



8100 South 15th
Suite B
Lincoln, NE 68512

nard@nrdnet.org
(402) 471-7670

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TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 23 NARD Update

The Legislature continued to utilize morning sessions for floor debate of priority bills this week. Much of the time was spent on lengthy debate of Sen. Bosn's LB 137. The bill would increase the potential prison sentence dealers might face if drugs they're accused of distributing kill or seriously injure a drug user. Sen. Holdcroft declared the bill his personal priority bill for the session. Opponents of the measure slowed advancement of the bill but fell short of a full filibuster and after two days of debate the bill was advanced to Select File on a 35-2-6 vote.

Next week senators will be in session on Tuesday, Wednesday, and Thursday. Afternoon committee hearings will conclude next week. The legislature has scheduled recess days next Monday, February 26th and Friday, March 1st, this may be a time when senators are back in their districts and available for local meetings. The legislature is scheduled to begin full-day debate on Monday, March 4th.

Committee Action

LB 1368 - To adopt the Nitrogen Reduction Incentive Act. Ibach. Ibach Priority.

The Agriculture committee reported the advancement of LB 1368 to General File on February 21st following a 7-0 committee vote.

The bill proposes to create the Nitrogen Reduction Incentive Act to encourage farmers to adopt efficient and sustainable practices to help Nebraska protect land and water resources and position our farmers to compete.

The bill requires that a commercial fertilizer rate reduction from historic baseline use shall be completed to qualify for the program. The purposes of the program are to:

- (a) Provide incentive payments to farmers; and
- (b) Encourage farmers to (i) reduce the use of commercial fertilizer and (ii) incorporate innovative technology into farming practices, including the proper use of biological nitrogen products.

The program would provide an annual per-acre incentive for any farmer who verifies through documentation that commercial fertilizer rates were reduced by the lesser of 25 pounds/acre for nitrogen or 15% by incorporating a qualifying product in the farmer's nutrient plans.

The department shall not award more than \$5 million in incentive payments in total per year under the nitrogen reduction incentive program.

The program would be administered by the Department of Natural Resources. The department shall adopt and promulgate rules and regulations that adopt a standard for labeled products to qualify for the nitrogen

reduction incentive program and may adopt and promulgate rules and regulations to carry out the Nitrogen Reduction Incentive Act.

The department shall:

- (a) Collaborate with natural resources districts to add any new technology to the program as it becomes available. Such technology shall replace nitrogen fertilizer use and maintain farm productivity;
- (b) Identify geographically beneficial target areas while keeping the program open to all farmers in the state;
- (c) Consult with farmers and commercial entities in the agriculture industry to determine a per-acre payment rate tied to the commercial rate reduction but not less than \$10 per acre; and
- (d) Review the per-acre payment rate based on inflation or emerging technology in renewing years.

The nitrogen reduction incentive program would terminate on December 31, 2029.

The Agriculture Committee held the hearing on LB 1368 on February 13th.

Sen. Ibach opened the hearing by thanking those supporting the bill, including several ag groups and NARD. Sen. Ibach outlined provisions of the bill and noted the intent is to encourage farmers to adopt efficient and sustainable practices that will enable them to compete globally and win the race to adopt innovative products. This is the start of a bigger discussion in the months ahead. The sunset is included as this is intended to be an incentive starter, further recognizing that \$5 million is just a start. Sen. Ibach suggested exploring other funding sources including WSF, corn checkoff, NET, and other funding options, but we want to move quickly. By being proactive, farmers can be in the driver seat of this important issue. Sen. Ibach asked the committee to consider making the measure a committee priority bill.

Sen. Hughes asked if the focus will be on areas with higher nitrates or how the funds would be distributed? Sen. Ibach noted it'd be up to NeDNR to decide, but the goal is to open it up to all farmers across the state.

Sen. Reipe discussed his concern over the health risks from nitrates and asked if switches from crop rotation to corn on corn has made an impact? Sen. Ibach discussed that addressing soil health is a big piece to addressing the problem and research shows that biologicals and soil health can reduce the amount of synthetic nitrogen needed. Sen. Reipe also expressed a desire to see additional education incorporated.

Proponents

Lyndon Vogt, General Manager Central Platte NRD, testified in support on behalf of NARD. Nebraska has more irrigated acres than any other state in the nation. Irrigation allows us to have a very stable crop yield on nearly 9 million acres. Applying extra fertilizer and water have been considered cheap insurance to guard against yield loss. The downside of that thought process is the increasing nitrate levels in the soil and waters of the state.

Many NRDs have worked with UNL and other professionals to educate producers on proper timing, placement and amounts of nitrogen applied to improve yields and profitability, while also reducing the risk of contamination. CPNRD, in conjunction with UNL, has the longest on farm research project addressing nitrogen rates in the nation. This relationship has lasted over 44 years and is still going strong.

The NRDs need assistance in getting the majority of producers to adopt new practices and products while lowering their actual nitrogen applied. There are two options when implementing change, incentives or regulations. In my opinion regulations are much more expensive than incentives, and once implemented regulations rarely end. Financial incentives will be imperative to getting producers to change their current practices and help protect our water quality.

There are biological products that can assist in reducing nitrogen rates, as long as the products are used correctly, and the amount of nitrogen applied is reduced by the suggested amount.

There is also new sensor-based imagery via satellites that has become available in the last few years that recognizes when the crop is lacking nitrogen so the crop can be spoon fed during the growing season. This reduces over application and leaching of nitrogen. The CPNRD began cost sharing on sensor-based technology for nutrient applications last year. The majority of producers participating in this program are more profitable per acre as a result of reduced N application and stable yields. On average, profitability increased over \$27 per acre and nitrogen applied decreased by over 40 pounds per acre. In some cases, nitrogen applications decreased over 90 pounds per acre with no yield loss. This technology replaces an algorithm that results in a different amount of needed nitrogen by every entity selling nitrogen and making recommendations to producers.

CPNRD has required crop reports in our high nitrate areas since 1987. These reports include soil and water samples to account for all nitrogen sources available and all results are fed into the UNL algorithm to show producers what the UNL recommended amount of nitrogen is to produce the desired crop yield. If a producer is profitable, it is very difficult to convince them they can be more profitable by making small changes even though on farm research shows that most producers over apply nitrogen.

It is time for the State of Nebraska to recognize the high nitrate issues we face in the heavily irrigated areas of the state and begin to assist the NRDs and producers in addressing this issue with the latest technologies and financial assistance to implement these programs.

If this bill moves forward the NRDs will work diligently with NeDNR in creating new incentive-based nitrogen management programs with a focus on the higher nitrate areas of the state.

Hank Robinson, Aksarben Foundation & Full Value Ag, testified in support and discussed that sustainability can mean many things, but it usually comes down to carbon intensity, nitrogen management, and water management. Robinson outlined that 1.8 billion bushels of corn were produced in the state last year and anything farmers can do to reduce reliance on nitrogen also improves carbon intensity. Companies and agribusiness benefit through use of biologicals and timing split applications. Additionally, broadly adopted practices drive down carbon-intensity scores, allowing elevators and co-ops to use them in market negotiations. The sunset is fine as following the incentives, eventually the market will drive these practices. The bill mitigates risk for producers as they shift to new practices. Robinson discussed that he is open to working with anybody to see if they can expand the reach beyond 500,000 acres. This effort would drive price support in contracts for lower carbon products.

Sen. Holdcroft asked for examples of synthetic vs biological nitrogen sources? Robinson discussed that 40% of the production of anhydrous contributes to the footprint of corn. Biologicals are naturally occurring allowing microbes to fix nitrogen from atmosphere. Various delivery methods exist for biologicals, the most common in Nebraska being seed coating.

Sen. Hughes asked what other funding sources may be available? Robinson discussed that one way to incentivize producers may be a property tax refund for adopting practices.

Claudia Stevenson, League of Women Voters of Nebraska, testified in support. Her testimony highlighted that Nebraska has the highest rate of pediatric cancer and high nitrate is the cause based on research. Too much fertilizer is applied to crops in Nebraska. Reducing fertilizer use without hurting yield is required. Golf courses should also be considered.

Katie Torpy, The Nature Conservancy, testified in support outlining the environmental and health concerns related to nitrogen pollution. This bill would help mitigate risk as farmers are transitioning and incentives are required due to an engrained culture. There is a need to support private landowners and producers with

technical and financial assistance. If looking at NET for funding, they would request its supplementary and urged that the application process for funds needs be respected.

Al Davis, Nebraska Sierra Club and Independent Cattlemen of Nebraska, testified in support also outlining concerns over nitrogen pollution. This is a great pilot project to address the issue, but the concern is if incentives would produce concrete results. NRDs are the perfect candidate to administer this type of program in partnership with extension. Echoed that NET funding application process should be followed.

Ken Winston testified in support outlining that groundwater is something to be proud of and Nebraska is the envy of other states in how we protect it. Tools have been provided through the years to NRDs but more needs to be done. Recommendations to make sure technology is vetted. Make sure there are additional incentives for people stopping fertilizer and expanding education.

John Hansen, Nebraska Farmers Union, testified in support discussing this is a step in right direction to address nitrate pollution. Despite working on this issue for over 40 years we are continuing to overapply. Utilizing a pilot project to educate and incentivize is the best process for getting conservation implemented in ag. This is a good time to augment federal sources of funds.

Sen. Halloran used questioning with Hansen to highlight how he feels there is a conflict with NRDs that restrict pumping of water to save the aquifer. Noting that restricting water pumping is a conflict in policy because one of the best ways to get rid of nitrate is to pump it and use it, and now that ability is being restricted by NRDs.

Craig Derickson, retired USDA employee, testified in support and discussed that the demand for resources has not peaked and the goal of sustainable and regenerative agriculture should be to allow future generations to meet their own needs. There is growing interest in cost-effective practices that improve water quality including no-till and cover crops. Currently requests for money for cost-share generally exceeds what is available by 3 or 4 times.

Opponents – There was no opposition testimony.

Neutral

Edison McDonald, GC Resolve, testified in a neutral capacity and outlined the health and environmental threats from nitrogen pollution. Appreciate Sen. Ibach's intent, but improvements could ensure the issue is addressed properly. The bill should target areas and require coordination with NRCS and NDEE. The inclusion of biological products presents concerns and concern over future unknown impacts of those products.

In closing, Sen. Ibach reiterated this is the start of a very important conversation that will impact Nebraska for many years. Ibach addressed Sen. Huges question about cost of products, noting currently it cost around \$325 ton for anhydrous and biologicals are sold by the acre and average \$22 per acre, many farmers use both. Sen. Ibach discussed that if we don't step up and address the issue, we lose control of who will. Sen. Ibach noted she has visited with several NRDs and they're doing an incredible job of monitoring and understanding how we can impact our groundwater.

Sen. Hansen asked if the is goal reduction in nitrogen in groundwater and if Sen. Ibach would be in favor of regulating nitrogen use? Sen. Ibach responded that the goal has to be to reduce nitrogen and this is a proactive step to a long-term solution. Sen. Ibach also noted she doesn't ever want to have to monitor how farmers and ranchers manage their operation, rather we become successful by giving them the ability to manage with best practices. Products and innovation will become the norm and farmers will use it.

Position comments submitted for the record included 10 proponents and two opponents.

LB 1243 - Adopt the Wildland Fire Response Act. McDonnell.

The Government Committee reported the advancement of LB 1243 to General File on February 23rd on a 7-0 vote following the adoption of a committee amendment (AM 2620). The amendment adds reference to the title of the act in a statute setting out duties of the State Fire Marshal.

The bill creates the Wildland Incident Response Assistance Team within the office of the State Fire Marshal for the purposes of providing assistance or guidance to any individual or entity that is attempting to prevent, control, suppress, or otherwise mitigate a wildland fire.

Under the bill, the State Fire Marshal shall serve as the coordinator of the Wildland Incident Response Assistance Team and shall:

- (1) Establish squads within the team and select a squad leader and squad members for each squad. The State Fire Marshal may consult with the State Forester when establishing a squad, selecting a squad leader, or selecting a squad member. The State Fire Marshal is limited to selecting squad leaders and squad members from employees of the State Fire Marshal and employees of the Nebraska Forest Service;
- (2) Maintain a roster of all individuals who are a part of the Wildland Incident Response Assistance Team; and
- (3) Establish standards for the operation, training, equipment, and administration of the Wildland Incident Response Assistance Team. It is the intent of the Legislature that such standards should comply with the standards established by the National Wildfire Coordinating Group or its successor.

A squad leader or squad member of the Wildland Incident Response Assistance Team shall have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to employment of such leader or member by the State Fire Marshal or the Nebraska Forest Service.

The Government Committee held the hearing on LB 1243 on February 22nd.

Sen. McDonnell opened the hearing by outlining provisions of the bill and discussing the need based on the recent increase of wildland fire frequency and intensity. He noted that while participating in the Governors Summit and LR 156 discussions over the last year, the key takeaways were the need for deeper focus on support provided to firefighters while fighting the fires. Sen. McDonnell also outlined an amendment that would add one position to specifically oversee the Wildland Incident Response and Assistance Team (WIRAT).

Proponents

Scott Cordes, Nebraska State Fire Marshall, testified in support of the bill noting the current team is designed to help support local teams. WIRAT activation can be requested through NEMA. The team serves in a technical advisory role. The WIRAT team members are employed in other areas and deployment requires significant cost in over-time.

Pat Gould, Chadron Volunteer Fire Department, testified in support noting the WIRAT team was started in 2002. The team is needed to help coordinate resources when volunteers are working outside normal mutual aid districts. The needs extend beyond the ability of local fire chiefs to coordinate and schedule. The bill would help streamline the process of asking for federal resources.

Kenny Krause, Nebraska State Volunteer Firefighters Association, testified in support noting the value of wildland fire training provided by the Nebraska Forest Service. Krause provided examples of fires in his area that were more than the local resources could handle, noting the benefits and impact that WIRAT provides.

Wesley Hock, Volunteer Firefighter, testified in support noting success of working with the WIRAT team on fighting past fires.

Devin Luvegrand, Fairbury Rural Fire District, testified in support noting the importance of having adequate training and tools to combat wildland fire. This bill would solidify tools necessary to continue to ensure WIRAT can continue to be a resource.

Steve Oseka, Platte Valley Twin Loups Task Force, testified in support noting his task force team is a resource that can be called in by WIRAT. Their task force team consists of 17 departments combining to operate six trucks. WIRAT has knowledge and resources to support local resources and assist with incident command centers.

John Bomar, Nebraska State Volunteer Association Member, testified in support noting wildland fire issues are spreading to new parts of the state.

Jerry Stilmock testified in support on behalf of the Nebraska State Volunteer Fire Fighters Association, the Nebraska Fire Chiefs Association and the Nebraska Association of Resources Districts. His testimony noted that the first responder summit last summer included extensive discussion about the value and impact of the WIRAT team. The team needs a coach or a captain to help facilitate coordination of the team and resources.

Opponents – There was no opposition testimony.

Neutral

John Erixson, Director of Nebraska Forest Service, testified in a neutral capacity on his own behalf. His testimony included a summary of the history of large wildfire seasons in Nebraska, noting fire seasons are getting closer together and spreading across the state. Members of the WIRAT team include NFS staff and these team members are highly trained operating under national standards and qualifications. Sometimes out of state assignments are required for classes and training.

Sen. McDonnell closed by noting the new person added under the amendment would be under the Nebraska State Fire Marshall.

Position comments were submitted for the record by seven proponents.

LB 925 - Adopt the Firearm Industry Nondiscrimination Act. Aguilar.

The Government Committee reported the advancement of LB 925 to General File on February 23rd on a 5-0-2 vote following the adoption of a committee amendment (AM 2548). The amendment excludes bonding, securities, and deposit of public funds from the restrictions of the bill and clarifies the standard to be applied when no vendor is available who can meet the certification requirements of the bill.

The bill would prohibit state agencies and political subdivisions from entering a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it:

- (a) Does not have a practice, policy, guidance document, or directive that discriminates against a firearm entity or firearm trade association; and
- (b) Will not discriminate against a firearm entity or firearm trade association during the term of the contract.

The requirements of the act would not apply if a governmental entity:

- (a) Contracts with a sole-source provider; or

- (b) Does not receive a bid from a company that is able to provide the written verification.

Firearm entity is defined in the proposal as:

- (a) A firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler, supplier, or retailer; or
- (b) A gun range.

Firearm trade association is defined in the proposal as any person, corporation, unincorporated association, federation, business league, or business organization that:

- (a) Is not organized or operated for profit and for which none of its net earnings inures to the benefit of any private shareholder or individual;
- (b) Has two or more firearm entities as members; and
- (c) Is exempt from federal income taxation under section 501(a) of the Internal Revenue Code of 1986, as an organization described by section 501(c) of such code.

A contract is defined as a promise or set of promises constituting an agreement between the parties that gives each a legal duty to the other and the right to seek a remedy for the breach of those duties. The term does not include an agreement related to investment services.

The Government Committee held the hearing on LB 925 on February 1st.

Opening on the bill, Sen. Aguilar outlined how the bill would prohibit state and local governments from entering into contracts with companies that have policies discriminating against firearm and ammunition industries. Financial and insurance industries are using their power to financially cripple ammunition and shooting sports industries. Private corporations are using their power to restrict constitutional right and this policy would shed light on those organizations.

Sen. Aguilar offered an amendment that provides that government entities may still use companies that offers a bid because no other reasonably competitive alternative exists and the duties could not be met through other means.

Proponents

Nephi Cole, National Shooting Sports Foundation, testified in support outlining that companies making a choice to restrict the Second Amendment should have to tell you that, and when the state can, you should do business with someone else. Members have a history of being discriminated against by banking and insurance industries through denial of services. Additionally, companies have been penalized for doing business with member companies.

Ken Schilz, National Shooting Sports Foundation, testified in support and discussed how this legislation would protect Nebraska's long standing culture of shooting sport activities. This bill provides transparency necessary to ensure Nebraska does business with those whose view aligns with those of the state.

Steve Hornady, Hornady Manufacturing, testified in support of the bill noting discrimination has been implemented at the highest levels of government. Five states have already passed similar legislation and several are currently considering similar measures. Financial discrimination directly impacts the more than 1,200 employees at their company. His company has experienced credit card processing discrimination and increased fees because of the class of business. They've been cancelled by insurance carriers due to woke policy and discriminatory reasons against the industry.

John Heaston, Nebraska Sportsman Foundation, testified in support noting Nebraska is great place to hunt and trap and it has fueled industries that bring countless dollars to our state. These companies provide

critical products and are great ambassadors for our state. Heavy political pressure has led banks to circumvent firearm industry and this has become an avenue for them to target.

John Ross, NRA member and volunteer Hunter Education Instructor for Game & Parks, testified in support. People in this state do not want the Second Amendment trampled on. We need fair laws to protect all the lawful businesses in this state.

Opponents

Robert Bell, Nebraska Insurance Federation, testified in opposition. Many local insurance companies have reinsurance insurance with nationwide holders and believe this bill could shrink the pool of insurance companies available to do business with. Insurance companies have various reasons/policies for who they provide insurance for. Due to the paperwork that the bill is asking there is concern about a perceived notion that the insurance company could be discriminating and might get complaints against them and are not comfortable with that risk.

Robert Hallstrom, Nebraska Bankers Association, testified in opposition noting this bill is a solution in search of a problem and this is not a problem in Nebraska. Banks do not want the government telling them who they should and should not be doing business with. There is a difference between risk and discrimination. Some bankers and insurance companies are not willing to take on the risk, but that does not mean they are discriminating.

Position comments submitted for the record included eleven proponents and seven opponents.

Sen. Aguilar closed by noting this is a simple bill about fairness and discrimination. If you are an insurance or financial institution and you are not being discriminatory, you have nothing to worry about. This is targeted toward the bad players.

The committee reported no action on the measure.

Committee Hearings

LB 1080 - Appropriate Federal Funds to the Department of Natural Resources. Holdcroft.

The bill proposes \$10 million to the Department of Natural Resources for the purpose of providing state aid for a grant to an entity within a county with a population exceeding one hundred thousand inhabitants formed pursuant to the Interlocal Cooperation Act for the purpose of funding a portion of the cost of a wastewater system.

The Federal Funds appropriated in the bill are from the unexpended and unencumbered appropriation balances of the Federal Funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021.

The bill also includes an emergency clause.

The Appropriations Committee held the hearing on LB 1080 on February 21st.

Sen. Holdcroft opened by noting the bill was brought by Sarpy County and would provide funding for the wastewater system only if unused ARPA funds become available. To date the project has been funded \$120 million locally. This facility would allow for economic development that would generate \$15.8 billion in additional state revenue.

Proponents

Mike Evans, Mayor for the City of Gretna, testified in support noting that funding provided by the legislature last year was used for the eastern portion of the wastewater segment. These new funds would be used for the western portion of the wastewater project. He noted this addresses an immediate need and the revenue collected from the project would ripple across the state. Developers are waiting for this project and returns will be immediate.

Dan Hoins, Administrator for Sarpy County, testified in support outlining that Sarpy County could levy property tax for the project, but they are halfway through the project and don't anticipate needing to levy property tax. He highlighted that 88,000 of 159,000 acres in the county are not urbanized due to lack of wastewater infrastructure. This project would build out about half of the unserved area. The \$10 million in funds provided last year helped, but that went to assist with the \$120 million project funded just this year, and there is no funding for phase 2 of the plan which includes reaching Gretna and merging the systems to keep up with the growth.

Opponents – There was no opposition and no neutral testimony.

In closing, Sen. Holdcroft reiterated the need to keep up with the growth and opportunities in Sarpy County. This is not a shovel-ready project, this is a shoveling project.

Position comments were submitted for the record by one proponent.

The committee reported no action on the measure.

LB 1205 - To appropriate Federal Funds to the Department of Natural Resources for wastewater; and to declare an emergency. Hughes.

The bill appropriates \$20 million from Federal Funds for FY2023-24 to the Department of Natural Resources for the purpose of providing state aid for a grant to a city of the first class located in a county with less than 20,000 inhabitants which is in a metropolitan statistical area, with more than 300,000 inhabitants for the purpose of funding a portion of the cost of a wastewater system.

The Federal Funds appropriated in this section are from the unexpended and unencumbered appropriation balances of the Federal Funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund.

The bill also includes the emergency clause.

The Appropriations Committee held the hearing on LB 1205 on February 21st.

Sen. Hughes opened by noting the City of Seward did not ask for this bill to be introduced; however, this is a measure of last resort that she decided to pursue to fund their wastewater system. The current system is faced with a difficult choice of continuing with the current system that would limit growth and regulatory compliance or proceed with new project with the highest rates in the state.

Proponents

Josh Eckmeier, Mayor for the City of Seward, testified in support of the bill. Seward is growing consistently at 1% a year. They had planned construction for their wastewater project in 2019 and then COVID hit and post COVID their \$12 million project had inflated to \$32 million. They're not asking for a free wastewater system, instead they're asking for funds to offset the increase in costs that were outside of their control. To date, Seward has spent \$1.3 million to design the project and if the funding request was approved, they could break ground yet this year, with a two-year timeline for completion.

Jonathan Jank, Seward County Chamber, testified in support of the bill noting the economic impact a new wastewater system would have on the community.

Kris Bousquet, Nebraska Ag Leaders working group, testified in support of the bill highlighting that food supply companies are looking for growth opportunities. The dairy industry processors are evaluating Nebraska communities and identifying locations for facilities but the #1 limiting factor is the availability of wastewater services. This bill would support a community with a significant need and have an impact on citizens and potential new businesses.

Opponents – There was no opposition and no neutral testimony.

In closing, Sen. Hughes again thanked the committee and discussed the impact the project would have on the community and the state.

Position comments were submitted for the record by three proponents.

The committee reported no action on the measure.

LB 1244 - Appropriate Federal Funds to the Department of Natural Resources. McDonnell.

The bill proposes to appropriate \$34,080,000 from Federal Funds for FY2023-24 to the Department of Natural Resources for the purpose of providing state aid to a natural resources district which contains a city of the metropolitan class for vital flood control projects in the geographic area served by the natural resources district in which the city of the metropolitan class is located.

The Federal Funds appropriated in this section are from the funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund.

The Appropriations Committee held the hearing on LB 1244 on February 21st.

Sen. McDonnell opened on the bill by noting it was brought by the Papio-Missouri River NRD. He outlined provisions of the bill and discussed the unused ARPA funds would contribute to seven flood control projects across the Omaha metro area.

Proponents

John Winkler, General Manager Papio-Missouri River NRD, provided testimony in support of the bill on behalf of NARD. Winkler opened his testimony by thanking Sen. McDonnell for introducing the bill. Quite simply LB 1244 would appropriate \$34,080,000 of un-used federal funds to the Department of Natural Resources program 314 for the purpose of providing state aid to a natural resources district which contains a city of the metropolitan class for the construction of vital flood control projects. Winkler's testimony included a detailed list of flood control projects the funds would be utilized to construct.

The reservoir projects have been decades in the planning, design and engineering phase and the majority of the land rights have been secured. The balance of the projects are important maintenance issues that includes storm culvert and dam rehabilitation, and creek bank stabilization projects. All of the projects on the list can be completed by the federally mandated deadline of December 31, 2026.

Winkler closed his testimony by noting that while the bill requests \$34 million, they understand the needs of the state and would utilize any funds that could be provided from unused ARPA funds.

Sen. Erdman asked about 2019 flood damage. Winkler discussed that the majority of the metro area infrastructure was protected. A majority of the damage was along rivers outside the metro where little infrastructure existed.

Sen. Erdman asked about the selling of lots around reservoirs? Winkler outlined the district doesn't sell lots - they only purchase land needed for the project. However, private landowners outside of the project can do what they want with the land, including selling for development if they so choose.

Sen. Erdman asked about the use of eminent domain. Winkler discussed that it would not be needed for these projects and historically the board has only used it very sparingly when absolutely necessary. Sen. Clements asked for a priority of projects and Winkler noted he would provide that.

Opponents

Shawn Melotz, testified in opposition on behalf of the Papio Preservation Association. Their organization is opposed to building flood control structures and claimed the NRD is only building lakes for developers.

Grant Melotz testified in opposition and noted there has been no flooding in the Papio creek.

Tyler Mohr testified in opposition and told the committee the NRD is only building dams for real estate developers.

Sen. McDonnell waived closing and there were no online position letters submitted for the record.

The committee reported no action on the measure.

LB 1287 - Appropriate Federal Funds to the Department of Environment and Energy for drinking water infrastructure. Ballard.

The bill appropriates \$750,000 from Federal Funds for FY2024-25 to the Department of Environment and Energy to provide grants to villages and cities of the second class for the purpose of upgrading drinking water infrastructure.

The Federal Funds appropriated in this section are from the balances of the Federal Funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund.

The Appropriations Committee held the hearing on LB 1287 on February 21st.

Sen. Ballard opened on the bill by discussing that when going door to door citizens of Waverly discussed water as one of their greatest concerns. Access to quality water is an issue that is not going away and this is just a start.

Proponents

Abbey Pascoe, City of Waverly, testified in support of the bill discussing how the ongoing drought has impacted the City of Waverly. Water emergency was enacted last summer. Waverly has completed a water distribution study and is rehabbing seven of eight wells and adding an additional well. Money was not budgeted due to unknown and unexpected drought and unforeseen lack of recharge of the Ogalla aquifer.

Sen. Clements asked if they have considered connecting to Lincoln. Pascoe discussed they are having those conversations but it's a long process.

Opponents – There was no opposition and no neutral testimony.

In closing, Sen. Ballard discussed that the ability to connect to Lincoln's second water sources could be part of the equation.

Position comments were submitted for the record by one proponent.

The committee reported no action on the measure.

LB 1335 - To change provisions of and provide duties and exemptions from the Nongame and Endangered Species Conservation Act. Moser. Moser Priority.

The bill proposes that the Nongame and Endangered Species Conservation Act does not apply to any action of an exempted party in furtherance of its lawful duties associated with designing, constructing, reconstructing, repairing, operating, or maintaining transportation infrastructure.

Exempted party is defined in the bill as any state agency, political subdivision, or any agent, employee, consultant, or contractor of any state agency or political subdivision.

Transportation infrastructure includes any:

- (a) Road, street, highway, or any right-of-way of a road, street, or highway;
- (b) Interdependent or interrelated contractor use site;
- (c) Actions permitted by a state agency or political subdivision within any road, street, highway, or right-of-way of any road, street, or highway controlled by the state agency or political subdivision;
- (d) Pedestrian or bicycle trail, lane, or bridge;
- (e) Technology with the primary purpose of benefiting the traveling public; and
- (f) Broadband infrastructure placed by the Department of Transportation.

The Nongame and Endangered Species Conservation Act would apply to any initial action of any exempted party that creates new transportation infrastructure on areas not previously dedicated to the exempted party's lawful duties or any subsequent action that increases the area of existing transportation infrastructure.

The Natural Resources Committee held the hearing on LB 1335 on February 21st.

Opening on the bill, Sen. Moser indicated this is his priority bill. Sen. Moser noted this bill was brought to him by the Nebraska DOT. He noted the bill balances environmental stewardship and the importance of transportation infrastructure that the state needs. The current law is currently more restrictive than the federal law and has fewer tools for balancing the opposing sides. He gave the example of an 80-foot right-of-way times a mile is about 10 acres. If you have to offset that by a two-to-one ratio you would need 20 acres to balance the environmental impact of the infrastructure. Thus, 20 acres would be a conservation easement in perpetuity.

Proponents

Khalil Jaber, Deputy Director of Engineering for Nebraska DOT, testified in support. He noted we need to address the Nongame and Endangered Species Conservation Act (NESCA) to better address transportation infrastructure. He said it is the stricter NESCA language that impacts project delivery and NDOT feels this bill balances their commitment to the environment and the safety of the traveling public. He noted the bill will help NDOT meet their fiscal responsibility to the taxpayer. He said the bill allows existing infrastructure and roadway corridors to be used for their primary purpose. He noted that if not changed, the current law will continue to drive costs up for roadway infrastructure.

He answered questions from senators including why is the bill a priority now if it's been a law since 1975? Jaber indicated it is because the list of species is always changing and depending on the species on the list it can be significant costs to do the consultations for the species. They do approximately 400 projects a year

and the species can change depending on the part of the state. They are hearing about Monarch Butterflies that might be listed next year and then they will have to deal with that. Jaber noted that by bringing the political subdivisions into the mix, we want to exempt them so if they are applying for funds they can improve their infrastructure without the hurdle. They still have to qualify under the federal requirements.

Katie Wilson, Executive Director with the Association of General Contractors of America - Nebraska Chapter, testified in support. This bill strikes the right balance between infrastructure and the environment that makes our state great. The project will still be subject to review initially but will not require further review when the road is upgraded, added to, etc.

Lash Chaffin, League of Nebraska Municipalities, testified in support. He noted the public is very frustrated that road projects take so long – years from inception to completion. He noted that there are numerous environmental laws that the city, state and federal governments have to comply with and anything that can be done to make these laws more streamlined to reduce project time is valuable.

Elaine Menzel, Nebraska Association of County Officials, testified in support. She noted that this could potentially make things easier for counties with infrastructure projects.

Thomas Schafer, Assistant Director of Transportation for the City of Lincoln, testified in support. He noted this bill promises a more streamlined, cost-effective manner to complete projects. This bill strikes a balance between transportation and conservation of our resources. Every project, we have to fill out paperwork to prove that we aren't impacting a species.

Opponents

Kristal Stoner, Audubon Great Plains, testified in opposition. She noted it has always been a debate – what is more valuable, the road or the species? She noted she found only two projects where this has come into play – the Columbus Bypass where there were orchids in the right-of-way and the Heartland Expressway where there were foxes. She added that if DOT destroys habitat, they should have to put it back to how it was. She doesn't believe this bill achieves the goal the DOT is trying to achieve.

John Cougher, The Nature Conservancy of Nebraska, testified in opposition. It's important to the state's economy to keep threatened species from moving onto to the endangered list. The rights-of-way provide habitat for species and classifying them as manmade isn't going to improve the situation.

Cindy Veys, citizen and former NDOT environmental section employee, testified in opposition noting no state agency should be exempt from this law, instead they should be leaders in accommodating it.

Kimberly Stuhr, Nebraska Wildlife Federation, testified in opposition and outlined the success of the current Nebraska Endangered Species Act. She noted the need to protect endangered and at-risk species and state agencies should be held to the same standards as others. Saving the state money now may cost more in recovery and rehab costs.

Kai Adams testified in opposition as an individual and discussed the environment is important and we can't destroy it to save money.

Neutral

Al Davis, Nebraska Sierra Club, testified in a neutral capacity. He discussed that is his understanding that this does not attempt to circumvent federal law but would still require an assessment and that is their reason for neutral testimony. He suggested more specific language be included to clearly determine what is required and what is omitted from permits. Additionally, he asked for clarification as the bill is silent on private roads and what protections are available for private roads.

Tim McCoy, Director NGPC, testified in a neutral capacity noting that his agency and other state agencies work together as partners to move projects forward efficiently under NESCA. These changes will only apply to state listed species, which includes 16 of the total 32 listed species. McCoy raised questions about independent sites and requested the committee give further consideration to exempted parties. He requested the committee add language that requires applicants to attempt to minimize impacts to species and complete restoration efforts to benefit the species in the long run. Additionally, they would like language requiring a mandatory to consult so they could work with the involved parties to identify and minimize impacts.

Position comments were submitted for the record by 7 proponents and 6 opponents.

Sen. Moser closed by discussing that he'd continue to work with all parties and agencies to reach a consensus. However, he does not believe the state act should be a more cumbersome process than what the federal act requires.

The committee reported no action on the measure. Sen. Moser has declared the bill his personal priority bill.

LB 1277 - To change provisions relating to emergency proclamations made by the Governor. Wayne.

The bill allows the Governor to issue an emergency proclamation for multiple counties when requested by any political subdivision of the state that supplies electricity, natural gas, water, or sewer service.

The request would be for any disaster, emergency, or civil defense emergency. The request may be made directly to the Governor without first requesting such an emergency proclamation from a county or any other governmental entity.

The Government Committee held the hearing on LB 1277 on February 23rd.

In his opening, Senator Wayne highlighted how this bill aims to streamline procedures for political subdivisions providing utility services, particularly in response to ice jams on the Platte and Missouri River. Currently, these entities are required to request emergency proclamations through county government, causing delays in critical situations such as ensuring the availability of water intakes for entities like OPPD. The proposed legislation seeks to eliminate the need for political subdivisions to go through county government for emergency requests, allowing them to directly request emergency proclamations, when necessary, thus expediting response efforts and ensuring the continued provision of essential utility services.

Proponents

Tonya Ngotel provided testimony in support of the bill on behalf of OPPD and MUD. Her testimony highlighted how the 2022 ice jams impacted the ability to intake water and limited electricity generation, however an emergency declaration could not be declared without working through a process with 13 separate counties. Ngotel emphasized that allowing utility companies to directly request emergency resources would streamline response efforts, reducing delays and ensuring more efficient allocation of resources. Additionally, the proposed change would shift the responsibility for emergency response from counties to utility companies like OPPD, enabling them to better manage and coordinate emergency situations.

John Hansen, President of Farmers Union, supports the proposed bill as a simple way to speed up the approval process for emergency designations. Recognizing the increasing frequency of natural disasters such as high winds, wildfires, and flooding, Hansen emphasizes the critical need for speedy responses in handling these events. He believes that the bill provides a simple yet effective means to accelerate the rate at which timely emergency designations can be obtained.

Opponents

Maj. General Craig Strong of the Nebraska National Guard testified in opposition, expressing concerns about its potential impacts on emergency management procedures. Gen. Strong highlighted that OPPD and other

public power partners are already established as partners in emergency response efforts. He argued that the bill would create a new emergency hierarchy, disrupting the existing framework where political subdivisions work through and with local government entities. He warned that if the bill passes, multiple requests could originate from a single county, leading to inefficiencies and circumventing established government hierarchies.

Furthermore, Gen. Strong supports the current system of political subdivisions collaborating with local government for emergency management. He cautioned that the proposed change could result in slower response times by allowing requests to bypass the usual route, ultimately leading to delays in receiving necessary assistance. He sees the bill as a solution in search of a problem, asserting that it undermines the existing emergency management framework in Nebraska.

Ervin Portis, Assistant Director of NEMA, presented two main reasons for opposing the proposed bill. First, he argued that it is not consistent with the national emergency management system. Second, he contends that the bill is unnecessary due to the existence of a statute that already addresses the issue at hand. Portis emphasized the state's role in supporting local governments and highlighted the longstanding use of the existing emergency management system in Nebraska, which has been utilized nationwide for decades. He raised concerns about the potential implications of the bill on interjurisdictional coordination and FEMA's calculation of damages, particularly regarding the requirement to show damages on a per-county basis. Portis questioned whether the bill would facilitate a quicker response in an emergency, asserting that it could actually slow down response efforts by bypassing local resources. He advocated for the utilization of local resources first before seeking state assistance, expressing concern that direct requests to the governor from political subdivisions may overlook this important step.

Amanda Burki from the NE Association of Emergency Management testified in opposition emphasizing the importance of open dialogue among political subdivisions to ensure awareness of available resources. She highlighted the principle that all disasters begin and end locally, stressing the critical role of local knowledge and preparedness in emergency response. Burki expresses concern that some political subdivisions may lack an understanding of the resources at their disposal, urging them to exhaust all available resources before seeking additional assistance.

Burki noted that the National Incident Management (NIM) signed by Governor Heineman in 2004 requires a local county plan. That is the starting point for emergency disaster assistance.

Beth Bazyn Ferrell on behalf of NACO. She noted there are county emergency management plans already in place for each county as required under NIM. These plans include a contact person to coordinate the actions to implement responses to a disaster.

The committee reported no action on the measure.

Committee Hearings Scheduled Next Week

A complete outline of rules for hearings and submitting position comments also be found at: [Nebraska Legislature - Public Input Options](#)

If you are not testifying in person at a public hearing on a bill or resolution and would like to submit written comments to be included in the official hearing record as an exhibit, you will find a link to submit your comments online on the chamber viewer page for each bill or resolution. Online submitted comments for the public hearing record as an exhibit may be submitted once a bill has been scheduled for public hearing up until 8:00 a.m. CST on the day of the public hearing. Comments must be verified through a confirmation returned from the email address provided by the submitter. Verification must be completed prior to the 8:00 a.m. deadline.

In order to facilitate public input on legislation, a feature was added to the Nebraska Legislature's website for submission of written comments on pending legislation on the Legislature's website at any stage of the process. (To access this feature, search for the bill you wish to submit a statement on and click the corresponding button near the top of the bill page.) This feature will appear once a bill has been scheduled for a public hearing.

Thursday, February 29th

Government, Room 1507 - 1:30 PM

LB 1417 - Create, eliminate, terminate, and provide, change, eliminate, and transfer powers, duties, and membership of boards, commissions, committees, councils, task forces, panels, authorities, and departments and change and eliminate funds. Brewer, At the request of the Governor.

The bill eliminates various boards and commissions and creates a couple of new boards to assume multiple duties.

Effective July 1, 2025, the bill creates the Board of Abstracters and Appraisers to assume the duties of the following, which are terminated:

- (a) The Abstracters Board of Examiners;
- (b) The Real Property Appraiser Board; and
- (c) The duties of the board of appraisers

Effective July 1, 2025, the Capitol and Hall of Fame Commission is created to assume the duties of the following, which are terminated:

- (a) The Nebraska Capitol Commission;
- (b) The Nebraska State Capitol Environs Commission;
- (c) The Nebraska Hall of Fame Commission; and
- (d) The Governor's Residence Advisory Commission.

The Commission for K-12 Education is created to take over the duties of:

- (a) Assist the State Board of Education in teacher education and certification matters;
- (b) Take over the duties of the Nebraska Elementary and Secondary School Finance Authority;
- (c) Take over the duties of the Educational Service Unit Coordinating Council; and
- (d) Take over the duties of the State Council on Educational Opportunity for Military Children and the Interstate Compact on Educational Opportunity for Military Children.

The following are eliminated effective July 1, 2025, and duties merged to the Environmental Quality Council include:

- (a) The Advisory Council on Public Water Supply; and
- (b) The Private Onsite Wastewater Treatment System Advisory Committee.

Some of the other boards /commissions eliminated effective July 1, 2025, include, but are not limited to:

- The Nebraska Hemp Commission
- The Nebraska Potato Development Committee
- The Climate Assessment Response Committee
- The Nebraska Aquaculture Board
- The Rural Broadband Task Force

LB 1357 - Prohibit camping on certain property owned by political subdivisions. McDonnell.

The bill proposes that it shall be unlawful to knowingly camp on property owned or controlled by a political subdivision not designated as a campsite by the political subdivision when notice has been provided that the property has not been designated as a campsite.

Under the bill, camping means temporary lodging out of doors and presupposes the occupancy of a shelter designed or used for such purposes as a sleeping bag or tent or other structure.

The political subdivision would have to provide either:

- (a) Actual communication to the person; or
- (b) Post in a manner prescribed by law or reasonably likely to come to the attention of persons attempting to camp on such property.

The violation proposed would be a Class III misdemeanor. Also, the violator may be ordered to pay any amount as determined by the court which may be necessary to reimburse the political subdivision for the expense of repairing any damage to such property resulting from such violation.