



8100 South 15<sup>th</sup>  
Suite B  
Lincoln, NE 68512

[nard@nrdnet.org](mailto: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: January 14 NARD Update

**NARD 2022 Legislative Conference** - The 2022 NARD Legislative Conference at the Embassy Suites scheduled for Jan 24-26 in Lincoln is moving forward full speed ahead. Registration and hotel reservations are close to pre-pandemic normal.

The City of Lincoln just reinstated their mask mandate effective January 15, 2022, after it was dropped December 23, 2021. The mask mandate is nothing new. We have been functioning with this mask mandate in Lincoln since the spring of 2020. There are no other mandates, guidelines, or restrictions in place. This mask mandate will not impact our conference at all.

On Monday, January 24<sup>th</sup>, the Benefits Committee quarterly meeting will be in the morning. At 1 pm, the NRD Managers Meeting will meet to discuss legislation. The NARD Legislative and Executive Committees will meet after the managers meeting.

Highlights of the conference include:

- Governor Ricketts will launch the conference on Tuesday morning
- Update on water funding and the work of the STAR WARS Committee
- Discussion of 2022 Legislative Bills and Business Sessions
- An update on the Nebraska Department of Revenue Conservation Easement Requirements
- South Platte River Compact Update
- Presentations on nitrate management for groundwater quality
- Vendor Trade Show
- Senators Reception Tuesday Night
- Senator Hughes, Chairman of the Executive Board of the Legislature. Tuesday lunch speaker
- Senator Bostelman – Chair of the NR Committee. Wednesday lunch speaker

**State of the State Address** - Governor Pete Ricketts delivered his State of the State address on January 13<sup>th</sup> and unveiled his budget recommendations and priorities for the 2022 legislative session. In his speech, Gov. Ricketts outlined opportunities for state leaders to grow Nebraska during the upcoming year.

Here are the top 10 things you need to know about the Governor's budget and legislative initiatives:

1. **Controls State Spending:** The Governor's budget adjustment controls spending by limiting the State's budget growth to 2.9 percent over the biennium.
2. **Delivers Income Tax Relief:** Makes Nebraska more competitive with other states by reducing income taxes and taxes on job creators over the next three years. Accelerates the phase-in to fully exempt taxes on Social Security benefits within five years.

3. **Protects Property Tax Relief:** Ensures the annual amount of property tax relief available through the Refundable Income Tax Credit remains at least \$548 million per year.
4. **Strengthens Public Safety:** Funds construction of a replacement for the deteriorating Nebraska State Penitentiary, invests in Corrections workforce pay increases, expands the Law Enforcement Training Center in Grand Island, and adds capacity at the State Crime Lab.
5. **Secures Nebraska's Water Rights:** Protects Nebraska's water rights for generations to come by investing \$500 million to construct a canal and reservoir system on the Nebraska-Colorado border along the South Platte River.
6. **Invests in Nebraska's Water Resources:** Recommends \$200 million for projects presented by the Legislature's STAR WARS Committee to grow the Good Life in tourism and recreation. Invests \$23 million to repair the Ft. Laramie – Gering Irrigation Canal. Proposes \$60 million to restore and protect drinking water systems in Nebraska communities.
7. **Improves Healthcare Capacity:** Calls for \$40 million to strengthen the state's public health emergency response capabilities, \$40 million to add healthcare facility capacity, \$25 million for behavioral health and nursing assistance, and additional investments in health services.
8. **Develops Nebraska's Workforce:** Proposes \$90 million to enhance workforce development programs at Nebraska's community colleges and another \$75 million to help communities build high-quality and affordable workforce housing.
9. **Addresses Economic Impacts of the Pandemic:** Proposes site and building development in regions adversely affected by the pandemic and investment in shovel-ready projects delayed by the pandemic.
10. **Addresses Educational Impacts of the Pandemic:** Secures funding for parents of low-income children who have experienced learning loss during the pandemic.

More information about the Governor's budget can be found by [clicking here](#) (scroll down on the page and open the "2021-2023 Biennium" tab to view the "2022 Session Mid-Biennium Adjustments").

The full text of the Governor's State of the State address can be found by [clicking here](#).

**Governor Ricketts and STAR WARS Committee Press Conference** - Governor Ricketts, alongside members of the STAR WARS Committee, held a press conference on Monday to announce proposals for water resources projects across Nebraska.

During opening of the press conference, Gov. Ricketts highlighted the importance of water in Nebraska and recognized the work of the NRDs in protecting the resource on a river basin basis, noting Nebraska has maintained Ogallala Aquifer levels within 1' of predevelopment levels while also leading the nation in irrigated acres.

Gov. Ricketts addressed the 1923 South Platte Compact between Nebraska and Colorado, noting that Colorado has been issuing permits that have resulted in the state infringing on the compact requirement of delivering 500cfs during the non-irrigation season. Furthermore, Colorado has recently announced nearly 300 new projects, totaling \$10 billion in cost, that will increase demands for water on their side of border. Gov. Ricketts outlined that analysis shows these projects would dramatically reduce the flows into Nebraska and cause Colorado to further infringe on the requirements of the compact. Graphs presented from the analysis showed reductions in flows by up to 90%.

He stressed the impact these reduction in flows would have on all water users in the state, specifically discussing impacts to agriculture, municipalities (including Lincoln and Omaha), power generators, and the environmental impacts. He further outlined the financial and regulatory hardship these reduced flows would create for NRDs, farmers, and local individuals.

Gov. Ricketts noted the good news is that we have an existing compact. Joining the Governor, Attorney General Peterson outlined terms of the Compact, highlighting that the Perkins County Canal and reservoir system was included as a component of the 1923 compact. While construction of the project was not

previously completed, it was discussed that the compact gives Nebraska authority over land and water in Colorado, including the use of eminent domain, to complete construction of the canal in perpetuity. Attorney General Peterson stressed that this project has needed completed for a long time and that today they are notifying Colorado that Nebraska will be moving forward with the process of completing terms of the compact.

Gov. Ricketts discussed that the budget proposal that will be unveiled on Thursday will include an appropriation of \$500 million to create the canal and reservoir system.

The press conference was then turned over to Speaker Hilgers who provided an overview of work from the STAR WARS committee and a summary of their project recommendations.

Speaker Hilgers discussed that the committee focused on 2 types of opportunities, including enhancing existing assets and creating new water resources assets. Project proposals from the committee for the following areas were highlighted during the press conference:

**Keith County** –The committee is proposing to build the first Marina at Lake McConaughy, noting the Marina would be constructed to accommodate the up to 65’ fluctuations in lake levels. The proposal also includes widening of roads and creating an entrance and additional placemaking.

**Knox County** – Proposals discussed included replacement of a boat access facility on the west end of Lewis and Clark Lake previously destroyed during flooding. A proposal for construction of a Center and Lodge at Niobrara State Park Center was outlined. It was also discussed that the existing Lewis and Clark Lake 121 boat slip is insufficient and is currently being outcompeted by South Dakota. The committee is proposing a significant expansion to over 600 slips with additional amenities at the marina.

**Lower Platte** – Speaker Hilgers outlined that the committee proposal includes flood control measures in the Lower Platte. Specific projects outlined included levee build up around Schuyler and construction of a series of upriver dams in the Wahoo Creek watershed.

**Lower Platte River Corridor** – A proposal by the committee to construct a 4,000-acre reservoir between Lincoln and Omaha was outlined. Speaker Hilgers stressed that the proposal includes no damming of the Platte, and no negative impact to the community of Ashland. He also discussed that there would be no negative impact to users drawing from the Platte. The projection is that the reservoir would have an over \$5 billion economic impact, with a yearly impact of over \$150 million.

Speaker Hilgers noted the Committee will be unanimously asking for a \$200 million appropriation to proceed with the proposal.

Following the presentations by Governor Ricketts and Speaker Hilgers, the conference was opened to questions. A summary of questions and answers is provided below:

#### South Platte Compact Press Conference media questions & answers

*If Colorado is not providing 500cfs, why wouldn't we just sue?*

Attorney General Peterson responded by noting the Compact is specific and grants easement and Eminent Domain authority to Nebraska in the state of Colorado. Nebraska has a stronger argument when terms of the compact are completed, including completion of the Canal. Governor Ricketts followed up noting that getting the 500cfs is predicated on having the Canal and Reservoir System.

*How many reservoirs and how much water?*

Director Riley responded that those details are not put together at this point and they're just beginning the process of developing locations of reservoirs. Governor Ricketts followed up noting that a journey of 1,000 miles begins with the 1<sup>st</sup> step, and this is the first step.

*Is \$500 million just for the first step?*

Gov. Ricketts responded that this will get the project started, it will be a multi-year project and it may be enough, or it may not.

*Do you anticipate Colorado will file a lawsuit?*

Gov. Ricketts responded that we don't know what Colorado may do, but we know we have the compact that guarantees Nebraska this amount of water.

*Spent a lot of time warning about 30x30 - Doesn't this take a lot of land away from private owners?*

Gov. Ricketts responded that the 30x30 plan sets aside 30% of state into conservation, which is a different thing. He noted that here we are talking about reservoirs that would allow us to continue to use land for agriculture purposes and that 30x30 would not allow us to do that.

*Wouldn't you need Eminent Domain to do that?*

Gov. Ricketts responded that yes, it will need to be used for the canal system in Colorado, and we will need to use it in Nebraska for the reservoir system, but it will allow us to continue to feed the world.

*How does building Canal and Reservoirs hold Colorado accountable?*

Gov. Ricketts responded that by having the project in place like language of the compact anticipated, we have a stronger case for Colorado to deliver the water.

Attorney General Peterson further noted that Colorado is granting permits for projects acting as if there is no need to comply with compact because the reservoir system was not developed. In doing so, Colorado fired the first shot by indicating they'd be taking that amount of water out of the river, and it thus became critical that we build the project to show it's needed.

*After 500 cfs, does Colorado get 35,000ac/ft?*

Director Riley responded by first noting Nebraska is not entitled to 500 cfs until we build a canal, further discussing that there is a provision that Colorado gets 35,000 ac/ft of storage, but it's unclear if they've already developed that – Nebraska is working with officials in Colorado to explore further.

*How long is the Canal?*

Director Riley responded that the Canal in Colorado will be approximately 24 miles, the details of what it will look like in Nebraska are just beginning and we don't know the specifics.

*Is there a potential for new uses for South Platte River Flows or is canal construction purely defensive?*

Gov. Ricketts responded that the canal would support all users. Further noting that if Colorado reduces flows, it will negatively impact all users. We want to ensure we are getting what we are entitled to under the compact and make sure we are obligating the water here in the state before someone takes it for us.

*Canal has failed in past due to money, any concern that legal battle hinges on project completion?*

Gov. Ricketts noted that construction initially began prior to WWI, but financial resources are available and it's important now to ensure we continue to have the water. Attorney General Peterson further noted that based on what we're seeing in Colorado, there is no time to just sit on our hands.

*Wouldn't it be cheaper to re-negotiate the compact?*

We need the water to support our state, we have a long term compact that guarantees the water and is best long term for the state.

## STAR WARS Committee Press Conference media questions & answers

*Governor, do you support the STAR WARS committee projects?*

For details on budget recommendation stay tuned to Thursday.

*How is Lower Platte Corridor Plan different than the plan that impacted Ashland?*

Speaker Hilgers responded that this proposal is not damming the Platte, instead the project will be completed via digging which allows it to be completed without impacting Ashland.

*Where are locations for the lake?*

Speaker Hilgers noted they have identified locations that they think will work, but are not identifying locations until studies are completed.

*There has been opposition from farmers for years about building dams, what makes you think farmers will give up land for this project?*

Speaker Hilgers responded that the people behind the proposal have considered stakeholders concerns, and the committee members are strong advocates. He also responded that they believe a lot of the land could be acquired through purchasing.

*Why do we need something like this?*

Speaker Hilgers responded that this would be good management and stewardship of the resource. It would also help the stickiness of keeping people and encouraging people to move to the area. He also responded that the project would have a positive impact on supporting Lincoln Drinking water, especially during dry months.

*How deep would Lower Platte Lake be and where would it be?*

Speaker Hilgers responded that the lake would be 30 -35' deep and located roughly in the lower Platte Corridor, an equal distance between Lincoln and Omaha and bigger than lake Okoboji.

*How long will this take?*

Speaker Hilgers outlined that design and permitting could take a couple of years. It will depend on funding and may need to be phased.

*How long might dredging the 4,000-acre lake take?*

Speaker Hilgers noted it depends on crew availability, as little as year or year and half if they're working overtime. Experts have indicated dredging lake of this size has and can be done. Projects costs would be more than \$200 million and would involve public private partnerships.

**New Bills** – The flowing bills were introduced this week

***LB 908 - Provide additional requirements for virtual conferencing under the Open Meetings Act. McDonnell.***

The bill proposes to allow for a public body to hold a meeting by virtual conferencing if: (a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body; and (b) No action is taken by the public body at the virtual meeting.

This meeting would still be subject to advance public notice, the public's right to participate by virtual conferencing, and reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate.

***LB 924 - Include cities of the first class as grant recipients under the Waste Reduction and Recycling Incentive Act. Brewer.***

The bill proposes to expand grants under the Waste Reduction and Recycling Incentive Fund to cities of the first class for deconstruction costs related to the recovery and processing of recyclable or reusable material from abandoned buildings. Current law limits the program to cities of the second class, villages, and counties of five thousand or fewer population.

***LB 925 - Adopt the Resilient Soils and Water Quality Act and state intent regarding appropriations. Gragert.***

The bill proposes to adopt the Resilient Soils and Water Quality Act which would create demonstration and research farms across the state to provide demonstration of healthy soil practices in support of the educational and research programs of the producer learning community. Lease agreements would be allowed with private landowners for the purpose of establishing demonstration and research farms.

The program would be organized by the Department of Natural Resources. The Department shall provide technical and legal assistance in the formation of a producer learning community comprised of active agricultural producers, landowners, and others who have an interest in soil health and water quality.

The department shall assist the producer learning community in building awareness and knowledge relating to soil health and water quality to guide agricultural producers and landowners in making informed decisions to bring about a more rapid and widespread adoption of best management practices.

The department shall hire a facilitator to lead a collaborative effort to organize the producer learning community and assist the producer learning community in acquiring gifts, grants, and sponsorships. The department shall authorize the facilitator to serve as an ex officio member of the producer learning community and may locate the facilitator outside of the City of Lincoln.

Under the proposal, a producer learning community is defined as an agricultural producer-led, nonprofit, voluntary membership organization dedicated to fostering learning, skills, and abilities, and the gathering and sharing of knowledge for the purpose of carrying out the Resilient Soils and Water Quality Act.

The department may partner or contract with any entity or entities that have resources that would assist in the formation of the producer learning community including, but not limited to, the University of Nebraska and any association of natural resources districts.

The department may also collaborate with the Corn Board, the Soybean Board, the Grain Sorghum Board, Wheat Board, and any private farm and ranch associations or membership organization.

The department shall divide the state into different regions in which to establish demonstration and research farms that are representative of each region's particular agricultural diversity. In establishing such regions, the department may use the land management areas of the Natural Resources Conservation Service of the United States, the state's natural resources district boundaries, and Nebraska Extension Engagement Zones of the University of Nebraska Institute of Agriculture and Natural Resources as guidance in establishing boundaries.

Beginning in 2022, the department shall submit an annual report on or before December 31 to the Governor and electronically to the Agriculture Committee of the Legislature and the Natural Resources Committee of the Legislature to report on the status and progress of implementing the Resilient Soils and Water Quality Act and any impacts and accomplishments made in protecting and improving soil and water quality across the state.

The bill includes intent language to appropriate \$250,000 beginning in FY2022-23 through FY2026-27 to carry out the Resilient Soils and Water Quality Act.

***LB 953 - Change provisions relating to open burning permits and provide limitations on liability and nuisance relating to land-management burning. Cavanaugh, J.***

The bill proposes to change open burning permit provisions to allow permits to be issued electronically.

Additionally, the bill proposes that no landowner, tenant, or other landowner's agent of the land where land-management burning occurs shall be personally liable for damages caused by land-management burning conducted in accordance with permit requirements, except in cases of willful misconduct or gross negligence.

The bill proposes that evidence that a fire from a land-management burn has spread outside of the authorized burn area on the day of the land-management burn or continued to smolder resulting in a subsequent wildfire does not, without further evidence, constitute gross negligence.

The bill also proposes that a fire chief of a local department, or such chief's designee, shall not be liable for damages caused by a land-management burning simply for issuing such land-management burning permit or assisting with a properly permitted land-management burning for training purposes.

Under the proposal, land-management burning shall be considered in the public interest and shall not be considered a nuisance if conducted in accordance with required permitting law and any applicable state or local air pollution law, rule, or regulation.

***LB 978 - Provide powers and duties relating to the treatment of dredged and fill material under the Environmental Protection Act. Hughes.***

The bill proposes to add power and duties of the Environmental Protection Act to the Department of Environment and Energy to prohibiting or permitting the discharge of dredged or fill material into waters of the United States, commonly referred to as the 404 permitting process.

Under the proposal, the department would receive and initiate complaints, hold hearings, and institute legal proceedings in the name of the state for the control, prevention, or abatement of the discharge of dredged and fill material into waters of the United States. The department will recover penalties, in accordance with the Environmental Protection Act.

The bill allows the council to establish fees to be collected by the Department for applications, determinations, permits, licenses, or similar authorizations for the discharge of dredged and fill material under section 404 of the Clean Water Act, as amended. The fees shall be sufficient to pay the department for the direct and indirect costs of administering a permitting program under section 404 of the Clean Water Act.

The bill proposes the Dredge and Fill Cash Fund. The department shall remit all fees collected and money received by the department in the form of gifts, grants, reimbursements, or monetary transfers from any source intended to be used for the purposes of the fund, to the State Treasurer for credit to the fund. The fund shall be used to pay the reasonable direct and indirect costs required to develop and administer a program to regulate discharges of dredged and fill material under section 404 of the Clean Water Act, as amended. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The bill adds that any person who knowingly or willfully violates any law, rule, regulation, permit, license, or permit or license condition or limitation for the discharge of dredged and fill material under section 404 of the Clean Water Act shall be guilty of Class IV Felony.

Finally, the bill adds property where dredged or fill material is being discharged to the list of purposes for the department to enter and inspect property with consent.

***LB 981 - Revive the Trail Development Assistance Act and state intent to transfer funds. Hilkemann.***

The bill proposes to revive the Trail Development Assistance Act which previously terminated on January 1, 2010.

The fund is administered by NGPC and shall be used to assist in the purchase, development, and maintenance of recreational trails in the state.

The bill includes intent to transfer \$15 million from the General Fund to the Trail Development Assistance Fund in FY 2022-2023 and that NGPC would be authorized to use \$750,000 annually beginning in FY 2022-2023 for ongoing maintenance of designated rail-trails.

***LB 1011 - Provide, change, and eliminate provisions relating to appropriations. Speaker Hilgers, at the request of the Governor.***

The bill proposes changes to appropriations for FY 2021-22 and FY 2022-23 that were adopted last year. Related to natural resources, the following changes are proposed:

**DEPARTMENT OF NATURAL RESOURCES** – No increase in FY 2021-22 and a \$550,090,237 increase in FY 2022-23 for Program No. 334 - Soil and Water Conservation. Included in the increase is a general fund increase of \$88,473 in FY 2022-23, with the remainder of the FY 2022-23 increase representing the appropriation for the following two new cash funds created by provisions of LB 1012.

First, the appropriation includes \$150,000,000 in Cash Funds for the Statewide Tourism And Recreational Water Access and Resource Sustainability projects designated by the Legislature. The funds shall only be used for such purpose.

Second, the appropriation includes \$400,000,000 in Cash Funds to protect Nebraska's water resources with a canal and associated storage facilities. The funds shall only be used for such purpose.

The funding for the Perkins County Canal Project Fund would come from a transfer to the cash fund as outlined in provisions of LB 1013.

**GAME AND PARKS COMMISSION --** No changes in FY 2021-22 and the following increases to programs of interest in FY 2022-23:

Program 162 - Environmental Trust: \$4,368; Program 330 - Habitat Development: \$16,930; Program 336 - Wildlife Conservation: \$207,189; Program 550 - Planning & Trails Coordination: \$12,195.

The proposal also includes a \$450,000 increase in FY 2021-22 and a \$1,047,886 increase to NGPC Administration - Program 337 in FY 2022-23. A \$1,500,000 increase is proposed in FY 2021-22 for Improvements to State Parks – Program 967.

**DEPARTMENT OF ENVIRONMENT & ENERGY --** No changes in FY 2021-22 and \$180,060 increase to Program 513 – Environmental Quality in FY 2022-23.



***LB 1012 - Provide for funds transfers, create funds, and change and eliminate provisions regarding a fund and reimbursement provisions. Speaker Hilgers, at the request of the Governor.***

The bill proposes to create two new funds related to Natural Resources.

The first fund created is the Statewide Tourism And Recreational Water Access and Resource Sustainability Fund. The fund shall be administered by the Department of Natural Resources.

The State Treasurer shall credit to the fund any money transferred by the Legislature and such grants, loans, donations, gifts, bequests, or other money received from any federal or state agency or public or private source for water and recreational projects authorized by the Legislature. Any investment earnings of the fund shall be credited to the fund.

The second fund created is the Perkins County Canal Project Fund. The fund shall be administered by the Department of Natural Resources.

The state treasurer shall credit to the fund any money transferred by the Legislature and such grants, loans, donations, gifts, bequests, or other money received from any federal or state agency or public or private source for use by the department for the canal project.

Any investment earnings of the fund shall be credited to the fund. After the Director of Natural Resources certifies the completion of the Perkins County Canal Project to the Department of Administrative Services, the State Treasurer shall transfer any remaining Perkins County Canal Project Funds to the Cash Reserve Fund.

The bill also modifies the United States Space Command Headquarters Assistance Fund to allow the fund to contribute to the support and profile of the Strategic Air Command and Offutt Air Force Base.

***LB 1013 - Change provisions relating to the Cash Reserve Fund. Speaker Hilgers, at the request of the Governor.***

The bill proposes the following transfers from the cash reserve fund.

\$175,000,000 to the Nebraska Capital Construction Fund on or after July 1, 2022, but before June 15, 2023.

\$400,000,000 to the Perkins County Canal Project Fund on or before June 30, 2023.

The bill also strikes language tying use of United States Space Command Headquarters Assistance Fund to Nebraska being selected as the site of the US Space Command Headquarters. Since Nebraska was not selected, the bill modifies the amount to be transfer from \$50 million to \$5 million from the Cash Reserve Fund to the United States Space Command Headquarters Assistance Fund

***LB 1014e - Appropriate Federal Funds allocated to the State of Nebraska pursuant to the federal American Rescue Plan Act of 2021. Speaker Hilgers, at the request of the Governor.***

The bill directs the appropriations allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021. Of the \$1.04 Billion in funds, the following are appropriated to ag and natural resources for the next two fiscal years:

For the Department of Agriculture:

- \$10 Million is proposed FY2021-22. Of that, \$9,875,000 is for grants for small-to-medium meat processors. The remaining balance, \$125,000, is for a dairy industry study.

For the Department of Natural Resources:

- \$10 Million is proposed in FY2022-23 to provide enhanced data collection requirements and quality through improvements to flood-stage monitoring and inundation mapping, water efficiency monitoring, and drought monitoring, which shall only be used for such purpose.
- \$23.1 Million in FY2021-22 to provide a grant to an irrigation district to offset costs related to the permanent main canal and tunnel repairs which is part of an interstate irrigation system that experienced a failure (Ft. Laramie – Gering Irrigation Canal).
- \$50 Million (\$25M for FY2022-23 and \$25M for FY2023-24) for the Statewide Tourism And Recreational Water Access and Resource Sustainability (STAR WARS) projects designated by the Legislature.
- \$100 Million (\$50M for FY2022-23 and \$50M for FY2023-24) to stabilize Nebraska's water resources with a canal and associated storage facilities (Perkins County Canal on the South Platte River).

Nebraska Game and Parks Commission:

- \$8.1 Million for wastewater projects within the state park system.

Nebraska Department of Environment and Energy:

- \$25 Million in FY2022-23 for wastewater and drainage system updates at the state fairgrounds.
- \$60 Million (\$30M in FY2021-22 and \$30M in FY2022-23) for drinking water projects under the Drinking Water Facilities Loan Fund.

In addition to the appropriations set forth, all unexpended appropriation balances of the Federal Funds appropriated in this act existing on June 30, 2022, for FY2022-23 and FY2023-24 are reappropriated to the respective agencies, programs, and funds listed in this act, except as otherwise provided in this act

The bill includes the emergency clause.

***LB 1015 - Adopt the Perkins County Canal Project Act. Speaker Hilgers, at the request of the Governor.***

The bill proposes to create the Perkins County Canal Project Act.

Provisions of the Act are as follows:

(1) The Legislature finds that it is essential to the economic prosperity, health, and welfare of the people of the State of Nebraska, and to the environmental health of the entire Platte River Basin, to protect Nebraska's full entitlement to the flows of the South Platte River as provided for in the South Platte River Compact. The South Platte River Compact is the law of Nebraska and of the United States that specifically authorizes Nebraska to develop a canal and associated storage facilities for the diversion of water from the South Platte River for beneficial use in Nebraska.

(2) The Legislature declares that a canal and associated storage facilities, which shall be known as the Perkins County Canal Project, shall be developed, constructed, managed, and operated under the authority of the State of Nebraska consistent with the South Platte River Compact and pursuant to the Perkins County Canal Project Act.

The bill proposes to provide the Department of Natural Resources with the necessary authority to develop, construct, manage, and operate the Perkins County Canal Project.

The department's powers under the act shall include:

- (a) contracting for services,
- (b) acquiring permits,
- (c) acquiring and owning real property,
- (d) acquiring, holding, and exercising water rights,
- (e) employing personnel,
- (f) accepting grants, loans, donations, gifts, bequests, or other contributions from any person or entity, public or private, including any funds made available by any department or agency of the United States,
- (g) managing and expending such funds as are made available to it from the Perkins County Canal Project Fund, and
- (h) any other necessary functions consistent with the compact and pursuant to the act in protecting Nebraska's full entitlement to flows of the South Platte River.

For purposes of the Perkins County Canal Project Act, the Department of Natural Resources is authorized to acquire real estate or access thereto in the name of the State of Nebraska by the use of eminent domain.

The department is also authorized to resolve all disputes that may arise, including the initiation or defense of legal actions of any kind, as necessary to achieve the purposes of the act.

***LB 1023 - Adopt the Lake Development Act and the Water Recreation Enhancement Act. Hilgers.***

The bill proposes the Lake Development Act and Water Recreation Enhancement Act to implement the findings of the Statewide Tourism And Recreational Water Access and Resource Sustainability (STAR WARS) special committee of the Legislature.

The committee was tasked with conducting studies on:

- The need to protect public and private property, including use of levee systems, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;
- The need to provide for public safety, public infrastructure, land-use planning, recreation, and economic development in the Lake McConaughy region of Keith County, Nebraska; and
- The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park.

The projects identified by the committee includes:

1. A minimum 3,600-acre lake near Sarpy County that does not include a dam;
2. Expand water access and recreational opportunities at the Lake McConaughy State Recreation Area and the Lewis and Clark State Recreation Area through the construction of new marinas; and
3. A new event center and lodge at Niobrara State Park.

## **The Lake Development Act**

The Department of Natural Resources is granted all power necessary to carry out the purposes of the Lake Development Act, including, but not limited to, the power to:

- (a) Purchase, sell, or lease land;
- (b) Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the department may require in the performance of its duties; and
- (c) Enter into agreements with natural resources districts to accomplish the purposes of the act. In any such agreement, a natural resources district may use the full powers granted to it by law.

The bill also directs the department to engage private parties and entities to construct and develop the lake and to enter into contracts or public-private partnerships that the department deems advantageous to the construction and development of the lake, and the land adjacent thereto.

The department shall give preference to (a) contract proposals relating to the development or management of the lake from Nebraska nonprofit corporations whose directors are appointed by the state or its officers and which agree to be bound by the Open Meetings Act or (b) contract proposals which provide for a public-private partnership with the state in constructing, developing, or managing the lake.

The department is granted authority to select the land upon which the lake will be built. In making such selection, the following shall apply:

- (a) The land shall be located in or near Sarpy County and within the flood plain or floodway of the Platte River;
- (b) Preference shall be given to locations that were materially underwater when the Platte River flooded in 2019;
- (c) It is the intent of the Legislature that the lake be at least three thousand six hundred surface acres in size;
- (d) No dam shall be constructed on the main channel of the Platte River in order to construct the lake; and
- (e) No city or village, or any part thereof, shall be flooded in order to construct the lake.

The department is granted authority to designate the land selected for the lake and land near or adjacent thereto as the Lake Development District.

The department may, in the performance of its duties, seek input and advice from any natural resources district that encompasses any of the area included in the Lake Development District.

The bill also outlines that notwithstanding any other provision of law, no land within the Lake Development District, as designated by the Department of Natural Resources shall be annexed.

The proposed Lake Development Fund would be administered by the Department of Natural Resources.

The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature and (b) donated as gifts, bequests, or other contributions to such fund from public or private entities.

Although the bill outlines the State Treasurer shall transfer to the Lake Development Fund, it leaves the amount blank. This amount will be determined later.

The Department of Natural Resources shall, no later than November 1 of each year, provide an annual report to the Governor and the Legislature regarding the use of the Lake Development Fund. The report submitted to the Legislature shall be submitted electronically. The report shall include (1) a detailed listing of how the proceeds of the fund were expended in the prior fiscal year and (2) any distributions from the fund that remain unexpended and on deposit as of the end of the prior fiscal year.

### **Water Recreation Enhancement Act**

The Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee identified marina construction projects to expand water access and recreational opportunities at Lake McConaughy State Recreation Area, the Lewis and Clark State Recreation Area and Niobrara State Park under the Water Recreation Enhancement Act.

Although not specifically detailed in the bill, the press conference on the projects outlined the following:

- Lake McConaughy -- The committee is proposing to build the first Marina at Lake McConaughy, noting the Marina would be constructed to accommodate the up to 65' fluctuations in lake levels. The proposal also includes widening of roads and creating an entrance and additional placemaking.
- Lewis and Clark -- The proposal would include replacement of a boat access facility on the west end of Lewis and Clark Lake previously destroyed during flooding. It was also discussed that the existing Lewis and Clark Lake 121 boat slip is insufficient and is currently being outcompeted by South Dakota. The committee is proposing a significant expansion to over 600 slips with additional amenities at the marina.
- Niobrara State Park - A proposal for construction of a Center and Lodge at Niobrara State Park Center.

The Game and Parks Commission is granted all power necessary to carry out the purposes of the Water Recreation Enhancement Act and creates the Water Recreation Enhancement Fund to be administered by the Game and Parks Commission. This include, but not limited to, the power to (a) Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the commission may require in the performance of its duties; and (b) Enter into public-private partnerships to carry out the purposes of the act.

Although the bill outlines the State Treasurer shall transfer to the Water Recreation Enhancement Fund, it leaves the amount blank. This amount will be determined later.

The Game and Parks Commission would be required, no later than November 1 of each year, to provide an annual report to the Governor and the Legislature regarding the use of the Water Recreation Enhancement Fund. The report submitted to the Legislature shall be submitted electronically and include: (1) a detailed listing of how the proceeds of the fund were expended in the prior fiscal year and (2) any distributions from the fund that remain unexpended and on deposit as of the end of the prior fiscal year

**Hearings Begin** – Legislative Bill hearings begin on January 18<sup>th</sup>. The following bills are scheduled for next week.

**Tuesday, January 18<sup>th</sup>**

Agriculture, Room 1524 - 1:30 PM

***LB 805 - Change provisions relating to prioritization of applications and intent to appropriate funds under the Noxious Weed Control Act. Hughes.***

Beginning in FY 2022-23, the bill proposes to increase the appropriation from \$1 million to \$3 million annually for vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams

**Wednesday, January 19<sup>th</sup>**

Natural Resources, Room 1525 - 1:30 PM

***LB 746 - Eliminate the requirement that the Director of Natural Resources be a professional engineer. Friesen.***

The bill eliminates the professional engineer requirement for the position of the Director of Natural Resources. The bill retains language requiring five years' experience in irrigation work.

***LB 775 - 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.

***LB 809 - Change powers and duties of the Department of Environment and Energy and provisions relating to the use of certain funds relating to water. Moser.***

The bill proposes several modifications to the use of the funds and the assets of the Safe Drinking Water Act, Drinking Water State Revolving Fund Act and Wastewater Treatment Facilities Construction Assistance Act.