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January 20, 2023

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 20 NARD Update

NARD 2023 Legislative Conference Next Week - The 2023 NARD Legislative Conference will be held January 24-25, at the Embassy Suites in Lincoln. Registration and hotel reservations are up significantly from 2022.

On Monday, January 23, committee meetings will be held. The Benefits Committee quarterly meeting will be from 9:30 am-noon. At 1 p.m., the NRD Managers will meet to discuss legislation. The NARD Legislative and Executive Committees will meet after the managers meeting to set recommended positions for the delegates to act on.

The general conference will be held on Tuesday and Wednesday, January 24-25. Highlights of the conference include:

- Governor Pillen will open the conference Tuesday morning
- Discussion of 2023 Legislative Bills and Business Sessions
- South Platte River Compact Update
- Presentations on nitrate management for groundwater quality, drought planning, new director training, updates on conservation programs and emerging technologies for resources management.
- Vendor Trade Show
- Senators Reception Tuesday Night
- Senator Clements, Chairman of the Appropriations Committee, is the Tuesday lunch speaker
- Senator Bostelman, Chairman of the Natural Resources Committee, is the Wednesday lunch speaker

NARD Delegates will meet during the conference to review and take a position of Monitor, Support, or Oppose on bills of interest to NRDs. A summary of bills of interest will be provided with conference registration packets.

Legislative Rules Adopted – The rules of the Legislature govern the legislative process and are adopted at the beginning of each biennium. Last week, the Rules Committee accepted testimony on nearly 60 proposed rule changes. Only seven of the changes were forwarded to the full body. After amendments were considered, the Legislature voted 44-0-5 to adopt the package.

Most of the changes proposed were just technical in nature. Below are some of the significant committee recommendations that were adopted:

- Requires the Rules Committee to provide public notice of proposed rules changes at least three calendar days prior to conducting a public hearing. (Conrad)

- A procedure for active or reserve members of the military to lead the Legislature in the daily Pledge of Allegiance. (McDonnell)
- A change that impacts the speaking order after a motion to kill a bill — referred to as a motion to indefinitely postpone, or IPP — is made prior to general file debate. Under the existing rules, the introducer of such a motion is allowed to open on their motion prior to the introducer of the bill being allowed to speak. The change switches that order, allowing the bill introducer to speak first followed by the introducer of the IPP motion. (Ibach)

One of the proposals that did not advance in the committee package was a proposal to require public votes for election of the speaker and chairpersons of the Legislature’s 14 standing committees.

Other amendments were offered on the floor but were not adopted. These included:

- To prohibit individuals except law enforcement and military personnel from carrying a deadly weapon in the Capitol during legislative proceedings. Failed by an 7-32-10 vote. (Machaela Cavanaugh)
- To require all committee briefings be made, transcribed, and preserved under the direction of the Clerk. Failed by an 8-33-8 vote. (Machaela Cavanaugh)

New Bills – The following bills were introduced this week. Bill introduction has ended, with the exception of the main appropriations bills, which will be introduced after Governor Pillen gives his State of the State address on January 25th.

LB 506 - State intent to appropriate federal funds to the Department of Natural Resources and the Department of Environment and Energy. Bostar.

The bill provides intent language for the Legislature to appropriate:

- \$200 million from Federal Funds for FY2023-24 to the Department of Natural Resources for a grant to a city of the primary class for water supplies. Eligible expenses for the funding from this grant shall include, but not be limited to, costs for a water treatment plant, water treatment, transmission, and distribution in furtherance of additional water, land acquisition, permitting, a wellfield, pumping, and transportation of water over twenty-five miles for the purpose of providing potable water to the municipality.
- \$20 Million from Federal Funds for FY2023-24 to the Department of Environment and Energy for grants for small and rural communities to install reverse osmosis systems in community water systems where drinking water test levels are above ten parts per million of nitrate and, if appropriate, provide grant funds for use to install reverse osmosis systems if test levels for nitrate in drinking water pumped from private wells are above ten parts per million.

The Federal Funds to be appropriated are from the 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.

LB 513 - Change proof of publication requirements for legal notices and published notice and virtual conferencing requirements under the Open Meetings Act. Brewer.

The bill incorporates a statewide website, to be completed in 2023, as a repository for public notices. The repository is to be established by a majority of Nebraska’s newspapers.

The bill also proposes a two-step solution for situations where a newspaper fails to publish a public notice in cases of refusal, neglect or inability of the newspaper to timely publish the notice.

- 1) **Until January 1, 2024**, the public body shall (A) post such notice on its website, if available, and (B) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.
- 2) **After January 1, 2024**, the public body shall (A) post such notice on its website, if available, (B) submit a post on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers, and (C) post in a conspicuous public place in such public body's jurisdiction.

The bill also provides two other changes for notices after January 1, 2024.

- 1) (I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or
- 2) (I) Posting to the newspaper's website, if available, and (II) a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

Finally, the bill allows for any advisory committees of risk management pools and any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act to hold no more than one-half of its meetings by virtual conferencing.

LB 534 - Appropriate federal funds to the Department of Environment and Energy for community water systems. Slama.

The bill proposes to appropriate \$150 million from Federal Funds for FY2023-24 to the Department of Environment and Energy for grants for small and rural communities to construct drinking water infrastructure projects that are eligible under the Drinking Water State Revolving Fund in community water systems where drinking water test levels are above ten parts per million of nitrate and, if appropriate, provide grant funds for use to construct drinking water infrastructure projects that are eligible under the Drinking Water State Revolving Fund if test levels for nitrate in drinking water pumped from public wells are above ten parts per million.

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 pursuant to the federal American Rescue Plan Act of 2021.

LB 540 - Change provisions relating to public lettings. Vargas.

The bill proposes changes for any request for bids in pursuance of any statutes of the State of Nebraska, on any road contract work or any public improvements work, or for supplies, construction, repairs, and improvements, and in all other cases where bids for supplies or work, of any character whatsoever, are received for the various departments and agencies of the state, and other subdivisions and agencies.

It would require that such public entity shall inform bidders with contract bids exceeding \$500,000 that such bidders are required, upon request by the public entity, to (i) submit proof of workers' compensation

insurance from all contractors and subcontractors, at every tier of subcontracting, (ii) submit a list of subcontractors, at every tier of subcontracting, performing work under such contract, and (iii) provide for direct deposit or check with record of payments for all workers employed, and all independent contractors performing work, on the project.

This requirement would not apply to the State Park System Construction Alternatives Act or Design Build statutes.

LB 560 - State intent to seek federal funds under Inflation Reduction Act of 2022. Blood.

The bill proposes it is the intent of the Legislature to seek all funds made available to the state through the federal Department of Energy, the federal Environmental Protection Agency, the federal Department of the Interior, the federal Department of Transportation, or the federal Department of Agriculture from the Inflation Reduction Act of 2022 for the purposes of:

1. Increasing energy efficiency in homes and businesses;
2. Supporting electric vehicle infrastructure;
3. Upgrading utility infrastructure;
4. Assisting in transition to cleaner energy;
5. Supporting agricultural practices that are more drought resistant and decrease the use of water and fertilizer; and
6. Create jobs and stimulate the economy.

LB 571 - Appropriate funds to the Department of Environment and Energy to carry out the Water Well Standards and Contractors' Practice Act. Lippincott.

The bill proposes to appropriate \$750,000 from the General Fund for each FY2023-24 and FY2024-25 to the Department of Environment and Energy, to aid in carrying out the provisions of the Water Well Standards and Contractors' Practice Act.

LB 576 - Provide limitations on liability and nuisance related to land-management burning. Cavanaugh, J.

The bill proposes that anyone that has obtained a permit for controlled burns and is in compliance with all terms of the permit and plan, would have an affirmative defense for any negligence and nuisance action.

LB 614 - Appropriate funds to the Department of Agriculture. McDonnell.

The bill proposes to appropriate \$1.5 million from the General Fund for FY2023-24 to the Department of Agriculture, for the purpose of providing a dollar-for-dollar private sector match to fund a pilot program to test emerging technologies for sustainable irrigation.

Intent language is added for the department to work with experts in water research at the University of Nebraska to design the pilot program and include Nebraska-based businesses that specialize in advancing agricultural productivity.

The bill includes the emergency clause.

LB 637 - Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act. Albrecht.

The bill requires that members of the public have an opportunity to speak at each meeting, except for closed sessions.

Current law provides that a body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

LB 651 - Provide for appropriations relating to cybersecurity improvements for state agencies and political subdivisions. McDonnell.

The bill proposes to provide funding and direction to the office of Chief Information Officer in Nebraska to develop cybersecurity preparedness activities in Nebraska for state agencies and political subdivisions.

Political subdivision would include villages, cities, counties, school districts, educational service units, and natural resource districts.

The office shall work to:

- Support cybersecurity preparedness activities;
- Procure tools, hardware, software, or services, that enhance or expand the cybersecurity defense and response capabilities of the state;
- Strengthen and expand cyber risk management activities for the state;
- Expand vulnerability monitoring, identification, and management;
- Increase and maintain cyber incident response capabilities;
- Promote cybersecurity training and awareness within the state; and
- Support cybersecurity workforce development within the state.

The bill outlines the intent of the Legislature to appropriate \$20 million of General Funds annually beginning in FY2023-24 to the Department of Administrative Services, Information Management Services Division, for the purposes of cybersecurity activities described in this section.

LB 656 - Change provisions relating to the Small Watersheds Flood Control Fund. McDonnell.

The bill expresses the intent of the Legislature to transfer \$40 Million dollars each fiscal year from the General Fund to the Small Watersheds Flood Control Fund until the total local cost-share is met for all Nebraska watershed and flood prevention operation projects active on December 31, 2022.

LB 672 - Appropriate funds to the Department of Environment and Energy. Hansen, B.

The bill appropriates \$30 million from the Drinking Water Facilities Loan Fund for FY2023-24 to the Department of Environment and Energy to provide grants that allow up to fifty-percent loan forgiveness in order to expand municipal drinking water treatment plants and all related appurtenances, settling basins, pumps, storage tanks, and water distribution facilities, including costs for the acquisition of land needed for the purpose of locating eligible project components and to support the additional demand for processing agricultural products, enhanced water quality, creation of new capital investment, and creation of new jobs.

LB 683 - Create the Nebraska Broadband Office and provide duties. Transportation and Telecommunications Committee.

The bill proposes to create the Nebraska Broadband Office to coordinate all federal, state, and local government funding for broadband infrastructure and services in Nebraska be leveraged strategically to ensure that all Nebraskans have access to affordable, reliable broadband services before January 1, 2028. Currently, the Public Service Commission has many of these duties.

The office shall be headed by the Director of Broadband, who would be appointed by the Governor. The office shall be located in the Department of Transportation.

The duties of the Nebraska Broadband Office include:

- Through active outreach, collaborate with officials at all levels of government and with stakeholders, which may include, but not be limited to, businesses and industries, community foundations, local governments, local or regional economic development organizations, schools, colleges, other educational entities, public libraries, health care institutions, financial institutions, agricultural producers, telecommunications providers, public power districts, electric cooperatives, nonprofit organizations, and other interested entities;
- Through such collaboration, develop a strategic plan that maximizes the use of public and private resources and encourages innovative models for ownership of infrastructure that is used for both private and public purposes;
- Direct the coordination among state agencies, boards, and commissions on policy matters affecting use of federal or state funding for broadband infrastructure deployment, operation, and maintenance;
- Conduct state advocacy on broadband issues at the federal level, including the accuracy of federal mapping and speed data;
- Ensure that all governmental funding is utilized in a cost effective and accountable manner for Nebraska broadband projects;
- Oversee the coordination of programs for broadband users, such as libraries and schools, and digital equity and inclusion projects;
- Provide resources and assistance for local and regional broadband planning; and
- Provide resources and information to the public through a website and other communication modes.

LB 723 - Adopt the Public Water and Natural Resources Project Contracting Act. Bostelman, at the request of the Governor.

The bill proposes to create the Public Water and Natural Resources Project Contracting Act under the Department of Natural Resources.

Design-build contract is defined under the proposal as a contract between the department and a design-builder which is subject to a best value-based selection process to furnish (a) architectural, engineering, and related design and (b) labor, materials, supplies, equipment, and construction services.

The purpose of the Public Water and Natural Resources Project Contracting Act is to provide the department alternative methods of contracting for public water and natural resources projects. The alternative methods of contracting shall be available to the department for use on any project regardless of the funding source. Notwithstanding any other provision of state law to the contrary, the Public Water and Natural Resources Project Contracting Act shall govern the design-build, progressive design-build, and construction manager-general contractor procurement processes.

The department may hire an engineering or architectural consultant to assist the department with the development of project performance criteria and requests for proposals, with evaluation of proposals, with evaluation of the construction to determine adherence to the project performance criteria, and with any additional services requested by the department to represent its interests in relation to a project.

The department shall prepare a request for qualifications for design-build and progressive design-build proposals and shall prequalify design-builders and progressive design-builders. The request for qualifications shall describe the project in sufficient detail to permit a design-builder or a progressive design-builder to

respond. The request for qualifications shall identify the maximum number of design-builders or progressive design-builders the department will place on a short list as qualified and eligible to receive a request for proposals.

The bill would also allow the department to enter into agreements under the Public Water and Natural Resources Project Contracting Act to let, design, and construct projects for political subdivisions when any of the funding for such projects is provided by or through the department.

On or before July 1, 2024, the Director-State Engineer shall adopt and promulgate rules and regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The rules and regulations shall reflect the intent of the Legislature to promote and encourage the use of public-private partnerships in the State of Nebraska.

LB 729 - Change provisions relating to the Jobs and Economic Development Initiative (JEDI) Fund. McDonnell.

The bill adds that funds available under provisions of the JEDI fund can also be used for economic impact studies. Existing law allows funds for site selection costs, feasibility and public water supply studies, and flood mitigation costs.

There was up to \$20 million set aside last year for such studies.

LB 766 - Appropriate Federal Funds to the Department of Environment and Energy for reverse osmosis systems. DeKay.

The bill proposes to appropriate \$3.25 million for each FY2023-24 and FY2024-25 from Federal Funds to the Department of Environment and Energy for reverse osmosis systems, which shall only be used for such purpose. 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 pursuant to the federal American Rescue Plan Act of 2021.

LB 768 - Transfer money from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund. DeKay.

The bill proposes that the State Treasurer shall transfer \$30 Million from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund on or after July 1, 2023, but before January 1, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

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.

[Nebraska Legislature - Hearings Scheduled](#) for next week.

Wednesday, January 25th

Judiciary, Room 1113 - 1:30 PM

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.

Thursday, January 26th

Natural Resources, Room 1525 - 1:30 PM

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

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.

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	1/25/2023	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 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	1/26/2023	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 241	Change provisions relating to transfers of water to another state	Briese			Natural Resources	1/26/2023	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			Appropriations		Committee	
LB 394	Change provisions relating to the determination of damages as a result of eminent domain	Erdman			Judiciary		Committee	
LB 396	Provide for streamflow augmentation projects and retention of water rights	Erdman			Natural Resources		Committee	

LB 400	Adopt the Nebraska Pheasant Restoration Act	Brewer			Natural Resources		Committee	
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LB 401	State intent regarding appropriations to the Department of Natural Resources	Dorn			Appropriations		Committee	
LB 428	Require the the Nebraska Emergency Management Agency to provide matching funding for the federal Hazard Mitigation Grant Program	Walz			Government		Committee	
LB 506	State intent to appropriate federal funds to the Department of Natural Resources and the Department of Environment and Energy	Bostar			Appropriations		Committee	
LB 513	Change proof of publication requirements for legal notices and requirements for published notice and virtual conferencing under the Open Meetings Act	Brewer			Government		Committee	
LB 534	Appropriate federal funds to the Department of Environment and Energy for community water systems	Slama			Appropriations		Committee	
LB 540	Change provisions relating to public lettings	Vargas			Government		Committee	
LB 560	State intent to seek federal funds under the Inflation Reduction Act of 2022	Blood			Appropriations		Committee	
LB 571	Appropriate funds to the Department of Environment and Energy to carry out the Water Well Standards and Contractors' Practice Act	Lippincott			Appropriations		Committee	
LB 576	Provide limitations on liability and nuisance related to land-management burning	Cavanaugh, J.			Judiciary		Committee	
LB 614	Appropriate funds to the Department of Agriculture	McDonnell			Appropriations		Committee	
LB 637	Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act	Albrecht			Government		Committee	
LB 651	Provide for appropriations relating to cybersecurity improvements for state agencies and political subdivisions	McDonnell			Appropriations		Committee	
LB 656	Change provisions relating to the Small Watersheds Flood Control Fund	McDonnell			Natural Resources		Committee	
LB 672	Appropriate funds to the Department of Environment and Energy	Hansen			Appropriations		Committee	
LB 683	Create the Nebraska Broadband Office and provide duties	Transportation and Telecommunications Committee			Transportation		Committee	
LB 723	Adopt the Public Water and Natural Resources Project Contracting Act	Bostelman At the request of the Governor			Natural Resources		Committee	
LB 729	Change provisions relating to the Jobs and Economic Development Initiative Fund	McDonnell			Natural Resources		Committee	
LB 766	Appropriate Federal Funds to the Department of Environment and Energy for reverse osmosis systems	DeKay			Transportation		Committee	
LB 768	Transfer money from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund	DeKay			Appropriations		Committee	