



8100 South 15th
Suite B
Lincoln, NE 68512

nard@nrdnet.org
(402) 471-7670

January 13, 2023

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 13 NARD Update

Committee Membership Set -- After much objection last week, the Legislature came together earlier this week to officially approve committee assignments. The final assignments can be found at:

[Committee List \(nebraskalegislature.gov\)](http://nebraskalegislature.gov)

Legislative Rules -- The Rules Committee held a public hearing on January 12, on 58 proposed rule changes. That marathon hearing ran until 10:30 pm as several controversial rules were considered. The proposal to eliminate the secret ballot for election of committee chairs and officers and replace it with a public record vote drew the most attention. There are plenty views on both sides of the issue.

It is anticipated that an executive session of the committee will be held early next week. Once the committee releases its recommendations, floor debate will begin.

Speaker Arch noted that his goal is to adopt permanent rules before they adjourn on Friday, January 20. The legislature has been operating on temporary rules since the first day, which are the rules from last year.

Hearings – Committee hearings are scheduled to begin January 23. All day hearings will be held January 30 – February 15, with afternoon-only hearings resuming after Feb. 15.

Submission of Testimony – Speaker Arch announced this week that public hearings this year will include an ADA Accommodation of written testimony. ADA Qualified individuals can submit written testimony online in a format similar to the online comment's portal. The qualified individual submitting testimony in this manner will have their testimony included in the hearing transcript as public hearing testimony. The individual's name will also appear on the Committee Statement with a notation that the person submitted ADA Accommodation Written Testimony.

Final details on the hearing process, including submitted written testimony, will be announced next week.

Session information can be found on the Nebraska Unicameral's website: [Nebraska Legislature - Home](http://nebraskalegislature.gov).

New Bills -- Introduction of legislative bills occurs in the first 10 working days of the session. This is the first session of the 108th Legislature, so there are no carry-over bills from last year. The following are bills of interest to the NRDs, introduced in the first eight days of the session. Wednesday, January 18, will be the last day for bill introduction by senators.

In odd-numbered years the governor is required to submit a budget proposal by January 15, except that in the first year of office a governor may submit a proposal on or before February 1. Governor Pillemer is scheduled for his State-of-the-State address on January 25, which may be when he introduces his budget recommendations.

For more information on introduced legislation, visit the Nebraska Unicameral website at: [Nebraska Legislature - Home](#).

LR 1CA - Constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed. Blood.

A proposed constitutional amendment that the Legislature shall not impose responsibility for a program created after the year 2024 or an increased level of service required under an existing program after the year 2024 on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the cost of such program or increase in level of service.

Reimbursement by the state shall be in the form of a specific appropriation or an increase in state distribution of revenue to such political subdivision.

LR 6CA - Constitutional amendment to prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes. Erdman. Co-sponsored by Brewer, Clements, Halloran, McDonnell and Murman.

A proposed constitutional amendment, effective January 1, 2026, that no governmental entity in the State of Nebraska may impose taxes other than retail consumption taxes or excise taxes.

It replaces such taxes with a consumption tax which shall apply to purchases of services and new goods, except for fuel. Such consumption tax shall begin no later than January 1, 2024 (See LB 79).

LR 7CA - Constitutional amendment to require the state to impose a consumption tax or an excise tax on all new goods and services and to provide a tax exemption for grocery items. Erdman. Co-sponsored by Brewer, Clements, Halloran, McDonnell and Murman.

A proposed constitutional amendment, effective January 1, 2026, the State of Nebraska shall impose a retail consumption tax or an excise tax on all new goods and services, and the Legislature may authorize political subdivisions to do the same. There shall be no exemption from such taxes except for grocery items purchased for off-premises consumption.

(See LR 6CA and LB 79 for the companion legislation)

LB 7 - Provide a statute of limitations for exposure to hazardous or toxic chemicals. Blood.

The bill proposes to add to the product liability actions that can be brought against manufacturers and sellers of products that cause damages. Under the proposal, an action to recover damages based on injury or death that is caused by exposure to a hazardous or toxic chemical shall be commenced within ten years after the cause of action accrues.

The cause of action accrues upon the earlier of the date on which the plaintiff (i) Is informed by competent medical authority that the injury or death is related to the exposure to such chemical; or (ii) by the exercise of reasonable diligence, should have known that the injury or death is related to the exposure to such chemical.

LB 40 - Adopt the Riparian and Water Quality Practices Act. Blood.

The bill establishes the Riparian Protection and Water Quality Practices Act. The Act would require the Department of Agriculture to consult with local water management authorities to develop a summary of watercourses for inclusion in a comprehensive local watershed management plan and to create buffer-protection maps. Water management authorities are defined under the bill as natural resources district, metropolitan utilities district, county, city, or village operating separately or jointly in its role as a local water management authority.

In consultation with local water management authorities, the department shall develop, adopt, and submit to each local water management authority in the state a summary of watercourses for inclusion in the local water management authority's plan. A local water management authority shall include such summary of watercourses identified under this section as an addendum to its comprehensive local water management plan or comprehensive watershed management plan.

The bill requires riparian buffers and water quality practices to: (a) protect state water resources from erosion and runoff pollution, (b) stabilize soils, shores, and banks, and (c) protect or provide riparian corridors.

- Buffers for all public waters of this state, the would be the more restrictive of: 1) A 50-foot-average width, a 30-foot-minimum width, a continuous buffer of perennially rooted vegetation; or 2) The state standards and criteria set by the department pursuant to rules and regulations authorized, adopted and promulgated in the act.
- Buffers for public drainage systems, a 16.5-foot-minimum width continuous buffer. The buffer vegetation shall not impede future maintenance of the ditch.

There is an exception to the minimum buffer strip requirements. A landowner whose property is used for cultivation farming may meet the minimum requirements under the act by adopting an alternative riparian water quality practice, or a combination of structural, vegetative, and management practices.

These practices would have to be based on common alternative practices adopted and published by the department, other practices approved by the department, or practices based on local conditions approved by the local water management authority that are consistent with the practices adopted and published or approved by the department. The practices would have to provide water quality protection comparable to the buffer protection for the water body that the property abuts. Such practices include retention ponds and alternative measures that prevent overland flow to the water resource.

The bill requires landowners with property adjacent to a water source identified on a buffer-protection map to maintain buffers in accordance with the act. It also requires local water management authorities, with resources provided from the department, to assist landowners with riparian protection requirements including planning, technical assistance, implementation of approved alternative practices, and tracking progress toward compliance.

A local management authority would be required to notify the department if a landowner is not in compliance. The department would be authorized to enforce the act with administrative penalties not to exceed \$1000 per violation.

The bill exempts land that is enrolled in the federal Conservation Reserve Program, used as a public or private water access or recreational use, covered by road or other structure, regulated by a national pollutant discharge elimination system, part of a water-inundation cropping system, or in a temporary non-vegetated condition.

LB 79 - Adopt the Nebraska EPIC Option Consumption Tax Act. Erdman.

Establishes the Nebraska EPIC Consumption Tax Act, where EPIC stands for the elimination of property, income, and corporate taxes. Repeals such taxes on Dec. 31, 2025. Beginning Jan. 1, 2026, imposes a flat tax on the use or consumption in Nebraska of taxable property or services (including health care) at the rate of 7.5% (down from 10.64% in the 2022 proposal). No consumption tax shall be imposed on the purchase of fuel or for property or service purchased for a business purpose in a trade or business.

LB 121 - Repeal the Trail Development Assistance Act. Bostelman.

The bill eliminates references to the Trail Development Assistance Act, which sunset in 2010, and provides another source of funding. Under the bill any revenue collected from leases under the fund shall be remitted to the State Treasurer for credit to the Cowboy Trail Fund.

LB 125 - Change provisions relating to the Surface Water Irrigation Infrastructure Fund. Bostelman.

The bill proposes that investment earnings from investment of money in the Surface Water Irrigation Infrastructure fund shall be credited back to the fund.

LB 147 - Change procedures for property tax refunds. Kauth.

The bill proposes to change notice requirements with political subdivisions when refunds are due to property taxpayers.

Current law allows the county to waive notice to political subdivisions if their share of the refund is less than \$200. Under the proposal, any political subdivision whose share of the refund is \$1,000 or less, the governing body of the political subdivision may waive this notice requirement by notifying the county treasurer.

The bill also allows electronic communication of such notices.

LB 158 - Appropriate funds to the Department of Agriculture. McDonnell.

The bill proposes \$2 million per year appropriation for both FY 2023-24 and FY 2024-25 to the Department of Agriculture, to distribute grants for the current riparian management of vegetation within the banks or flood plain of a natural stream.

LB 205 - Adopt the Government Neutrality in Contracting Act. von Gillern.

The bill proposes the Government Neutrality in Contracting Act to provide for the efficient procurement of goods and services by governmental units. The bill intends to promote the economical, nondiscriminatory, and efficient administration and completion of construction projects funded, assisted, or awarded by a governmental unit.

Under the bill, unless otherwise required by federal law, a governmental unit shall ensure that any requests for proposals or bid specifications for a public contract or the procurement procedures for a public contract do not contain:

- (a) A term that requires, prohibits, encourages, or discourages bidders, public contractors, or subcontractors from entering into or adhering to a collective-bargaining agreement relating to construction under the public contract;

- (b) A term that discriminates against bidders, public contractors, or subcontractors based on status as a party or nonparty to, or the willingness or refusal to enter into, a collective-bargaining agreement relating to construction under the public contract; or
- (c) Contract award pass or fail scoring criteria regarding a bidder's hiring requirements, labor assignments, local headquarters, political affiliation, political activity, or demographic makeup.

Definitions under the proposal follows:

Construction is defined as the business of construction, alteration, repairing, dismantling, or demolition of airports, bridges, buildings, canals, dams, disposal plants, levees, pipelines, power lines, roads, sewers, streets, transmission lines, viaducts, water and gas mains, water filters, water tanks, water towers, water wells, and every other type of structure, project, development, or improvement coming within the definition of real property or personal property, whether such property is to be occupied by the owner or held either for sale or rental.

Governmental unit is defined as the State of Nebraska or any agency or political subdivision of the state.

LB 217 - Change a date for certain scrap tire recycling grants. Hughes.

The bill proposes to extend the sunset for the scrap tire grant program from June 30, 2024, to June 30, 2029.

LB 218 - Change provisions relating to intent to appropriate money for management of vegetation within the banks or flood plain of a natural stream. Ibach.

The bill proposes to increase the annual funding from \$3 million to \$6 million per year for management of vegetation within the banks or flood plain of a natural stream. Such funds shall only be used to pay for activities and equipment as part of vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams.

Current law also requires that priority shall be given to grant applicants whose proposed programs are consistent with vegetation management goals, priorities, plans and policies of the Riparian Vegetation Management Task Force.

LB 237 - Appropriate funds to the Department of Environment and Energy. Wayne.

The bill proposes to appropriate \$1 million from the General Fund for each FY's 2023-24 and 2024-25 to the Department of Environment and Energy, for the Low-Income Weatherization Assistance Program, to aid in carrying out energy efficiency audits and weatherization improvements. No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated.

LB 241 - Change provisions relating to transfers of water to another state. Bries.

The bill adds criteria to the water transfer permit process for any person, firm, city, village, municipal corporation, or other entity intending to withdraw groundwater from any water well located in the State of Nebraska and transport it for use in another state.

The additional criteria would require the director to deny any permit under this section that would allow ground water to be transported more than ten miles outside of this state unless such transportation of ground water is necessary to comply with an interstate compact or decree.

LB 281 - Require the Department of Economic Development to provide grants for youth outdoor education camp facilities. Jacobson

The bill proposes grants to qualifying 501(c)(3) nonprofit organizations from the Department of Economic Development for the purpose of building or renovating youth outdoor education camp facilities, including physical structures, equipment, and necessary infrastructure to ensure accessibility to the public.

A grant awarded shall require a minimum of a twenty-five percent match in private or other money from the applicant. No applicant could receive one or more grants totaling more than \$30 million.

When awarding grants, the Department of Economic Development shall give preference to any applicant that intends to use the grant to rebuild a youth outdoor education camp facility that was damaged due to a natural or manmade disaster.

Intent language is added in the proposal to appropriate \$50 million from the General Fund for FY 2023-24 to the Department of Economic Development for the purposes described in the bill. The bill also includes the emergency clause.

LB 287 - Prohibit creation of joint public agencies under the Joint Public Agency Act. Brewer.

The bill would end the ability to create a joint public agency on or after October 1, 2023.

LB 292 - Prohibit the use of eminent domain under the Jobs and Economic Development Initiative Act (JEDI). Cavanaugh, M.

The bill proposes that no land within the Lake Development District, as designated by the Department of Natural Resources under the JEDI bill passed last year shall be acquired by the state or any political subdivision of the state through the use of eminent domain.

LB 302- Change provisions relating to conflicts of interest by certain officeholders and public employees. Linehan.

The bill proposes to expand conflict of interest laws to all persons holding an elective office of a political subdivision and all public employees.

LB 304 - Require political subdivisions to disclose membership dues and lobbying fees. Linehan.

The bill would require that political subdivisions or any other unit of local government to disclose on its website the following:

- (a) Membership dues paid annually to any association or organization, identifying each such association or organization and the dues amounts paid; and
- (b) Fees paid to any individual lobbyist or lobbying firm other than any fees paid for lobbying services that may be included in the membership dues.

For any political subdivision that does not have a website, the information shall be made available upon request to any member of the public at the office of such political subdivision.

LB 312 - Change provisions relating to withholding money due to noncompliance with budget limits and annual audits for certain political subdivisions. Lowe.

The bill proposes changes to withheld state aid under current law for those that have received notice from the Auditor of Public Accounts that they are out of compliance.

Current law allows for the state aid to be returned to the other recipients of the state aid or, in the case of a homestead exemption reimbursement, returned to the General Fund, if they do not get into compliance within six months.

The bill would allow the withheld state aid to be distributed to the other recipients of the state aid in the county where such noncompliant governmental unit is located or returned to the Highway Allocation Fund.

Also, the governmental unit shall continue to forfeit state aid until the governmental unit reaches compliance and the State Treasurer has received notification of such compliance from the Auditor of Public Accounts. All state aid that was forfeited shall remain forfeited and redistributed according to the proposal outlined above.

If any governmental unit fails to reach compliance within 12 months from the time of the order and notice of delinquency given by the Auditor of Public Accounts to the State Treasurer, such governmental unit shall be ineligible for future distributions of state aid until they get in compliance.

LB 322 - Prohibit creation of new joint public agencies with power or authority relating to tax. Linehan.

The bill would prohibit a joint public agency created on or after October 1, 2023, from exercising any power or authority relating to tax.

LB 332 - Prohibit creation of new joint public agencies with power or authority relating to education. Linehan.

The bill would prohibit a joint public agency created on or after October 1, 2023, from exercising any power or authority relating to education.

LB 361 - State legislative intent to appropriate funds for the Precision Agriculture Infrastructure Grant Program. Dorn.

The bill proposes \$2 million for each of FY 2023-24 and FY 2024-25 to carry out the Precision Agriculture Infrastructure Grant Program created in 2021. The purposes of the program are to:

- (a) Propel Nebraska agricultural producers to lead the nation in precision agriculture connectivity, sustainability, traceability, and autonomy to accelerate rural economic development; and
- (b) Provide high-speed Internet service to farm sites in unserved areas of the state.

LB 394 - Change provisions relating to the determination of damages as a result of eminent domain. Edrman.

The bill proposes changes to the calculation of fair market value and severance damages when an entity uses eminent domain. Current law allows for fair market value and all compensable damages suffered by the condemnee including, but not limited to, reasonable severance damages and condemnee's abstracting expenses.

Under the bill, the proposal divides out compensation for ag land and all other property.

For property other than agricultural land, the damages shall include: (i) The fair market value of the condemned property; (ii) Reasonable severance damages; and 15 (iii) The condemnee's abstracting expenses.

For agricultural land, the damages shall include: (i) Two times the fair market value of the condemned property; (ii) Reasonable severance damages; and (iii) The condemnee's abstracting expenses.

The bill further defines severance damage for agricultural land to include the replacement cost for dwellings, garages, sheds, barns, wells, septic systems, fences, and any other permanent structures.

LB 396 - Provide for streamflow augmentation projects and retention of water rights. Erdman.

The bill would require each natural resource district that has an augmentation project to sell the overlying land acquired after development of the project but retain and reserve the right to the groundwater located beneath such land.

The bill proposes that the quantity of such ground water available to the augmentation project would be the same as if the overlying surface interest had been retained by the owner or owners of the augmentation project.

LB 400 - Adopt the Nebraska Pheasant Restoration Act. Brewer.

The bill proposes the Nebraska Pheasant Restoration Act to help increase the pheasant population.

Under the proposal, a nest predator bounty program would be created within the Nebraska Game and Parks. Nest predators are defined as badger, coyote, opossum, raccoon, red fox, and striped skunk. The nest predator bounty season would run from March 1 to July 1 each year.

The NGPC would have to pay a bounty of \$10 for each nest predator harvested during the bounty season up to a limit of \$50,000 each year.

LB 401 - State intent regarding appropriations to the Department of Natural Resources. Dorn.

The bill proposes to appropriate an additional \$550,000 from the General Fund for FY 2023-24 and \$550,000 from the General Fund for FY 2024-25 to the Department of Natural Resources for costs associated with operating the Nebraska Mesonet system.

The bill includes the emergency clause.

LB 409 - Change provisions relating to individuals required to file a statement of financial interests under the Nebraska Political Accountability and Disclosure Act. Cavanaugh, M.

The bill would add any member of a nonelective government body to be subject to conflict-of-interest statements and laws.

LB 428 - Require the Nebraska Emergency Management Agency to provide matching funding for the federal Hazard Mitigation Grant Program. Walz.

The bill would require the Nebraska Emergency Management Agency to provide a dollar-for-dollar match for each political subdivision required to match federal money under the federal Hazard Mitigation Grant Program.

The amount of money provided by the Nebraska Emergency Management Agency shall be equal to one-half of the amount required by the applicant to satisfy the federal match requirements of the political subdivision under the federal Hazard Mitigation Grant Program.

Finally, the bill allows the Nebraska Emergency Management Agency to adopt and promulgate rules and regulations to carry out this section.

LB 450 - Prohibit land disposal of wind turbine blades and their component parts. Brewer.

The bill would prohibit land disposal of wind turbine blades and the component parts of wind turbine blades.

NARD Bill Summary Tracking Sheet - 108th 1st Session

Updated: 1/13/23

Page 1 of 2

Bill, LR or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments/Notes
LR 1CA	Constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed	Blood			Government		Committee	
LR 6CA	Constitutional amendment to prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes	Erdman			Revenue		Committee	
LR 7CA	Constitutional amendment to require the state to impose a consumption tax or an excise tax on all new goods and services and to provide a tax exemption for grocery items	Erdman			Revenue		Committee	
LB 7	Provide a statute of limitations for exposure to hazardous or toxic chemicals	Blood			Judiciary		Committee	
LB 40	Adopt the Riparian and Water Quality Practices Act	Blood			Natural Resources		Committee	
LB 79	Adopt the Nebraska EPIC Option Consumption Tax Act	Erdman			Revenue		Committee	MO 2 - Pending
LB 121	Repeal the Trail Development Assistance Act	Bostelman			Natural Resources		Committee	
LB 125	Change provisions relating to the Surface Water Irrigation Infrastructure Fund	Bostelman			Natural Resources		Committee	
LB 147	Change procedures for property tax refunds	Kauth			Revenue		Committee	
LB 158	Appropriate funds to the Department of Agriculture	McDonnell			Appropriations		Committee	
LB 205	Adopt the Government Neutrality in Contracting Act	von Gillern			Government		Committee	
LB 217	Change a date for certain scrap tire recycling grants	Hughes			Natural Resources		Committee	
LB 218	Change provisions relating to intent to appropriate money for management of vegetation within the banks or flood plain of a natural stream	Ibach			Agriculture		Committee	
LB 237	Appropriate funds to the Department of Environment and Energy	Wayne			Appropriations		Committee	
LB 241	Change provisions relating to transfers of water to another state	Briese			Natural Resources		Committee	
LB 281	Require the Department of Economic Development to provide grants for youth outdoor education camp facilities	Jacobson			Natural Resources		Committee	
LB 287	Prohibit creation of joint public agencies under the Joint Public Agency Act	Brewer			Government		Committee	
LB 292	Prohibit the use of eminent domain under the Jobs and Economic Development Initiative Act	Cavanaugh, M.			Natural Resources		Committee	
LB 302	Change provisions relating to conflicts of interest by certain officeholders and public employees	Linehan			Government		Committee	
LB 304	Require political subdivisions to disclose membership dues and lobbying fees	Linehan			Government		Committee	
LB 312	Change provisions relating to withholding money due to noncompliance with budget limits and annual audits for certain political subdivisions	Lowe			Government		Committee	
LB 322	Prohibit creation of new joint public agencies with power or authority relating to tax	Linehan			Revenue		Committee	
LB 332	Prohibit creation of new joint public agencies with power or authority relating to education	Linehan			Education		Committee	
LB 361	State legislative intent to appropriate funds for the Precision Agriculture Infrastructure Grant Program	Dorn					Introduced	
LB 394	Change provisions relating to the determination of damages as a result of eminent domain	Erdman					Introduced	

