall be subject to, and shall not be inconsistent with, applicable rules, regulations and orders of the Oil and Gas Conservation Commission of the State of Nebraska.

001.18E Performance of well drilling operations as required by the foregoing rule may be suspended only by or with the consent of the Board during the time oil or gas previously discovered cannot be marketed at a profit, or for other good cause shown. When such suspension of drilling operations is deemed necessary and desirable by the lessee, the lessee shall submit written statement of his reasons therefor to the Board. If the requested suspension of drilling operations is approved by the Board, it shall issue to the lessee a statement or certificate authorizing the suspension for a time certain and require the lessee, within such time certain,

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to make written application to the Board for any further extension of the time which such drilling operations may be suspended.

001.18F Upon suspension of drilling operations with justification from the Board, the lessee will be obligated to pay rent in lieu of royalties.

001.19 Recording Fees

001.19A Recording each assignment affecting an oil and gas lease, or interest therein, of whatsoever nature.....\$10.00

001.19B For recording a surrender of an oil and gas lease.....\$ 5.00

002 Sand and Gravel Leases

002.01 General. The Board will grant all types of leases.

002.02 Form. The lease application and agreement form as adopted, and which is subject to amendment or supplementation will be set out in Appendix "A" of these rules. Said lease application and agreement form will hereinafter be referred to as the lease.

002.03 Information Contained In Application. Application for the issuance of a sand and gravel lease must be executed under oath by applicant or his agent or attorney, or an officer or agent of the corporation, if the application is made by a corporation. Application must be made on the form prescribed by the Board of Educational Lands and Funds, and must contain a description of the land, by legal subdivision, upon which the lease is desired and the terms upon which the applicant desires to acquire such lease.

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002.04 Notification of Sale. The lease will be sold at public auction held at the office of the Board of Educational Lands and Funds in the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, after notice of time and place of such sale has been given by publication for two consecutive weeks, in a newspaper of general circulation in the county where the lands to be leased are located.

002.05 Monies Included With An Application. Application for a lease must be accompanied by a deposit in the amount of \$15.00 to cover cost of publishing notice, together with the first year's rental. If the lease is not sold, the one who files the application must pay the cost of publication, otherwise, the cost is paid by the successful bidder.

002.06 Sale Procedure

002.06A Upon the date advertised as sale date, an authorized representative of the Board shall sell at public auction by oral bidding all leases that have been requested for sale.

002.06B A lease is sold to the highest bidder and must provide for an annual rental of not less than fifty dollars (\$50.00) per acre, and royalty of not less than 20% per cubic yard for materials taken, but in no event shall the lease be issued at less than the prevailing price paid in the locality where the land is situated.

002.06C The successful bidder will also assume the cost of advertising the sale.

002.07 Bidder And Leaseholder Eligibility. Any person who is eligible to make a contract in accordance with Nebraska Laws is eligible to bid on school land leases and hold said lease with the following exception: no lessee or former lessee who owns any delinquent rental shall be eligible to bid on a lease or

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hold a lease unless such delinquent rental, fees and costs of advertising are first paid in full.

002.08 Term. Leases are issued for a term not to exceed three (3) years, and may be renewed, at the discretion of the Board, under such terms as directed by the Board.

002.09 Bond Requirement. Lessee must furnish a \$1,000 bond to indemnify the state against loss, damage or detriment by reason of the failure of lessee to pay the annual rental and royalty or to fully discharge the obligation contained in the lease. A \$5,000 blanket bond may be given if more than one lease is issued to the same person. Such bond must be executed by a corporate surety authorized to do business in the State of Nebraska (Except County applications and Department of Roads).

002.10 Written Report. The lessee must, at the end of each month, file a report in the office of the Board of Educational Lands and Funds setting forth the quantity of sand or gravel removed, and remit for the same. Such report must be certified to under oath, or must be a regular report signed by an inspector representing a governmental subdivision of the State.

002.11 Rights Reserved For Agricultural Purposes. The lease must reserve the right to fully use and enjoy for agricultural and grazing purposes the area leased for sand and gravel, except such parts thereof as may be necessary for use in the development and operation thereof for sand and gravel and in the marketing of production therefrom. The owner of the agricultural or grazing rights covered by this lease has prior right to use of water on the premises.

002.12 Damage. The lessee must pay all damages to growing crops, including grass, caused by operation under the lease, and must, after due notice thereof, protect the lessor from claims of such nature.

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002.13 Assignments. Assignments of a lease are permitted, but before the same are effective, must be approved by the Board of Educational Lands and Funds accompanied by a filing and recording fee of \$10.00.

002.14 Surrender of Lease. Surrender of lease is subject to approval by the Board of Educational Lands and Funds, and payment of a filing fee of Five Dollars (\$5.00).

Chapter 4 (001-002.14) Sec. 72-201, 72-303, 72-308, 72-309, 72-311,  
and Sections 72-901 et. seq. Nebr. Rev. Stat.