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June 2, 2023

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: June 2 NARD Update

The Nebraska Legislature adjourned Sine Die June 1, 2023, on Day 88 of a 90-day session. The next 60-day session is scheduled to begin January 3, 2024. Regular sessions generally last 90 legislative days in odd-numbered years and 60 legislative days in even-numbered years.

Filibusters led by Senators Machaela Cavanaugh and Megan Hunt held the process to a snail's pace this session. The main issue of contention is their opposition to the passage of LB 574, which bans gender-affirming care to individuals under 19. They filed over a dozen priority motions on every bill on the agenda. The ongoing filibuster led Senators to change their strategy to get bills passed.

Due to time only allowing for a few bills to be scheduled for debate, the process for moving legislation forward became filing amendments incorporating multiple bills into advancing legislation. Of the over 800 measures introduced, a total of 291 bills were all amended into just 33 bills, not including 19 appropriation bills, that were passed into law.

This document contains a summary of the outcome of all 2023 Legislative Bills of interest to natural resources districts. Hearing notes are also incorporated with the bill summaries.

The first section lists bills that were passed by the Legislature and approved by Governor Pillen (pages 4-16).

The second section lists bills that have been indefinitely postponed or withdrawn (pages 16-17).

The third section lists bills that will be carried over for the next session (pages 17-75).

The fourth section includes Interim Study Resolutions that were introduced in 2023 (pages 75-79).

A spreadsheet is on page 80 for a summary of the budget.

Most bills passed and approved by Governor Pillen become law three calendar months after the Legislature adjourns unless they have an emergency clause or a specified operative date. The emergency clause is a provision that allows a bill or a portion of a bill to take effect immediately after the governor signs it or after the Legislature overrides a governor's veto.

An Index follows on the next two pages to provide a reference to the page number of the bill.

Bill or CA	Description	Sponsor(s)	Page #
LR 1CA	Constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed	Blood	17-19
LR 6CA	Constitutional amendment to prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes	Erdman	19-21
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	19-21
LB 7	Provide a statute of limitations for exposure to hazardous or toxic chemicals	Blood	21
LB 40	Adopt the Riparian and Water Quality Practices Act	Blood	22-25
LB 79	Adopt the Nebraska EPIC Option Consumption Tax Act	Erdman	19-21
LB 121	Repeal the Trail Development Assistance Act	Bostelman	25
LB 125	Change provisions relating to the Surface Water Irrigation Infrastructure Fund	Bostelman	25-26
LB 147	Change procedures for property tax refunds	Kauth	26
LB 205	Adopt the Government Neutrality in Contracting Act	von Gillern	26-28
LB 217	Change a date for certain scrap tire recycling grants	Hughes	16-17
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	28-30
LB 241	Change provisions relating to transfers of water to another state	Briese	30
LB 281	Require the Department of Economic Development to provide grants for youth outdoor education camp facilities	Jacobson	31-33
LB 287	Prohibit creation of joint public agencies under the Joint Public Agency Act	Brewer	33
LB 292	Prohibit the use of eminent domain under the Jobs and Economic Development Initiative Act	Cavanaugh, M.	33-34
LB 302	Change provisions relating to conflicts of interest by certain officeholders and public employees	Linehan	35
LB 304	Require political subdivisions to disclose membership dues and lobbying fees	Linehan	35-36
LB 312	Change provisions relating to withholding money due to noncompliance with budget limits and annual audits for certain political subdivisions	Lowe	36-37
LB 322	Prohibit creation of new joint public agencies with power or authority relating to tax	Linehan	37-38
LB 332	Prohibit creation of new joint public agencies with power or authority relating to education	Linehan	38-39
LB 361	State legislative intent to appropriate funds for the Precision Agriculture Infrastructure Grant Program	Dorn	39-40
LB 394	Change provisions relating to the determination of damages as a result of eminent domain	Erdman	40-43
LB 396	Provide for streamflow augmentation projects and retention of water rights	Erdman	43-47
LB 400	Adopt the Nebraska Pheasant Restoration Act	Brewer	47-49

LB 401	State intent regarding appropriations to the Department of Natural Resources	Dorn	49-50
LB 428	Require the Nebraska Emergency Management Agency to provide matching funding for the federal Hazard Mitigation Grant Program	Walz	17
LB 506	State intent to appropriate federal funds to the Department of Natural Resources and the Department of Environment and Energy	Bostar	50-52
LB 513	Change proof of publication requirements for legal notices and requirements for published notice and virtual conferencing under the Open Meetings Act	Brewer	52-54
LB 531e	Change provisions of the Economic Recovery Act	McKinney	4-5
LB 534	Appropriate federal funds to the Department of Environment and Energy for community water systems	Slama	55
LB 540	Change provisions relating to public lettings	Vargas	55-56
LB 560	State intent to seek federal funds under the Inflation Reduction Act of 2022	Blood	56-57
LB 565e	Provide a grant program related to hydrogen hub designations	Bostelman	5-8
LB 571	Appropriate funds to the Department of Environment and Energy to carry out the Water Well Standards and Contractors' Practice Act	Lippincott	58-59
LB 576	Provide limitations on liability and nuisance related to land-management burning	Cavanaugh, J.	59-61
LB 614	Appropriate funds to the Department of Agriculture	McDonnell	61
LB 637	Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act	Albrecht	62
LB 651	Provide for appropriations relating to cybersecurity improvements for state agencies and political subdivisions	McDonnell	62-63
LB 656	Change provisions relating to the Small Watersheds Flood Control Fund	McDonnell	64-67
LB 672	Appropriate funds to the Department of Environment and Energy	Hansen	67-68
LB 683e	Create the Nebraska Broadband Office and provide duties	Transportation Committee	8-12
LB 723	Adopt the Public Water and Natural Resources Project Contracting Act	Bostelman, request of Governor	68-70
LB 729	Change provisions relating to the Jobs and Economic Development Initiative Fund	McDonnell	70
LB 766	Appropriate Federal Funds to the Department of Environment and Energy for reverse osmosis systems	DeKay	71
LB 768	Transfer money from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund	DeKay	71-74
LB 813e	Provide, change, and eliminate provisions relating to appropriations	Arch, request of Governor	12-13
LB 814e	Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2025, and appropriate Federal Funds allocated to the State of Nebraska pursuant to the federal American Rescue Plan Act of 2021	Arch, request of Governor	13-14
LB 817	Appropriate funds for capital construction	Arch, request of Governor	74
LB 818e	Provide for transfers of funds and change and eliminate provisions regarding the sources, uses, and transfers of funds	Arch, request of Governor	14-16
LB 819	Change provisions relating to the Cash Reserve Fund	Arch, request of Governor	75

Section 1 – Bills passed by the Legislature and approved by Governor Pillen.

LB 531e - Change provisions of the Economic Recovery Act. McKinney. Urban Affairs Priority Bill.

On June 1, 2023, Senators gave final approval to the bill on a 37-8-4 vote. The related appropriations bill, LB 531Ae, passed by a 35-8-6 vote. The bills include the emergency clause and will become law immediately following action by Governor Pillen.

Previously, the Legislature advanced LB 531 to Final Reading on May 18th on a voice vote after adopting several amendments. Due to the ongoing filibuster, the bill has become a vehicle for several other bills which were incorporated into the bill by amendment. A couple of amendments related to natural resources.

First, AM 1880, adopted by a 37-3-7 vote, AM 1880 replaced the original committee amendment and removed language that the Department of Natural Resources provide a grant to the City of Lincoln, as these provisions were already incorporated and passed with the mainline budget bills.

Additionally, the amendment added that investment income from the Perkins County Canal Project Fund for Fiscal Years 2023-24, 2024-25, and 2025-26, shall be credited to the Economic Recovery Contingency Fund and be directed to Game and Parks for a Chief Standing Bear Museum and visitor center. The amendment directs the funding in the following amounts.:

- Not more than \$15 million for fiscal year 2025-26 from investment earnings from the Perkins County Canal Project Fund and for construction of the museum and visitor center;
- \$750,000 for fiscal year 2025-26 from investment earnings from the Perkins County Canal Project Fund and for exhibit fabrication and historical interpretation; and
- \$200,000 in fiscal year 2025-26 for staffing.

Subsequent amendments adopted, AM 1835 and FA 149, provided that the Game and Parks Commission shall purchase or receive by donation, and subsequently rehabilitate and manage, the Mayhew Cabin (John Brown's Cave) historical site located in Nebraska City.

The main purpose of the bill, and as amended by AM 1880, is to clean up language in the Economic Recovery Act by removing certain requirements relating to coordinated plans and directing direct investment to the fund after July 1st, 2023. The Economic Recovery Act, enacted with the passage of Legislative Bill 1024 by the Nebraska State Legislature in 2022, provided at least \$335 million in funding to assist North Omaha, South Omaha, and other communities that were disproportionately impacted by the COVID-19 pandemic.

The amendment included several other bills as follows:

- LB 629, introduced by Senator McKinney. Which would update the Middle-Income Workforce Housing Investment Act and the Economic Recovery Act.
- LB 33, introduced by Senator Jacobson, would allow the mayor of a first- or second-class city to vote on any matter that requires a majority vote of the city council if there is an absence or the council is equally divided. The provisions would not allow the mayor to vote when a super-majority vote of the council is required.
- LB 45, introduced by Senator Dorn, would create the Revitalize Rural Nebraska Grant Fund for first- and second-class cities and villages and provide \$1 million in general funds. The program would be

administered by the state Department of Environment and Energy and grants would be used to demolish dilapidated commercial property.

- LB 98, introduced by Senator Jacobson, would make changes to “micro” tax-increment financing projects by allowing limits on the number of expedited reviews of redevelopment plans, denial of redevelopment plans and an optional resolution before an area is declared substandard and blighted.
- LB 170, introduced by Senator McKinney, would harmonize the definition of a blighted area under the Nebraska Investment Finance Authority Act and the state’s Community Development Law.
- LB 223, introduced by Senator McKinney, would require all cities that adopt an affordable housing action plan to submit their plan to the Urban Affairs Committee electronically and provide an option in the report to show effort toward an affordable housing action plan or to implement such a plan after it is adopted.
- LB 342, introduced by Senator Hardin, would remove a requirement that home inspectors register with the secretary of state every even-numbered year and allow them to renew registration within 45 days of expiration. It also would ensure that registration is valid for two years.
- LB 532, introduced by McKinney, would make a number of changes to the state’s Community Development Law, including: requiring an “extremely blighted” designation to last for at least 25 years; extending the deadline from 24 months to 60 months for housing studies in all but metropolitan class cities; and placing limits on creation of new redevelopment plans in areas already designated as blighted.

Part of the funding for the programs included in AM 1880 would also be funded by the investment earnings from the funds set aside for the new prison in Fiscal Years 2023-24, 2024-25 and 2025-26.

LB 565e - Provide a grant program related to hydrogen hub designations. Bostelman. Natural Resources Committee Priority.

Senators gave final approval to LB 565e on a 41-0-8 vote following a 41-0-8 cloture vote. The appropriations bill, LB 565Ae passed on similar votes. Both the legislation and appropriations bill included the emergency clause and were signed into law by Governor Pillen on May 26, 2023.

On April 18, Senators advanced LB 565 to Final Reading voice vote after adopting an amendment that included bills related to hunting licenses and a bill to extend the scrap tire program on a 38-0 vote.

The amendment, AM 1314, included provisions of LB 217, introduced by Sen. Hughes, to extend the sunset date from June 30, 2024, to June 30, 2029, for participation in the scrap tire recycling grant program under the Waste Reduction and Recycling Incentive program.

On April 11, the Legislature advanced LB 565 to Select file by a 35-0 vote after adopting the committee amendment in four separate motions. This process is referred to as “dividing the question”, where separate issues in a bill are voted on separately. Thus, the four bills included in the committee amendment, AM 827, were divided into AMs 1244, 1242, 1241 and 1240.

The Natural Resources Committee advanced LB 565 to General File on March 15th with AM 827 following an 8-0 vote. The amendment adds provisions of three bills (LB 567, 568, and 723) summarized below.

The original bill (LB 565) expresses legislative intent to appropriate \$250,000 from the General Fund for each FY23-24 and FY24-25 to the Department of Economic Development for the purpose of providing grants to a public power district to be used for engineering and modeling work to prepare and support the

state in competing for one of the U.S. Department of Energy's regional clean hydrogen hub designations and associated federal funding.

This was added with AM 1244 by a 35-0 vote.

The committee amendment (AM 827) adds provisions of the following bills, each of which were voted on separately:

- **LB 567 - Change provisions relating to public power and irrigation districts and electric suppliers. Bostelman.**

This was added with AM 1242 by a 31-2 vote.

The bill changes qualifications of high-level managers employed by one public power district to be able to serve as a member of the board of directors of another public power and irrigation district; defines reliability to update the terms currently used in conversations about public power; and adds a requirement that the annual load and capability report filed with the Nebraska Power Review Board on behalf of the utilities contain additional information if requested by the Board.

- **LB 568 - Adopt the Nuclear and Hydrogen Development Act. Bostelman.**

This was added with AM 1241 by a 35-0 vote.

The bill creates the Nuclear and Hydrogen Development Act to support workforce development and advancement of nuclear and hydrogen industries in Nebraska. Creates a work group to evaluate and make recommendations regarding the workforce training needs of the nuclear and hydrogen industries in Nebraska and provides an opportunity for collaboration of the industries and higher education to provide grants, training, curriculum, programming, and marketing to meet the workforce needs of the industry. The bill creates a fund for the purposes of work group reimbursement and proposes a \$200,000 General Fund transfer.

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

This was added with AM 1240 by a 33-0 vote.

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 with 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.

The Natural Resources Committee accepted testimony on the bill on February 2nd.

Sen. Bostelman opened by providing a summary of provisions of the bill. He noted the measure would grant NeDNR the same authority that has been authorized for NDOT, NGPC and other political subdivisions. He outlined how utilizing these innovative methods will create efficiencies in contracting.

Proponents

Director Tom Riley testified in support on behalf of NeDNR. He noted Gov. Pillen asked that the bill be introduced to meet the need of facilitating large projects enacted by the legislature with the passing of LB 1023 and LB 1015 last session. He noted that the legislation was modeled off the Transportation Innovation Act and those same contracting provisions are a good match for NeDNR projects. He provided the committee with a detailed summary of each of the design build processes authorized by the bill.

Sen. Cavanaugh asked why the public private partnership components were added and Director Riley noted that they wanted provisions of LB 1023 to be captured in this bill.

Kent Miller, General Manager, Twin Platte NRD testified in support on behalf of NARD. He noted that LB 723 will help expedite building the Perkins County Canal and that he's been promoting that Nebraska utilize the provisions of Article VI of the South Platte River Compact and to build the Perkins County Canal for 40 years.

Miller testified the Twin Platte NRD has been observing the developments occurring in the Front Range of Colorado and their desperate need for water. Enthusiastically applaud and thank Governor Pillen for supporting, and funding in his Budget, the Perkins County Canal Project. This is the right time and Nebraska cannot wait any longer. It is essential to the economic prosperity, health, and welfare of the people of Nebraska, and to the environmental health of the entire Platte River Basin across Nebraska to protect Nebraska's full entitlement to the flows of the South Platte River as provided for in the South Platte River Compact.

The Twin Platte NRD has extensive requirements in their Integrated Management Plan required by the Legislature in 2004 for conjunctive management of ground water and surface water for the Over Appropriated Upper Platte River Basin in Nebraska. These regulatory burdens will increase if South Platte River flows continue to decrease.

Nebraska must protect the flows we are now receiving in the South Platte River.

Miller summarized provisions of the bill and noted he is a licensed Professional Engineer in Nebraska and he's observed the benefits of a design-build contract used by several Natural Resources Districts and knows the benefits of a design-build contract.

Miller ended his testimony by noting that LB 723 will be very beneficial to expedite the building of the Perkins County Canal which needs to happen as soon as possible.

Alex Linden, CNPPID Government and Public Relations Manager, testified in support of the bill. He noted that the practice of contracting has advanced over the years. NeDNR should have the same access as CNPPID to these practices to allow for efficient and cost-effective completion of projects.

Opponents

There were no opponents or neutral testimony provided.

Sen. Bostelman utilized closing to address questions addressing qualifications and noted that it would allow for qualification short listing and enable preapproving those that are qualified and appropriate to complete the work. He also reiterated that design build techniques allow adjustments to be made without entering into a new contract as design obstacles arise during construction.

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

On May 23, 2023, Senators gave final approval to LB 683e by a 39-0-10 vote. The related appropriations bill, LB 683Ae, passed by a 41-0-8 vote. Both the legislation and appropriations bill included the emergency clause and was signed into law by Governor Pillen on May 26.

Previously, on May 8, Senators advanced the bill to Final Reading by a 40-0-9 vote following a cloture vote of 40-0-9.

While the bill was on Select File, Senator Bostar was successful in adopting an amendment, AM 1181, to the bill to require communications providers to certify to the commission that they are not using or providing any communications equipment or service deemed to pose a threat to national security as such regulation existed on January 1, 2023, and published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission. If they do not, the commission shall withhold support distributed from the fund.

On March 31st, the Legislature advanced LB 683 to Select File on a 43-2 vote after adopting the committee amendment on a 46-1 vote. Senator Geist was successful in invoking cloture by a 43- 1 vote after dealing with 12 motions/amendments filed by Senators Cavanaugh and Hunt.

The Transportation Committee advanced LB 683 to General File on a 7-1 on March 16th vote with committee amendment AM 870.

The committee amendment substitutes for the bill and retains the original provisions of LB 683 with some additional changes.

The amendment clarifies that the fund may be used to provide office space, furniture, office supplies, and administrative and budgetary for the Nebraska Broadband Office. Further, it specifies that the Department of Transportation shall provide office space, supplies and other necessary support to operate the Nebraska Broadband Office. Also, the Department and the Broadband Office shall, to the extent possible, seek reimbursement for such expenses from federal funds.

It also clarifies that the Department of Transportation shall not fund the installation, operation and maintenance of broadband projects, except for projects solely designed to meet the state's needs along the state highway system. The Department may utilize the Transportation Innovation Act for projects to meet highway needs and may work with the Nebraska Broadband Office for such projects and to solicit the use of federal highway funds for such projects. The Department of Transportation is not authorized to own, operate, manage, construct, or maintain fiber optic, broadband or similar technology outside of state highway property.

Language is added which provides that the Director of Broadband on December 1 of each year shall provide the legislature with a report on the status of the Broadband Office and the efforts of the Office to deploy broadband, engage in community outreach, and outline changes to the state's strategic broadband plan. The Transportation and Telecommunications Committee shall conduct a public hearing following receipt of the report.

The amendment also provides that if any final decision of the Nebraska Broadband Office relating to funding for projects is appealed to the district court, the appeal shall be given precedence on the trial docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and be expedited.

Finally, the amendment clarifies that the Public Service Commission shall administer the Broadband Bridge Act and any federal broadband enhancement funds that are designated by the Governor.

The original bill, which is maintained with the committee amendment, 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.

The Transportation Committee accepted testimony on the bill on February 7th.

Proponents

Vicki Kramer, Department of Transportation (DOT) director, opened testimony in support of the bill. Kramer discussed that DOT is well positioned to bring scalability to broadband. She noted that federal government grants and programs are unique with large requirements and DOT has the staff with background to navigate that efficiently. Kramer discussed that DOT plans to hire an additional 10 people for the broadband office, similar to what other states have done. Existing Public Service Commission (PSC) staff would come to DOT and DOT is working with PSC to ensure that the employees get what is promised to them. She also discussed that there wouldn't be a loss of services, and they would be building off what PSC has done with a vision for a strong relationship with PSC.

Kramer responded that DOT has done targeted outreach for the Broadband Coordinator job and that DOT is in conversation with candidates.

Kramer added that DOT's role is not a forever role, so whoever is brought on will likely have synergy with PSC and DOT can provide support to them. She noted that PSC can focus on other areas of their mission if DOT takes broadband off their plate. The DOT looks at the future of smart infrastructure, we might need DOT funds for highway infrastructure to advance future projects like connecting autonomous vehicles.

Sarah Meier, attorney at Rembolt Ludtke working on behalf of Nebraska Rural Broadband Alliance (NRBA), testified in support. NRBA fully supports the establishment of the Nebraska Broadband Office and believes that collaboration at all levels will be imperative and strategic planning and deployment will be essential. In addition to funding, Nebraska will be competing with other states for fiber and labor. NRBA believes the legislature should determine which agency is best suited to handle broadband, but having two agencies handling broadband, two separate funding sources, two different application processes will divert resources and be distracting from creating a cohesive broadband plan. She mentioned the first priority is to have an accurate map of service areas.

Julie Bushell, President of Ethos Connected, testified in support. She started by saying that they see the creation of this office as transformative. Agriculture is the No. 1 industry in Nebraska and they have worked with stakeholders in agriculture that want producer-owned data to drive value-added products. A broadband director takes in all perspectives of what rural broadband means and can prioritize the largest economic driver in the state and have a fresh focus on connectivity.

Emily Haxby, a farmer from Gage County, testified in support. Emily helped lead the Gage County Rural Broadband Project and knows how important it is to the community. She noted it is not about taking it away from PSC, but sometimes change is necessary, and this is a smart priority. It is a great opportunity for inter-agency partnerships and outlined how Gage County's project has served as a model for other counties.

Danny DeLong, volunteer on behalf of AARP Nebraska, testified in support. The Broadband Office would help with availability, affordability and reliability of broadband for older Nebraskans. This will strategically leverage the resources to get broadband to everyone with a single, centralized office that will be better positioned to coordinate and advocate at the federal level.

Lash Chaffin, League of Municipalities, testified in support. Currently nobody knows where to go if they don't have broadband. Consolidating and collaborating would allow people to go to the correct place. He highlighted that DOT has done a great job with several programs and the League has seen them work with communities well by bringing out staff and helping cities and counties.

Bruce Rieker, representing Nebraska Farm Bureau and seven other ag organizations, testified in support. He noted that Nebraska's 45,000 farmers and ranchers make up 20-30% of Nebraska's economy and may be one of the highest rates of investment for broadband. Ag producers have multi-million-dollar operations and they need broadband to keep their operations running. He pledged support for the Broadband Office because Nebraska needs a deliberate, intentional, focused approach that is not distracted by other responsibilities. A group of people that are focused on this every day. This is just a launching pad of where to go with connectivity, because the ag complex has been declared by the FBI to be one of the most vulnerable to cyber-attacks. The DOT makes sense for this effort because the future of ag is all about transportation, distribution, input and outputs and Nebraska needs some of the highest-qualified people only focused on broadband.

Opponents

There was no opposition testimony.

Neutral

Dan Watermeier, Nebraska Public Service Commission (PSC), testified in the neutral capacity. The PSC's responsibilities overlap with those outlined in this bill and he believes PSC has institutional knowledge because they handled the previous broadband funding. The PSC strives for accountability and transparency and the group includes stakeholder input and quickly responds to complaints and concerns. Currently, the PSC is working diligently to meet deadlines on broadband funding. Watermeier noted that PSC already has broadband grant funding in various stages of maturity and the Connect-Nebraska working group has multiple agencies working together to collaborate on broadband.

Watermeier highlighted that PSC has 50 people with 9 involved in telecommunications and plans to hire an additional 9 people to help with expanded broadband. The PSC wants to be able to expand people but also contract when the dollars are gone, so the people are primarily contracted. He noted that PSC is going to sign around a \$300,000 contract to get started on the mapping process, noting map data is improving every day, every year.

Watermeier received several questions from the committee regarding the position of the PSC. Watermeier noted that he believes that the Governor needs to have a cabinet-level person like the Office of the Chief Information Officer (OCIO). The PSC is here for constituents to get broadband out there and he didn't want to get in the weeds about how it is going to be administered. The PSC is ready and willing to get broadband out there for Nebraskans and there should not be a territorial fight as long as all agencies are engaged. Watermeier noted that the Public Service Commission voted to be neutral. He said that as long as the governor has a cabinet-level broadband person, the Governor can name which agency it needs to be under. Whether PSC turns it over now or later, the job has to get done no matter what.

Andrew Vinton, legal counsel for Allo Communications, testified in the neutral capacity. He noted that many states have had a broadband office in place for several years. Vinton is concerned the DOT may have difficulty ramping up staffing and expertise in time to deliver the project. The PSC has done a good job with the current funding and Allo would encourage the broadband office to rely on PSC. He noted that no matter who is selected for the Broadband Office, Allo advocates for efficiency and transparency.

Tip O'Neill, Nebraska Telecommunications Association (NTA), testified in the neutral capacity. The NTA views the next 5 years as a great opportunity to bridge the digital divide in Nebraska. NTA believes the state broadband office can have major impact with agency coordination and outreach. Although there is

uncertainty in how grant funding will work, the PSC has done a good job in distributing broadband funds previously. He said that NTA doesn't want a new process to slow down the function of getting broadband across the state.

Bryan Thompson, External Relations for Consolidated Companies, testified in the neutral capacity. He noted they have been a part of several broadband BRIDGE processes and received several grants and built nearly \$18 million in fiber to farms, businesses, homes and towns. He noted that the mapping information dates to June 2022, and there have been numerous customers served since that time. They have other projects totaling \$3.5 million and are building fiber every day. They received 81,000 federal address records for broadband installation and had to change 3,000 addresses that were wrong and several others that were invalid.

Cullen Robbis, Public Service Commission, testified in the neutral. He clarified questions regarding map inaccuracies and how people can challenge service inaccuracies.

Letters submitted for the record included 3 letters in support, no opposition, and no neutral.

LB 813e - Provide, change, and eliminate provisions relating to appropriations. Speaker Arch, at the request of the Governor.

Governor Pillen gave final approval to the bill on May 22, 2023. The bill includes the emergency clause and becomes law immediately following approval by the Governor. On May 17th, after voting to invoke cloture on a 43-0-5 vote, the Legislature gave final approval to the bill on a 44-2-3 vote.

Previously, on May 9th, Senators advanced LB 813 to Final Reading on a 25-0-24 vote.

On May 5th, after voting to invoke cloture on a 38-1-10 vote, the Legislature advanced LB 813 to Select File on a 36-2-11 vote after adopting AM 1169 on a 38-0-11 vote.

The Appropriation Committee reported the bill to General File with committee amendment AM 1169 on May 2nd. The amendment (AM 1169) becomes the bill and adjusts the budget for FY 2022-23.

Before advancing the bill on General File, Senator Clements offered an amendment to add \$2.5 million in the current fiscal year to the Nebraska Game and Parks Commission for operation expenses and temporary salaries. Of that amount, the salary limit is \$600,000. The amendment was adopted by a 31-0 vote.

There are no other adjustments related to natural resources programs.

Governor Veto Action on Budget Bills

On May 24, 2023, Governor Pillen informed the Legislature he had signed LB 814e and LB 818e with several line-item vetoes. These line-item vetoes reduced the overall appropriations previously passed by the Legislature by more than \$140 Million.

Vetoes included reductions to Medicaid provider rates, reductions to workforce housing in rural and urban areas, and reductions to child welfare rates, among many other line-item reductions. Related to Natural Resources, these vetoes included eliminating the \$7 million appropriation for NDEE to provide a grant to the Cedar/Knox rural drinking water project. The Governor's veto message noted the project has already received significant investment from state funds. Additionally, the veto action reduced the \$300,000 appropriation increase in FY 23-24 and 24-25 for interstate water litigation within the Attorney General's office. The Governor's veto message noted existing interstate water litigation funding is sufficient to meet the state's needs.

The Appropriations Committee met to review the Governor's line-item vetoes and filed motions to override line-item vetoes related to workforce housing in LB 818e and child welfare, state auditor appropriations, and state supreme court appropriations.

On May 31, the Legislature voted 31-14-4 to override the \$1.1 million veto for the Auditors office.

All other attempted veto overrides failed, totaling about \$119 million.

There was no attempt to override the veto of the \$7 million funding for the Cedar/Knox County rural water.

LB 814e - Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2025, and appropriate Federal Funds allocated to the State of Nebraska pursuant to the federal American Rescue Plan Act of 2021. Speaker Arch, at the request of the Governor.

On May 24th, Governor Pillen signed LB 814e with several line-item vetoes. Related to natural resources the governor's veto included eliminating \$7 Million in funding to NDEE to fund a grant for the Cedar/Knox Rural Water project. The governor also vetoed an appropriation increase of \$300,000 in each FY to the Attorney General's office for water litigation.

On May 18th, following a 41-2-5 cloture vote, senators gave final approval to the bill on a 42-3-4 vote. The bill includes the emergency clause and will become law immediately following action by Governor Pillen.

Previously, on May 10th, following a 41-2-6 cloture vote, senators advanced LB 814 to Final Reading on a 41-2-6 vote. Prior to advancement, senators adopted AM 1730 on a 29-3-14 vote, the amendment reduced the appropriation for a grant to the City of Lincoln for a second water source by \$2 Million, it retains funding of \$177,200,000. The amendment added that a \$2 Million grant be provided to a city of the first class located in the 1st congressional district that is constructing a riverfront improvement project, including water recreational, arts, and entertainment facilities.

On May 3rd, following a 38-3-4 vote to invoke cloture, senators advanced LB 814 to Select File on a 36-4-5 vote after adopting committee amendment AM 915 on a 37-4-4 vote.

The Appropriations Committee reported the bill to General File with committee amendment AM 915 on May 2nd. The bill provides appropriations for the operation of state government over the next two fiscal years.

The amendment (AM 915) becomes the bill and contains the Appropriations Committee's adjustments and recommendations for appropriations.

AM 915 included adjustments to the Governor's proposal and incorporated provisions of 33 additional bills, including LB 817 the appropriations bill for capital construction projects including projects for Department of Corrections, Nebraska Game and Parks, University of Nebraska, and State Colleges. Related to natural resources, the committee's proposal incorporated the following provisions:

- LB 281 - Create the Youth Outdoor Recreation Innovation Cash Fund, transfer \$10 million from the Cash Reserve Fund, and clarify matching requirements. This would provide funding to rebuild the Halsey 4-H Camp that was destroyed by the Bovee Fire in 2022.
- LB 361 - Transfer \$1 million each year from the Cash Reserve Fund to the General Fund and appropriate funds to the Public Service Commission to carry out the Precision Agriculture Infrastructure Grant Program.
- LB 768 - Transfer \$7 million from the Cash Reserve Fund to the General Fund and to appropriate funds for purposes of providing grant assistance for a rural drinking water project that serves rural water connections and at least four communities in two contiguous

counties to convert to ground water sources and to provide for water system infrastructure and distribution. This would be funding for the Cedar Knox Rural Water project which is sponsored by the Lewis and Clark NRD. The additional funding was vetoed by Governor Pillen.

- LB 769 - Transfer \$10 million from the Cash Reserve Fund to Critical Infrastructure Facilities Fund, amend language related to use of the Fund, and appropriate funds for a grant to an entity within a county with a population exceeding one hundred thousand for the purpose of funding a portion of the cost of a wastewater system.
- LB 785 – Includes \$179.2 million ARPA funds to the Department of Natural Resources for grants to cities of the primary class for the design, construction, and implementation of additional water supply projects.

LB 818e - Provide for transfers of funds and change and eliminate provisions regarding the sources, uses, and transfers of funds. Speaker Arch, at the request of the Governor.

On May 24th, Governor Pillen signed LB 818e with line-item vetoes.

On May 18th, following a 41-1-7 cloture vote, senators gave final approval to the bill on a 41-3-5 vote. The bill includes the emergency clause and will become law immediately following action by Governor Pillen.

On May 10th, Senators advanced LB 818 to Final Reading by voice vote after the Cloture vote of 41-1-7 vote.

On May 4th, following a 36-2 vote to invoke cloture, senators advanced LB 818 to Select File on a 35-0 vote after adopting committee amendment AM 1172 on a 39-0 vote.

The Appropriations Committee reported the bill to General File with committee amendment AM 1172 on May 2nd. The amendment becomes the bill and contains the Appropriations Committee's recommendation related to funds and statutory provisions to carry out the budget recommendations.

AM 1172 includes partial provisions of many bills that were also incorporated into LB 814 as part of the Appropriations Committee recommendation. It includes the creation of the Youth Outdoor Education Innovation Fund and establishment of grant program criteria for the fund (LB 281). The amendment also amends the Nebraska Environmental Trust Fund to authorize transfers to the Water Resources Cash Fund, subject to a limitation that funds transferred be expended in accordance with the purposes of the Environmental Trust Fund Act.

Additionally, the amendment contained sole provisions of 5 additional bills, including the following related to natural resources.

- LB 125 – States that investment earnings from the Surface Water Irrigation Fund shall be credited to the fund.
- LB 744 - Amend language in the State Game Fund statute to permit use of the fund for wildlife damage payments.
- LB 819 - Provides for transfers of funds from the state Cash Reserve Fund. Related to natural resources includes a one-time transfer of \$574,500,000 from the Cash Reserve Fund to the Perkins County Canal Project Fund in FY 23-24. The bill modifies use of the Perkins County Canal Project Fund authorizing NeDNR to utilize the fund to identify the optimal route and purchase land for and develop, construct, manage, and operate the Perkins County Canal. Language is also added that any fees collected for water delivery may be credited to the fund.

On General File, Senator John Cavanaugh offered an amendment to cut \$125 million for the canal project and reduce capacity to limit the amount of water that could be diverted to Nebraska. That amendment was defeated on a 11-32 vote.

For natural resources programs, the budget proposal and transfers include the following:

- **Nebraska Soil and Water Conservation Fund** - Maintains General Fund funding at \$1,806,112 and \$50,000 in Cash Funds for both FY 23-24 and FY 24-25.
- **Water Well Decommissioning** -- Appropriates \$70,000 in Cash Funds for both FY 23-24 and FY 24-25.
- **Natural Resources Water Quality Fund** - \$1,187,500 in Cash Funds for both FY 23-24 and FY 24-25.
- **Water Resources Cash Fund** - \$7,000,000 transfer from Environmental Trust Fund in both FY 23-24 and FY 24-25. On General File, an amendment to strike this transfer in LB 818 was offered by Senator Conrad and was withdrawn before a vote. Also on General File, Senator John Cavanaugh offered an amendment to strike the appropriation in LB 814 which lost on a 12-28 vote.
- **Nebraska Resources Development Fund** - The bill includes no additional appropriations. However unexpended balances existing on June 30, 2023, would be re-appropriated.
- **Nebraska Water Sustainability Fund** – The bill includes an appropriation of \$10,865,033 for both FY 23-24 and FY 24-25. Unexpended balances existing on June 30, 2023, would be re-appropriated.
- **Water Projects** – The bill includes Cash Fund appropriation of \$87,800,000 for both FY 23-24 and FY 24-25. Includes \$62,800,000 Cash Funds from the Perkins County Canal Project Fund and \$25,000,000 Cash Funds from the Jobs and Economic Development Initiative Fund in both FY 23-24 and 24-25. The bill includes Federal Fund appropriation of \$177,200,000 in FY 23-24 for Grant to municipality for water project. The bill includes Federal Fund appropriation of \$2,000,000 in FY 23-24 for grant to first class city located in first congressional district for purposes of constructing riverfront improvement project.
- **Critical Infrastructure Fund** - The bill includes \$10,000,000 Cash Fund appropriation in FY 23-24 for funding a portion of the cost of a wastewater system. Unexpended balances existing on June 30, 2023, would be re-appropriated.
- **Department of Natural Resources Operations** - The bill appropriates \$22,436,156 in FY 23-24 and \$22,919,860 in FY 24-25. Included in the appropriation is \$1,200,000 in Federal Funds for each fiscal year for enhanced data collection. Unexpended balances existing on June 30, 2023, would be re-appropriated.
- **Environmental Trust** – The bill includes appropriations of \$21,309,636 for FY 23-24 and \$21,581,666 for FY 24-25. Includes \$7,000,000 transfer to Water Resources Cash Fund in both FY 23-24 and FY 24-25. On General File, an amendment to strike this transfer in LB 818 was offered by Senator Conrad and was withdrawn before a vote. Also on General File, Senator John Cavanaugh offered an amendment to strike the appropriation in LB 814 which lost on a 12-28 vote.
- **Department of Environment and Energy** - The bill includes appropriations of \$84,137,755 for FY 23-24 and \$67,766,117 for FY 24-25 for Administration, Water Quality, Land Quality and Air Quality programs. Includes \$1,000,000 General Funds for a Water Quality study. The passed proposal included \$7,000,000 General Funds to provide a grant to a rural water district that serves

four communities in two counties, however this funding was part of a line-item veto by Governor Pillen.

- **Drinking Water Facilities Loan Fund (NDEE)** - Appropriates \$12,710,000 in FY 23-24 and \$12,810,000 in FY 24-25.
- **Nebraska Game and Parks Commission Wildlife Conservation** - Appropriates \$40,934,603 for FY 23-24 and \$42,027,843 for FY 24-25.
- **Nebraska Game and Parks Commission Habitat Development** - Appropriates \$12,280,770 for FY 23-24 and \$12,389,355 for FY 24-25.
- **Nebraska Game and Parks Commission Planning and Trails Coordination** - Appropriates \$2,012,043 for FY 23-24 and \$2,081,761 for FY 24-25.
- **Nebraska Game and Parks Commission Niobrara Council** - Appropriates \$178,500 for both FY 23-24 and FY 24-25. This includes \$125,000 from Federal sources, \$52,500 in General Fund and \$1,000 in Cash Fund for each fiscal year.
- **University of Nebraska Robert B. Daugherty Water for Food Global Institute** - Appropriates \$500,000 in General Funds for both FY 23-24 and FY 24-25 to support water and agricultural research and initiatives for water conservation.
- **University of Nebraska State Nebraska Forest Service** - Appropriates \$2,804,862 in General Funds for both FY 23-24 and FY 24-25.

A summary of appropriations specific to Natural Resources programs can be found in the table following this document.

Section 2 - Bills that have been indefinitely postponed or withdrawn.

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

The bill was indefinitely postponed after provisions of the bill were incorporated into LB 565e (see pages 5-8) which was passed and signed by Gov. Pillen on May 26, 2023.

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

The Natural Resources Committee accepted testimony on the bill on January 26th.

Sen. Hughes opened on the bill by expressing the need for continuation of grants allowed under the scrap tire program.

Proponents

Beth Bazyn Ferrell testified in support on behalf of the Nebraska Association of County Officials. Counties across the state utilize the program. Last year, 11 counties received over \$400k in grants for scrap tire cleanup. This program helps keep tires out of the places they don't belong like ditches and creeks.

NARD testified in support and thanked Sen. Hughes for introducing the bill. The testimony provided the committee with an overview of how NRDs utilize the fund, noting that NRDs are heavily involved with

scrap tire recycling. It is very important, especially in our rural areas, for these types of programs to ensure materials are disposed of properly.

Opponents

There was no opposition or neutral testimony.

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

The Government Committee reported the bill indefinitely postponed on April 17th.

The bill would have required 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 would have allowed the Nebraska Emergency Management Agency to adopt and promulgate rules and regulations to carry out this section.

The Government Committee accepted testimony on the bill on March 24th.

During her opening Sen. Walz asked the committee to indefinitely postpone (IPP) the bill as it needs some work.

Proponents

Jon Cannon testified in support and acknowledged the request to IPP the bill. Cannon thanked Sen. Walz for her efforts on the issue.

There was no other testimony, and no letters were submitted for the record.

Section 3 - Bills that will be carried over for the next session.

LR 1CA - Constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed. Blood. Blood 2023 Priority.

The Government Committee reported LR 1CA to General File on March 3, 2023, with committee amendment (AM 591) following an 8-0 committee vote. The amendment, AM 591, delays the effective date of the CA to January 1, 2025. The amendment also rewords the substance of the bill to reframe it as a conditional requirement on the Legislature rather than as a prohibition on the Legislature with an exception.

The original proposal would require 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.

Under AM 591, the proposal would require that beginning on January 1, 2025, if the Legislature by general law imposes a program upon any political subdivision of the state, or increased level of expenditure required under an existing program upon any political subdivision of the state, as those terms are defined by the Legislature, the costs of such programs or increased level of service shall be reimbursed by the state in such manner as the Legislature may prescribe.

The Natural Resources Committee accepted testimony on the bill on February 24th.

Sen. Blood opened by providing a summary of the measure. She noted that Nebraska is a Dillon's Rule state, leaving counties few options to pay for new mandates passed on by the state. She provided an overview of prior studies and resolutions that have studied solutions to unfunded mandates, noting that the legislature has yet to take sustainable action on any studies. She provided that NACO completed a survey that included just half of the counties in Nebraska and it demonstrated more than \$53 million in unfunded mandates.

Sen. Blood mentioned a similar measure was passed out of committee unanimously last session and was progressing on floor but did not receive final approval due to the body running out of time.

Proponents

Doug Kagan, representing Nebraska Taxpayers for Freedom, testified in support. He provided examples of unfunded and underfunded mandates that require counties to pay court staff and to house state prisoners. He also provided examples of mandates from the department of education that result in increased property taxes.

Jon Cannon, testified in support on behalf of NACO. He expressed that this is a property tax bill. Property tax is primarily the counties only option for revenue, and while counties are conservative in how they use funds, state mandates place additional burden on property taxes. NACO's hope is that the measure would require future legislators to decide if a measure is right to force on to locals. He expressed the importance of putting the measure into the constitution versus putting it in statute – noting that what the legislature can give, they can also take away.

Several county commissioners followed NACO's testimony and reiterated the burden of unfunded mandates. Several examples of mandates were provided, including housing state prisoners, housing DHHS, mailing postcards, among others. Testimony also included examples of prior legislative action that promised reimbursement for mandates but was later unpaid or taken away.

Lynn Rex, testified in support on behalf of the League of Nebraska Municipalities. Rex provided examples of two of the largest unfunded mandates in the state, including subtitle D requirements for landfills and defined benefits for Cities of the first class. Rex also provided the committee with a lengthy history of legislative actions that resulted in reductions in state aid and levy limits or lids on restricted funds.

Jack Moles, testified in support on behalf of the Nebraska Rural Community Association. Moles provided examples of mandates on schools and ESU's that are often un or underfunded. He noted that 2/3 of school districts don't receive equalization aid, and rural schools are disproportionately impacted. Sarah Centineo, testified in support on behalf of the Nebraska Association of School Boards. The trend has been for increasing mandates from the state for personal accounting and additional computer requirements. These unfunded mandates adversely impact student opportunities.

Allie French, testified in support on behalf of Nebraskans Against Government Overreach. French's testimony expressed that the legislature should at least allow Nebraskans to vote on the measure.

Al Davis, testified in support on behalf of the Independent Cattle of Nebraska, Nebraska Sierra Club, and the Nebraska Farmers Union. Davis's testimony was limited to suggesting that it should be left to the voters to decide.

Opponents

There was no opposition or neutral testimony.

Letters submitted included 12 proponents, no opponent, and 2 neutral letters.

Sen. Blood closed by suggesting the bill should be considered for a committee priority.

The Revenue Committee accepted joint testimony on the CA and related measures (LR 6 & 7 CA & LB 79) on March 3, 2023

- **LB 79 - Adopt the Nebraska EPIC Option Consumption Tax Act. Erdman. Erdman 2023 Priority.**

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.

- **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 LB 79)

The committee held the hearing for LB 79, LR 6CA, and LR 7CA collectively and asked that testifiers to combine their testimony.

During his opening, Sen. Erdman provided the committee with an overview of Nebraska tax history. When the idea of a consumption tax was presented to Senator Erdman, he was sure this is the solution to our property tax situation. This bill would fix the whole tax system and not just the property tax situation. When a consumption tax is implemented, everyone is on an even playing field because everyone pays. Senator Erdman provided an overview of how the distribution of consumption taxes would be made and how schools funding would be handled.

Proponents

There were several individuals that provided testimony in support. Common themes were that taxes are too complicated, too high and that 40% of Nebraskans don't pay taxes. Implementing a consumption tax would expand the tax base to those not paying taxes currently and even the playing field.

Opponents

Individual testimony was provided by representatives of the Chambers of Commerce, Nebraska New Car & Truck Dealers Association, NACO, Nebraska Realtors Association, NE Broadcasters Association, Grocers & Nebraska Beverage Association, NE Bankers & NFIB, NIF, Nebraska Society of CPAs, Open Sky, Nebraska Retail Federation, Nebraska League of Municipalities, Nebraska Economic Development Association, NHA, NMA & Nebraska Dental Association.

The NARD joined a coalition of the following organizations in testimony against the proposals: Associated General Contractors, Nebraska Chapter, ACEC NE, AIA Nebraska, APCIA, Eastern Nebraska Development Council, HBAL/MOBA Coalition, Independent Insurance Agents of Nebraska, Nebraska Association of School Boards, Nebraska Association of Commercial Property Owners, Nebraska Auctioneers Association, Nebraska Council of School Administrators, Nebraska Golf Alliance, Nebraska Health Care Association, Nebraska Independent Auto Dealers Association, Nebraska Land Title Association, Nebraska Petroleum Marketers and Convenience Store Association, Nebraska Press Association, Nebraska Rural Community Schools Association, Nebraska State Bar Association, Professional Engineers Coalition, and United Cities of Sarpy County.

Testimony captured the general theme that this proposal increased taxes on many individuals and creates a confusing budgeting process for political subdivisions.

The state income tax is tied to the federal income tax, which makes it easy to comply with the tax code. This new system would require the Department of Revenue to significantly increase their audit department to make sure the proper items are taxed.

The proposal also takes away the ability of local people to be involved in the budgeting and funding process and puts the final decision in the hands of a small group of individuals. It also places rural Nebraska at a disadvantage for request of funding for services such as school funding, roads, infrastructure needs, resources management, etc. The majority of senators are from three counties in Nebraska. The majority of the Legislature will decide what is in the best interest of the needs for rural Nebraska.

It is best to let the local people decide what funding is needed locally, rather than leave it up to the majority vote of the Legislature what needs funded.

For example, the proposals lay out these restrictions on budgeting:

- State agencies submit annual budget requests to the Governor and to the chair of the Appropriations Committee by Sept. 15 (includes University & State Colleges). Annual budget request may exceed prior year by the percentage change in the CPI if in an emergency, agencies may petition the Legislature for an increase of no more than 2.5%. If natural disaster, agencies may petition the Legislature for an increase of no more than 5%.
- Counties and other political subdivision funding will be decided by a seven member Budget Equalization and Review Board. The Board makeup would be five members from regional areas, a secretary appointed by the Governor, and the Auditor of Public Accounts. Local counties would gather information on budgets for the political subdivisions and submit them to the Budget Equalization and Review Board for consideration.
- School Funding will be managed by the School Equalization and Review Board. They will make the final decisions on funding for operations, construction, and maintenance of schools in Nebraska.

Neutral

One individual testified in the neutral position wanting clarification on the consumption tax and how it would work.

Letters submitted online included:

LB 79 had 127 proponent, 6 opponent, 3 neutral letters for the record.

LR 6CA had 40 proponent, and 4 opponent letters for the record.

LR 7CA had 32 proponent, 6 opponent and 1 neutral letters for the record.

During closing, Sen. Erdman stressed that not one opponent contacted him about concerns with the bill. He noted that these organizations are all paid to be there and all complain that the EPIC tax won't work, but he can address all the concerns in some way with the consumption tax. He urged the committee to represent the people and not the registered lobbyist.

The committee reported no action on the measure.

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.

The Judiciary Committee accepted testimony on the bill on January 25th.

Sen. Carol Blood noted in her opening the change is necessary because many victims of toxic chemicals don't start experiencing symptoms until after four years. She noted the bill was drafted in response to the AltEn leak in 2021, which released wastewater from an Ethanol Plant. She claimed that even before the leak and the plant's shutdown, nearby residents complained of foul odors and negative health effects resulting from the plant.

Proponents

Vince Powers, a trail attorney from Lincoln, testified in support of the bill noting "This is the key to the courthouse for people."

Eleanor Rogan, a professor at the University of Nebraska Medical Center, testified in support noting this is a reasonable extension to the statute of limitations.

Trevor Towey, president of the Omaha Professional Firefighters, said the bill would also benefit local firefighters, who are often exposed to dangerous toxins as part of their job. He said sometimes their exposure to toxins is long-term, as some chemicals sink into their gear.

Opponents

Attorney Emily Motto testified in opposition, arguing that Nebraska's current four-year statute of limitations is long enough because it is measured from when the "death, injury or damage" occurs, rather than when the victim is first exposed.

The Committee reported no action on the bill.

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.

The Natural Resources Committee accepted testimony on the bill on February 23rd.

Sen. Blood opened on the bill by expressing that the state is not committed to addressing water quality, noting multiple calls for research, but mentioning rarely do we address the topic. She noted this bill was modeled off an example from Minnesota and that it is just intended to be a canvas.

She introduced an amendment (AM 469) which replaces the bill. The amendment maintains some provisions of the original bill; however it includes many significant changes. The amendment grants the Department of Natural Resources the authorities to administer the act.

The amendment changes the act to make it voluntary for landowners owning property adjacent to a water body to apply for grants and exempts landowners in counties that fall in bottom 1/3 of nitrate levels as measured by NDEE. The amendment also excludes land utilized for grazing, pasture, or grassland. Additionally, the amendment includes language that provisions of the act are funded through the existing water quality fund. The amendment includes intent language to transfer an undetermined amount of general fund dollars to the water quality fund for purposes of the program.

Sen. Blood faced several questions from Senators. Sen. Jacobson suggested that NRDs are doing an effective job and why not leave this up to NRDs. Sen. Blood responded that if they are doing an effective job, why does Nebraska have a nitrate problem. Sen. Jacobson followed up by noting the improvements that have been made in farming practices. Sen. Moser reiterated similar comments during his questioning of Sen. Blood.

Sen. Slama engaged in questioning with Sen. Blood that expressed concern the bill would lead to mandates. Sen. Slama also expressed concern over the enforcement mechanisms.

Proponents

Elanor Rogan, a Doctor at the University of Nebraska Medical Center, testified on behalf of herself in support of the bill. Dr. Rogan provided an overview of research and the association of nitrates with higher incidents of pediatric cancers. Studies show adverse health effects of nitrates and make strong case for using buffers to reduce chemicals in waterways. Dr. Rogan was asked how long it would take for these buffers to reduce levels to a point where we would notice health benefits – she noted we would need significant changes in farming practices to impact groundwater, but quicker impacts could be made to surface water. Dr. Rogan noted that 10 mg/l is a high level and she assumes the EPA will make a reduction in safe drinking water levels.

Edison McDonald testified in support on behalf of GC Resolve. He expressed support for LB 40 to help address soil loss and nutrient loss. The focus should be on incentivizing instead of mandating. Analyses show that waterways are under threat from rising contaminants and improved soil health practices can help to mitigate a number of the issues. They would like to see high nitrate areas targeted. He noted they would suggest looking at broader pathways, up to ¼ mile.

Al Davis, Nebraska Sierra Club, testified in support. His testimony noted that farming has changed with consolidation and increased degradation. The best way to introduce protection is in cooperation with landowners. He expressed that nitrate and atrazine ties to pediatric cancer should force regulatory actions. While they support this bill, it is just one small step.

Kenneth Winston testified in support on behalf of Nebraska Interfaith Power and Light. He claimed Nebraska has the highest nitrate groundwater contamination rates in the county and the rates have doubled since 1978, according to a UNL study. He reiterated that more is needed, but this is a much-needed tool.

Opponents

NARD provided testimony in opposition to LB 40. While we appreciate Senator Blood for her steadfast commitment to protect natural resources in Nebraska, we feel this bill is over-reach with the mandates on landowners included in the proposal. Since the bill was introduced, we have visited with her staff about some existing programs that may help address concerns on a voluntary enrollment basis, rather than mandating such. NARD shared these with the committee.

First, years ago the Legislature passed the Nebraska Buffer Strip Program which is administered by the Nebraska Department of Agriculture. Cropland adjacent to perennial and seasonal streams, ponds, and wetlands can be enrolled in buffer strips, which are designed to filter agrichemicals such as fertilizers and pesticides. Two kinds of buffer strips are eligible - filter strips, which are narrow strips of grass; and riparian forest buffer strips containing trees and grass. The minimum widths are 20 and 55 feet, respectively; the maximum widths are 120 and 180 feet, respectively.

The program is designed to be used in conjunction with the U.S. Department of Agriculture (USDA) Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), or other programs, however it can be used by itself, as well. In addition to offering rental rates for both irrigated and non-irrigated cropland, and incentives for partnering with other government programs, there are incidental haying and grazing allowances in the Nebraska Buffer Strip Program. Adding more funding to this program may be an alternative to the original proposal in LB 40.

Secondly, the USDA has several federal conservation programs that target similar conservation goals as included in LB 40.

On February 13, 2023, Agriculture Secretary Tom Vilsack announced the USDA is making funding available for agricultural producers and forest landowners nationwide to participate in voluntary conservation programs and adopt climate-smart practices. The Inflation Reduction Act (IRA) provided an additional \$19.5 billion over five years for climate smart agriculture through several of the conservation programs that USDA's Natural Resources Conservation Service (NRCS) implements.

NRCS is making available \$850 million in fiscal year 2023 for its oversubscribed conservation programs: the Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP), Agricultural Conservation Easement Program (ACEP) and Regional Conservation Partnership Program (RCPP).

The IRA funding includes an additional \$8.45 billion for EQIP, \$4.95 billion for RCPP, \$3.25 billion for CSP, and \$1.4 billion for ACEP. The increased funding levels begin in fiscal year 2023 and rapidly build over four years. These additional investments are estimated to help hundreds of thousands of farmers and ranchers apply conservation to millions of acres of land.

All the state and federal programs listed are voluntary and serve conservation efforts well.

Bruce Rieker, Nebraska Farm Bureau, testified in opposition on behalf of Farm Bureau, Nebraska Corn Growers Association, Nebraska Pork Producers, Nebraska Soybean Association, and Nebraska Cattlemen. He expressed that Nebraska needs proper assessment of what the problem is before just throwing money at it. Lots of data exists, but nothing is being shared between entities. He suggested the committee should take a deliberate approach to get an accurate assessment. During questioning, he was asked what additional data is needed.

Scott Dicke, Central Nebraska Public Power and Irrigation District, testified in opposition. It's not clear that buffer strips would not be required along Centrals canals and waterways. He noted vegetation along waterways can counter efforts to maintain waterways, including for environmental reasons.

Merlyn Bartels, an individual from South Central Nebraska, testified in opposition. His testimony expressed concern over what would be considered a waterway under the bill.

Neutral

John Hansen, Nebraska Farmers Union, testified in a neutral capacity. He expressed the primary methods for conservation are education and incentivizing. He mentioned that a majority of people want to do the right thing if you can provide the economic incentives. He also pointed out the NRDs do a good job of working with landowners and additional funding would help. He also noted there's not a coherent and comprehensive effort collecting data and putting it into a central system.

David Hutchison, an organic farmer from Brown County, testified in a neutral capacity. He noted we need to rotate crops to eliminate the need for artificial fertilizers. Drainage tiles just puts pollutants on your neighbors. He also mentioned that NRDs need to follow mission statement and stop NPPD from building power supply line.

Beth Bazyn Ferrell, NACO, testified in neutral capacity. Appreciate language of bill that would keep noxious weed seeds out of waterways.

There were 21 proponent letters, 8 opponent letters and 2 neutral letters submitted for the record.

During closing Sen. Blood noted that indigenous plants should be used along waterways to eliminate weeds. She mentioned she agrees research is needed, but that her prior efforts to do research have been blown off. She reiterated that the measure was intended as a starting point and would be voluntary and not mandatory with the amendment. She closed by noting that blockchain technology could help address nitrates and help farmers. She did not take any questions from the committee.

The Committee reported no action on the bill.

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.

The Natural Resources Committee held the hearing for LB 121 on February 16th. The Committee reported no action on the bill.

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. Provisions of the bill were incorporated into LB 818 (see pages 14-16) and approved by the Governor on May 24, 2023.

The Appropriations Committee accepted testimony on the bill on March 14th.

Opening on the bill, Sen. Bostelman noted this is a simple cleanup bill. Currently interest from the fund is being credited to General Fund, which last year included \$829,000 according to the fiscal note. Language in the original bill authorizing the fund included crediting interest to the fund, however it got left off in the budget.

Proponents

Scott Snell, Nebraska State Irrigation Association, testified in support of the bill. Snell provided the committee with examples of projects where the fund is currently being utilized, including the Millburn Irrigation Dam.

There were no opponents and no neutral testimony. Sen. Bostelman waived closing. No letters were submitted for the record.

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

The Revenue Committee reported the bill to General File on February 7, 2023, following an 8-0 committee vote. 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.

The Revenue Committee accepted testimony on the bill on February 1st.

Sen. Kauth opened outlining the bill that modernizes the notice process by allowing political subdivisions to waive notice of refunds of \$1,000 or less and allows county treasurers to provide notice electronically. Currently, when an entry of a non-appealable order, an unprotested determination of a county assessor, an un-appealed decision of a county board of equalization or other final action requires a political subdivision to refund taxes to a taxpayer, the county treasurer must give notice of the refund to the political subdivision of its respective share of the refund. If the refund is less than \$200, the county board can waive the notice.

Proponents

Proponents included representatives from the Nebraska Association of County Officials.

There was no opposition or neutral testimony.

Sen. Kauth waived closing.

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

The Government Committee advanced the bill to General File on February 16, 2023, following a 5-3 committee vote.

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.

The Government Committee accepted testimony on the bill on February 10th.

Opening on the bill, Senator von Gillern said he is bringing the bill to increase efficiency and reduce construction costs as good stewards of taxpayers' dollars. He noted that 20 other states have restrictions for Project Labor Agreements (PLA) and he encourages Nebraska to do the same. He said he respects our union employees, and it does not ban contracting with union employees, but allows a wider net to reach more workers.

Proponents

Katie Wilson, executive director for the Nebraska Association of General Contractors, testified in support. Their primary concern is the workforce shortage, and they invest in community colleges and programs to get more employees. She noted that governments that offer special contracts for a particular buyer leads to fewer bidders and a larger expense to the taxpayer. She believes that Project Labor Agreements (PLA) limit local workforce participation. With the new federal infrastructure bill, they want everyone to be able to bid on those contracts and the federal bill has language favoring PLA and the goal should be to protect competition.

Sheila O'Connor, executive director of the Association of General Contractors Building Chapter, testified in support. She noted that this will protect and allow for many people to bid. She said that PLAs can limit competition and drive-up costs.

Toni Watts-McDonald, co-owner and president of Watts Electric Company, testified in support. She noted she is chair of the South Dakota Contractors Builder Association and during the last 2-3 years, PLAs have been increasingly present in bidding projects in the Lincoln & Omaha markets. She added that projects receiving government funding should prohibit PLA language in their bid process, because PLAs put a strain on construction projects. This bill would maintain fair and open competition in the bidding process.

Anne Kulte, executive director of the Association of General Contractors Nebraska-South Dakota Chapter, testified in support. PLAs can force contractors to pay into retirement and most workers won't see that return because the project won't last long enough for the person to be vested. She noted the bill is not a negative for union or non-union companies, and the groups regularly work together despite labor affiliation. She noted that other states have witnessed an increase in PLA language and the bill is being proactive.

Brandon Ray, Associated Builders and Contractors national office, testified in support. PLAs decrease competition and increase the cost by up to 20 percent. He noted that President Biden recently stated that federal projects over \$35 million require PLAs, and Associated Builders and Contractors expect to see more encouragement for PLAs. This law will not preclude contractors from bidding on federal projects, but it protects the state's right to choose their own workforce.

Opponents

Jon Nebel, Nebraska State Council of Electrical Workers, testified in opposition. Nebraska is a right-to-work state, so union employees aren't required. He noted that a PLA can be anything that the local community/agency wants, like only using local workers or only using veterans. He noted not all projects have to apply with the Davis-Bacon wage act.

Susan Martin, NE State AFL/CIO, testified in opposition. PLAs are a project management tool to ensure on-time, on-budget projects. PLAs have been used for generations and non-union workers are regularly found on PLA projects. Nothing in state law encourages or discourages the use of PLA or collective bargaining. This bill might overlook benefits from PLAs like increased productivity, better pay and drug testing. She noted that PLAs ensure greater efficiency and a steady flow of safe, productive employees. The use of PLAs in Nebraska has been very minimal, and noted the closest thing she can remember is the building out of west Haymarket and Pinnacle Bank, which included an agreement to hire local subcontractors.

Ed Black, BAC Local 15 (bricklayers), testified in opposition. He noted that PLAs encourage that everyone gets a fair wage.

Felicia Hilton, North Central States Regional Council of Carpenters, testified in opposition. She noted that there is language in the fiscal note that the state does not comment on collective bargaining agreements. She said that the PLA process is not typically used to qualify for a bid and if you receive the bid, you get into the details of the agreement later.

Ron Kaminski, Nebraska Building, Construction Trades Council, testified in opposition. He noted that in his 25-year career, PLAs have never been used, and PLAs ensure that local employees are used first.

In his closing, Senator von Gillern noted that PLAs have been used in Nebraska and he has seen it at Offutt AFB, Metro Community College and with the City of Omaha. He noted that PLAs can be written in a way that selects only collective bargaining groups based on certain benefits or training. He noted that the country is moving in the direction of Project Labor Agreements and want to ensure Nebraska is protected. He also noted that the fiscal note states you cannot coerce someone to join a collective bargaining agreement.

There were nine proponent and three opponent letters submitted.

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 Natural Resources Committee reported the bill to General File on March 2, 2023, following an 8-0 committee vote. 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.

The Agriculture Committee accepted testimony on the bill on February 7th.

Sen. Ibach opened by providing the Committee with an overview of past riparian vegetation management efforts by the legislature, including the change LB 805 (2022) made in expanding management efforts to include the floodplain. She outlined how funding for vegetation management was cut in lean years and now remains underfunded, especially given the expansion of efforts to include the floodplain.

Proponents

John Thorburn, General Manager Tri-Basin NRD, testified in support on behalf of NARD. John also serves as the NRD representative on the Nebraska Invasive Species Council and the Secretary for the Platte River Resilience Fund.

Thorburn provided background to the committee on the history of the program. Fifteen years ago, Tom Carlson, introduced LB 458 that created a structure for riparian weed management areas and provided state funds to help us fight invasive phragmites and other plants that, if left unchecked, would have clogged the channels of our state's rivers.

Nebraska's proactive stance toward controlling invasive riparian plants has paid many dividends over the years since LB 458 was enacted. The most tangible and economically valuable benefit of our work has been to increase the capacity of river channels to convey water. This was evident in several flooding events, most notably in 2019 when, in spite of extreme storms that caused sustained high flows, there was little substantial damage due to flooding along the main channels of the upper Platte and Republican Rivers.

This stood in stark contrast to floods in 2010 and 2011, when much lower flows caused the Platte to leave its banks in South-Central Nebraska for several days. It is clear to me after these events that riparian vegetation management not only benefits wildlife and natural ecosystems, it protects lives and property.

The funding provided under LB 218 will help NRDs and our weed management partners in the Platte and Republican River basins sustain our long-term efforts to protect and improve the health of our riparian ecosystems for the benefit of all Nebraskans.

Thorburn addressed committee questions about safety of chemicals, noting that chemicals are special use for aquatic habitat, and that the label is the law. He also addressed committee questions about landowner access, noting that publication and notification is always provided to landowners in advance.

Katy Torpy testified in support on behalf of the Nature Conservancy and Platte Valley Weed Council. Torpy outlined the habitat advantages of riparian vegetation management.

Jon Cannon testified in support on behalf of NACO. His testimony highlighted the partnerships that are in place between the counties and multiple local partners to leverage resources.

Todd Boller testified in support on behalf of Filmore County Weed Control. Boller highlighted the partnerships and support from local NRDs. He provided the committee with examples of success from prior efforts, noting that in past years state funding of \$5 million was leveraged to secure an additional \$25 million. Prior efforts have increased conveyance of the Republican River from 300 cfs a decade ago to 1100 cfs today.

Mike Reed testified in support on behalf of the Nebraska Weed Control Association. Reed echoed stories of success, but expressed to the committee that we need to maintain a state of management to stay ahead of the war on weeds.

Andrew Dunkley, Nebraska Farm Bureau, testified in support on behalf of the Ag Leaders Working Group. His testimony reiterated that provided by prior opponents.

John Hansen testified in support on behalf of Nebraska Farmers Union and too reiterated support provided by prior proponents.

Opponents

There were no opponents and no neutral testimony.

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.

The Natural Resources Committee accepted testimony on the bill on January 26th.

Sen. Briese opened by outlining the purpose of the bill, noting that Nebraska needs to ensure we're protecting our aquifer as ongoing drought and population growth along Colorado's Front Range increase the feasibility of those areas looking to the Ogallala Aquifer. He noted that the 10-mile distance was arbitrarily picked but thought that it seemed like a reasonable distance that would not prohibit Nebraska producers who may be looking to irrigate across state lines.

Proponents

Eric Hansen testified in support on behalf of the Nebraska Cattlemen, noting that Nebraska's groundwater supplies are vital to agricultural operations across the state, and they need to be protected.

A few individuals testified in support expressing opposition to Nebraska water being used out of state when there are extensive restrictions and efforts ongoing within Nebraska to conserve and protect the resource.

Opponents

Bruce Rieker testified in opposition on behalf of the Nebraska Farm Bureau. He said their policy is clear that they oppose any transfer of Nebraska's groundwater regardless of the distance.

Neutral

Chris Peterson testified in a neutral capacity on behalf of the Nebraska Petroleum Producers Association. They want to make sure any attempts to limit transfers would not impact petroleum producers. He noted that wastewater from wells in Nebraska could be transferred to wastewater injection wells out of state.

During his closing, Sen. Briese noted that the bill is straight forward but he wants to be weary of unintended consequences and look for solutions to any constitutionality questions.

The Committee reported no action on the bill.

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. Provisions of the bill were incorporated into LBs 814 and 818 (see pages 13-16) which were passed and signed by Gov. Pillen on May 24, 2023.

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.

The Natural Resources Committee accepted testimony on the bill on February 15th.

Opening on the bill, Sen. Jacobson noted that the BOVEE Fire destroyed forests, grasslands, and also the Nebraska 4-H Camp. The camp's insurance will not cover total replacement of the structures due to the age of the buildings. Dark sky and eco-tourism is booming and the right investment means this area could be booming. Halsey hosts 12,000 visitors per year and that could grow with investment.

With the right services and design, we could continue to grow the area to be a gateway destination for the Sandhills. He noted the goal is to build 21st century facilities that can be used year-round. It could generate \$4 million in new economic activity for the area and with an estimated design cost of \$37 million have a payback of about 9 years. He noted the camp received \$2,260,000 in insurance pay out.

During questioning Sen. Jacobson was asked why the bill requests \$50 million if the cost is \$37 million. He noted that the intent was to broaden the scope to allow other camps to potentially utilize funds. During questioning, Senators also questioned the rationality of the fiscal note for the Department of Economic Development.

Proponents

Alexa Spurlin, Information and Education Coordinator, Upper Loup NRD, testified in support on behalf of NARD.

In 2010, the State's Natural Resources Districts developed an outdoor educational youth camp called Adventure Camp About the Environment – Better known as ACE Camp. All 23 NRDs have been committed to ACE Camp by providing speakers, funding and camper scholarships so that all Nebraska youth wanting to attend may, regardless of their financial status.

The camp's main goal is to engage and teach our youth about their environment and Nebraska's natural resources. While there, students also gain a sense of self-awareness, have many opportunities to connect with their peers, environmental professionals, as well as grow in their appreciation for the natural world.

When deciding where to host the camp, several locations were discussed. The ACE Camp Committee wanted a camp that was centrally located, making it more accessible to Nebraska youth and our educational presenters. We also needed access to environmental teaching tools such as trees, rivers, range land, and

wildlife. We require facilities with large enough areas for indoor instruction, dining and enough cabins to accommodate at least 50 campers overnight. Only one camp met all of these needs – the State 4-H Camp in Halsey.

In our 12 years of hosting ACE Camp, youth from every corner of the state have attended. From Syracuse to Hartington, from Benkelman to Harrison and many places in between, the camp has been accessible to individuals statewide.

Unfortunately, in 2022 the BOVEE Fire destroyed the 4-H Camp lodge and all its cabins. The State 4-H Camp provided a location with facilities that cannot be found at any other camps in Nebraska. Rebuilding of a youth outdoor education camp facility at the Bessey National Forest is supported by all 23 NRDs.

Jeff Yost, Nebraska Community Foundation (NCF), testified in support. He noted the opportunity for ecotourism in Halsey is a game changer. NCF commissioned a study on ecotourism for the area and investments in a combination of facilities could generate \$4 million in new economic activity. It could be a gathering space for local events, a variety of lodging options, a conference and events facility, a restaurant for on-site dining. The goal would be to raise a \$10 million endowment privately to ensure ongoing funding for the facility. NCF is optimistic this will be a wise investment of public dollars and it would create several full-time jobs and also additional part-time seasonal jobs. He noted it will be a destination, not just a place you add on to your trip.

Susan Littlefield testified in support on behalf of the Nebraska 4-H Foundation. She noted the insurance settlement won't cover the full cost of clean-up, design and a rebuild. The Foundation is committed to reserve the insurance proceeds for this project. The Foundation will work with the U.S. Forest Service on clean up. Clean up costs/demolition are \$180,000-\$200,000.

James Dukesherer, Nebraska Rural Electric Association (NREA), testified in support. NREA hosts a youth energy leadership camp at the 4-H camp. Campers learn about the public power system along with all the other fun camp activities. Their campers also have the opportunity to win a trip to Washington, D.C. NREA takes 20-30 students to DC in the summer to go to Gettysburg, visit delegates and more. NREA would be interested in donating to help rebuild the camp.

Shawn Pollock, Nebraska Cooperative Extension Association (NCEA), testified in support. They would appreciate the investment in 4-H youth development to support rural education efforts. NCEA provides programming and 4-H is one of the programs.

Al Davis, Nebraska Sierra Club, testified in support. He noted that his father helped raise the funds to build the original camp. The camp is just as relevant today as it was 60 years ago. The camp also served as a resource hosting other camps and as an off-season resource for family reunions, weddings, school/community events, etc.

Jason Smith, executive director of the YMCA Camp Kataki in Lincoln, testified in support on behalf of Nebraska YMCAs. YMCA believes that funding could help them build a new facility at Camp Kataki.

Jamie Biodrowski, testified in support on behalf of Easter Seals Nebraska Camp. She noted that they have a camp for individuals with disabilities. Their camp was destroyed in 1999 when a train derailed and spilled diesel fuel. They purchased 64 acres from the former Dana College and have funds from the train derailment settlement, but they need additional funding to build their facilities. Their goal is to build a barrier-free camp, so all campers have access to the facilities.

Aaron Barrow, assistant city administrator for the city of Blair, testified in support. He noted that Blair is committed to working with the Nebraska Easter Seals Camp to build a barrier-free camp on the former Dana College campus.

Additionally, more than a dozen camp alumni, former camp directors, local landowners, educators, and area residents testified in support. Their testimony reiterated the importance of the camp for Nebraska's residents and the local area.

There were no opponents and no neutral testimony. 42 proponents submitted letters for the record.

In closing, Sen. Jacobson noted that there are people in the Sandhills who are underemployed and could fill these newly created jobs and it also would allow for people to return to the area. He noted the 25% match is because it is a replacement of something that was lost. He noted he is not concerned about raising money for the match, because there are people committed to rebuilding the facilities.

The committee reported no action on the bill.

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.

The Government Committee accepted testimony on the bill on March 24th.

Tony Baker, legislative aide for Senator Brewer, introduced the bill on behalf of the senator. He expressed that while joint public agencies have been used for constructive purposes, there are instances where they're being used for swimming pools or other purposes which the law was not intended for.

Proponents

There were no proponents.

Opponents

Jon Cannon testified in opposition to on behalf of NACO noting that counties have a constitutional levy limit of fifty cents but the last nickel of that can only be accessed through joint public agencies. He requested that if the committee were to advance the bill, they should restore the full fifty-cent levy to the counties.

There was no other testimony. Position letters were submitted for the record by 2 proponents, 7 opponents and 0 neutral.

The Committee reported no action on the measure.

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.

The Natural Resources Committee accepted testimony on the bill on February 8th.

Margaret Buck, Legislative Aid for Sen. M. Cavanaugh introduced this bill. She provided the committee with a summary of the JEDI bill from last year and noted that during debate it was stated there would be no use of eminent domain. She noted this was a pending amendment to the bill last year, but time ran out before it could be added to the bill.

Proponents

Melissa Keirlber testified in support on behalf of her family farm near Gretna. She testified that 600 acres of their family farm would be impacted. She mentioned prior experiences with eminent domain and noted the price paid for bottom ground is never just or fair. She highlighted that flood control was the primary purpose for the start of this effort, but it has turned into a recreation effort without any flood control benefit. It has been mentioned the project would have less than 5% flood control benefit, but she has seen HDR say it's actually less than 1%. She closed by noting the project is far from its original goal and has turned into the state doing the work of private developers.

Gerald Vindskua, a landowner in the Platte Valley downstream of proposed lake area testified in support. Eminent domain is used and abused and should not be transferred over to recreation use. He proposed that the state buy land and lease it to gravel companies. He told the committee the project is opposite of flood control, with no storage and filling the flood plain where water is stored would cause net rise in flood impacts downstream.

Jodi Obrien testified in support on behalf of her family who owns property where lake is being proposed. She asked the committee how they would feel if their land was taken so real estate developers could come in and sell it for profit. She expressed that landowners have received no notification that they may be impacted – yet real estate developers are being provided presentations on the project.

Al Davis, Nebraska Chapter of Sierra Club testified in support. He noted that removing soil and dumping it in a flood plain would exacerbate flooding elsewhere. He doesn't buy the argument that recreation keeps young people in Nebraska. He also noted there are a lot of good habitat situations in that area and it should not be tore up to build more mansions and roads.

John Hansen testified in support on behalf of the Nebraska Farmers Union. He noted that NGPC used to have power of eminent domain, but they used and abused it prior to losing it. NRDs were then given eminent domain control for flood control projects. He outlined opposition to any entity's use of eminent domain on this project.

Kenneth Winston testified in support on behalf of Bold Alliance. He focused on support for private property rights and against use of eminent domain for private gain.

Opponents

There was no opposition testimony.

Neutral

NARD provided testimony in a neutral capacity. To begin testimony, it was specified that NARD is not taking any position on the proposed lake development included in this bill as passed last year.

Instead, we wanted to narrow our testimony to simply dispel rumors and highlight that NRDs do not have authority to use eminent domain for a state project, including the lake project referenced in the bill. This came up last year during debate on the bill and was pointed out. However, the rumors still run. The NRD authority to use eminent domain is only for projects that fall under their control, and the lake project is not one of them as it is a state project.

Simply put, the proposed language in the bill is attempting to prohibit an authority that NRDs don't have.

The Committee reported no action on the bill.

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

The Government Committee reported LB 302 to General File on February 24, 2023, with AM 503 following an 8-0 committee vote. The amendment strikes all references of person holding an elective office and changes them to public official. The amendment also clarifies the reference to salary and defines it as an annual sum.

The bill, with the Committee Amendment, proposes to expand conflict of interest laws to all public officials of a political subdivision and all public employees whose salary and benefits exceeds \$150,000.

Public official is defined in statute to mean an official in the executive branch, an official in the legislative branch, or an elected or appointed official in the judicial branch of the state government or a political subdivision thereof; any elected or appointed member of a school board; and an elected or appointed member of a governing body of a state institution of higher education.

The Government Committee accepted testimony on the bill on February 16th.

Opening on the bill, Sen. Linehan offered an amendment that would clarify that public employees would only need to report if their salaries and benefits are over \$150,000. Her testimony included concern about a number of things in the newspaper where it looks like there's a conflict, but there's no record keeping of it. She noted there used to be more robust press, with more papers, and now it's difficult for press to follow trails, so we need to be more robust in what people disclose. She noted that it's not that you can't have a conflict, you just have to disclose it.

Proponents

Frank Daley, Executive Director, Nebraska Accountability and Disclosure Commission, testified in support of the bill. He noted that conflict of interest provisions applies to most, but not all political subdivisions. Secondly, he noted that currently they only apply to a limited number of public employees. He suggested that the amendment should clarify if a city administrator, clerk, or police chief is an official or an employee.

Opponents

There were no opponents. There was one letter of opposition submitted for the record.

Neutral

Jon Cannon, Executive Director, NACO, testified in a neutral capacity. He noted that having a clear process is important and NACO is not opposed to transparency. He noted that one concern is the struggle to attract and retain employees and the potential this may have on that.

During closing, Sen. Linehan asked the committee to work closely with Frank Daley and work to treat everyone the same.

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

The Government Committee advanced LB 304 to Select File on April 17, 2023, with no committee amendments.

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.

The Government Committee accepted testimony on the bill on February 9th.

In her opening to the bill, Senator Linehan noted that she wants to know who pays the dues for the education lobbyists. She also raised concerns about the national education associations and the stances they take on issues. She feels it would be important to know what Nebraska schools are funding various national policy issues.

Proponents

Laura Ebke, senior fellow at the Platte Institute, testified in support. All public entities need to be transparent about the dues they are paying, and to what entities, which instill confidence in the public on where local tax dollars are going. This information can be found with the Accountability and Disclosure Office, but you have to dig to find it and putting it on individual websites makes the information easier to find for the public.

Opponents

There was no opposition testimony.

Neutral

Frank Daley, executive director with the Accountability and Disclosure Office, testified in the neutral. He noted his office was unsure where this would land in statute – the Accountability and Disclosure Act or somewhere else in statute? The term “lobbying” in the Accountability and Disclosure Act only applies to lobbying in the legislature, so if the public wanted a broader sense of dues payments the language would need changed. The lobbyist registration is part of the Clerk of Legislature’s Office and not the Accountability and Disclosure Office. He recommended the committee may want to clarify what they want so it goes to the correct entity.

Three proponent letters were filed and no opponent letters.

Closing on the bill, Sen. Linehan noted she would work with the Accountability and Disclosure Office to clean up the language on the bill.

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

The Government Committee advanced the bill to General File on February 16, 2023, following a 6-0-2 committee vote.

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.

The Government Committee accepted testimony on the bill on February 9th.

In his opening, Senator Lowe noted the bill was introduced on behalf of the State Treasurer and State Auditor's office. The goal of the bill is to clarify and coordinate language that was passed in previous years with both agencies.

Proponents

Heidi Wallace, Deputy Director with the State Treasurer's Office, testified in support of the bill. The bill coordinates statutes between the two agencies and allows them to remedy situations more efficiently and in a timely fashion. There have been a couple of smaller political subdivisions that got caught up on this and had repayments delayed. This bill will correct the issues.

There were no opponent or neutral letters submitted on the legislation.

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.

The Revenue Committee accepted testimony on the bill on March 9th.

Opening on the bill, Sen. Linehan said it is a simple bill to eliminate Joint Public Agencies (JPAs) from being able to levy taxes.

Proponents

Doug Kagan, Nebraska Taxpayers for Freedom, testified in support. He noted that groups are joining forces to levy taxes in some instances ignoring the popular vote. He said these joint public agencies circumvent citizen input.

Jessica Shelbourn, Americans for Prosperity, testified in support. She noted to reign in property tax issues, we need to reign in those that can levy a tax. There are approximately 20 agencies that can levy taxes and that only grows when they join together to form JPAs.

Katie Bohlmeyer, LIBA, testified in support. A typical Lincoln homeowner pays property taxes to a dozen entities, and they don't get a choice when JPAs are involved. They deserve a chance to vote on what they want to pay for.

Opponents

Jon Cannon, NACO, testified in opposition. He noted there are levy rates and levy limits in the constitution for counties. Counties have a further statutory cap on levies. Counties have the 50 cents, but really, it's only 45 cents because those 5 cents are for collaborative efforts. Joint public agency efforts are more efficient and encourage collaborative partnerships.

Ted Deturk, ESU #2 in Fremont, testified in opposition. He asked the committee to look beyond the single issue of property taxes, because JPAs work collaboratively among multiple agencies. The P2T (Pathway to Tomorrow) JPA with eight public schools and the ESU as fiscal agent offers career pathways for 120 students in five pathways. Individually these schools could not support this program, but together we use a ½ cent of our levy from each school to support this program. Without creative, flexible funding opportunities these programs cannot be built.

Colby Coash, Nebraska Association of School Boards, testified in opposition. He noted there are several successful JPA partnerships with private businesses and the cities. There was a school that partnered with the city to keep the city pool open allowing both the school and city to use it and support it. There have been JPAs that have been disagreeable to taxpayers and that was addressed in the very next election. He noted that interlocal agreements are statutorily different than joint public agencies.

Chris Connolly, Chief Assistant City Attorney for City of Lincoln, testified in opposition on behalf of City of Lincoln and Lancaster County. He testified that the Pinnacle Bank Arena partnership has worked very well and believes that taxpayers do have an opportunity to voice their concerns. West Haymarket JPA facilitated building Pinnacle Bank Arena. It is the owner of Pinnacle Bank Arena, but it does not directly operate it.

Lynn Rex, League of Nebraska Municipalities, testified in opposition. She noted that Sen. Jerome Warner's previous goal was to incentivize working together, so everyone didn't have to build a library, but they could go together and share a library. A great example of a JPA is the Exeter School District, which built a school that is used during the day and at night the school is used for fitness for community members and the elderly. There is taxing authority limitations no matter what and JPAs have a lot of transparency built into them – they're under open meetings act and they're audited.

There was no neutral testimony. There were five proponent letters, two opponent letters and no neutral letters submitted for the record.

In closing, Sen. Linehan noted that no one testified how these JPAs are more efficient. She said Lincoln wants a convention center, and she doesn't want UNL building a convention center for Lincoln. It's great to keep a city pool open, but it's not OK to use school funding for that. She noted the legislature is about to commit another billion dollars to education and we shouldn't be using it on swimming pools. She said there needs to be some tightening up on JPAs.

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.

The Education Committee accepted testimony on the bill on March 21st.

In her opening, Senator Linehan acknowledged the bill is not perfect, but the use of JPA laws needs to be reviewed. There are some good things that communities are doing under the authority, but also some questionable projects funded. She plans to do an Interim Study on the issue and not pursue the bill this year.

Proponents

Katie Bohlmeier, Lincoln Independent Business Association, spoke in favor arguing the point that taxes need to go down. Taxpayers are faced with increased housing costs, inflation and other increased expenses. This bill would help keep taxes in check.

Opponents

Steve Blocher, spoke on opposition on behalf of the Nebraska School Boards Association. He mentioned that enrollment in 4-year colleges is trending down, while 2-year degrees and enrollment in the workforce right out of high school is up.

Blocher mentioned a JPA was formed with seven area high schools, ESU #2, Wayne State University and Northeast Community College in Norfolk to provide training for skilled workers in Northeast Nebraska. None of these entities could do it on their own, but through joining the JPA they can provide training to all in the greater area. The joint levy has dropped to ½ cent to fund the program, which has been a great success for the area.

In questioning, Senator Wayne asked why the entities could not just use an interlocal agreement and all chip in ½ cent rather than having the JPA do the levy separately. Blocher responded that the legal counsel for the group recommended they use the JPA.

Eric Brockman also spoke in opposition to the bill noting that the program is developing skilled workers for Northeast Nebraska. He gave an example of a local company hiring students that graduate through the welding program.

Senator Linehan waived closing. There were 5 proponent letters and 3 opponent letters submitted.

The Committee reported no action on the measure.

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.

Provisions of LB 361 were incorporated into LB 814 (see pages 13-14) which was passed and signed by the Governor on May 24, 2023.

The Appropriations Committee accepted testimony on the bill on March 1st.

Opening on the bill, Sen. Dorn provided a summary of the Precision Agriculture Infrastructure Act passed last year. Funds through the BEAD program which the legislature intended to be a funding mechanism for

the act did not come through, this stalled progress that the legislature intended. The bill is a stop gap measure to perfect provisions of the act passed in 2022.

Proponents

Julie Buschell, President of Ethos Connected, testified in support of the bill. Buschell outlined benefits the passage of the bill will bring, which include on-farm water management efficiencies. BEAD will not fund the on-farm precision agriculture technologies portion of the act, and this bill addresses that. The bill can be an economic development tool to drive premiums back to Nebraska producers.

Lukas Fricke, Farmer from Ulysses, Nebraska, testified in support of the bill. Adoption of technology is expensive and risky. Funding this bill will give producers an opportunity to try technology without assuming initial risk. Provides producers opportunity to be better economic stewards.

Melisa Konecky, Farmer from Wahoo, Nebraska, testified in support of the bill. She noted the bill will enable precision ag technology that allows producers to push economic and environmental resiliency on their farms.

Jay Ferris, Director of Political Engagement Nebraska Farm Bureau, testified in support on behalf of Farm Bureau, Nebraska Pork Producers, Nebraska Soybean Association, Nebraska Dairy Association, Renewal Fuels Association, Nebraska Cattlemen, and the Nebraska Corn Growers Association. Technology would allow producers to continue to focus on soil and water health to improve efficiencies and reduce footprints.

Opponents- There were no opponents to the bill.

Neutral

There was no one testifying in the neutral capacity.

In closing, Sen. Dorn distributed a letter noting the Public Service Commission supports the bill and outlined why provisions of the act were not eligible for BEAD funds.

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 (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.

The Judiciary Committee accepted testimony on the bill on February 23rd.

Opening on the bill Sen. Erdman, shared a story about his first experience with eminent domain. The railroad decided to build a new spur and used eminent domain. The new track would go through his property and take out a pivot worth thousands of dollars. It's a difficult situation to ask someone to sell you something that they don't want to sell. There should be compensation above the appraised value of the property.

Sen. Erdman passed out a number of documents and gave two examples of how eminent domain impacts people. The first document was of a center pivot system near the highway. The highway used eminent domain to acquire 100 feet along the side of the highway. As a result, the pivot next to the highway needed to be shortened by 100 feet, reducing the irrigated acres from 125 to 102 acres. This cost the landowner approximately \$15,000 to retrofit his pivot and he lost out on 23 acres of income in the future. That's why producers should be paid double.

Second image was a 2,500 square foot brick home with outbuilding behind it that contained their seed business. The highway used eminent domain to acquire 100 feet which removed the house from their property but not their business. This displaced the family, and they are paid the appraisal value of their home. Now they don't have the convenience of their business directly behind their house and the replacement of their house is going to cost them significantly more. Sen. Erdman used this example as why eminent domain should pay replacement costs and not appraised value, noting the point is to treat people fairly and compensate them for what they have.

Proponents - There were no proponents for the bill.

Opponents

Kyle Hauschild, General Manager, Nemaha NRD, testified in opposition on behalf of NARD. The Nemaha NRD operates and maintains over 460 watershed structures that make up the biggest stormwater infrastructure in southeast Nebraska. In the 1950's and 1960's the SCS, now the NRCS, worked on watershed plans that are some of the oldest in the country, with Brownell Creek that is located to the east and south of Syracuse being the third oldest nationwide.

The Nemaha NRD's 460 structures are the most dams that are maintained by any NRD in the state. As these structures start to age and get to the end of their design life, we are tasked with rehabbing or totally rebuilding these structures. The standard design life of a dam is 50 years. We have some dams that are approaching 70 years old, which is good that they have outlived their design life. The time has come for the Nemaha NRD to start to put more work into these structures to make sure that they can make it another 70 years.

When we start to look at doing this new work, land rights are always a part of what is needed to complete the work. The dams that were built 40, 50 and 60+ years ago were designed to the standards and the precipitation needs of that time. Advancements in engineering and modeling will likely change the footprint or the size of some structures to make them as effective as they were when they were first built.

Nemaha NRD is asking for help from the Judiciary Committee and the State Legislature to help keep district infrastructure in place as cost effective as possible. The NRDs operate mostly on tax funding and grant opportunities. We are tasked with keeping our tax requests as low as possible while trying to provide the public with the highest level of safety and flood protection.

If LB 394 is passed it will make it almost impossible to continue to provide this protection because it will make doing these projects unaffordable and non-cost effective to continue to rehab or reconstruct most of the structures. If these structures get to be too expensive to construct and past the point of repair, they will have to be decommissioned and all of the flood control benefits will be lost.

The Nemaha NRD is currently working on multiple Watershed and Flood Prevention Operations (WFPO) (formally PL-566) plans with NRCS to bring these structures up to today's standards. One part of the plans is to make sure that the cost benefit is worth doing these projects. If the land values are doubled with this bill, it will make it unachievable to complete any of these structures because they will never check the box of being "cost effective". If this bill is passed it will take the negotiation power away from the NRD's and will force every project to go to eminent domain and will drive the cost of the project up and do a complete disservice to all the taxpayers of the NRD.

The reason that this area was one of the first areas of the country for a watershed plan. In the 1950's there was a severe storm that hit Otoe County, that caused widespread flooding. Water ran over Highway 2 and swept a charter bus off the road and into a creek. That is the benefit of these structures, and why we do what we do. Public safety is our most important job. As these structures age more and more, and can't be fixed or replaced, the risk to the public increases.

Chris Elliott, Senior Staff Attorney, NPPD, testified in opposition on behalf of the Nebraska Power Association. Utilities which provide service to the public utilizes eminent domain. Easements for transmissions of distribution lines are obtained at a rate of 98%. Electric utilities locate lines on section and half section lines to minimize the impact to landowners. Producers can still use property for production and don't lose out on future income. This bill would require NPPD to pay 100% of appraisal. We fairly compensate all landowners regardless of if it's ag land or residence. Willing to work with Senator Erdman to make sure eminent domain is fair for all parties.

Pam Dingman, Lancaster County Engineer, representing several organizations. When culverts and bridges are upgraded the redesign typically requires additional land. Additionally, safer, and wider right away projects take additional land that is typically farm ground. Each tract going through eminent domain. If this passes nearly all our money would go to eminent domain tracts. We currently have \$162,000 budgeted for eminent domain tracts. Passage of LB 394 would increase that budget to \$1.7M. This bill would create an unprecedented burden on county construction projects.

Eliane Menzel, testified in opposition on behalf of NACO and NASB. She noted they oppose the bill for the same reasons as prior testimony. She expressed that they would volunteer to work with Sen. Erdman and the committee to address any concerns.

Vicki Kramer, Director of NDOT, testified in opposition. Kramer summarized comments that were made by previous testifiers. Intent is to protect the landowners and protect the right of way. We typically spend \$15M in acquisition each year, we doubled that to account for this bill. There will be a significant cost to the state and this bill will impact how the state can implement its programs.

Christy Abraham, League of Municipalities. We agree with many of the previous testifiers. Municipalities will sometimes utilize eminent domain and are concerned how we will pay for the increased ag land values.

Neutral

Kenneth Winston, testified in a neutral capacity on behalf of the Bold Alliance. He noted they strongly support just compensation, however, they are concerned about the double compensation. This could be subject to legal issues and is subject to abuse.

Melissa Kelierber, a Sarpy County landowner, testified in a neutral capacity. She expressed that her family would be impacted by the lake proposed by Ashland. She noted the flood control component is being overlooked and that there is less than 1% flood control with the proposed lake. She expressed concern that the state is looking to acquire 6,000 acres for recreation.

In closing, Senator Erdman expressed that he was surprised he didn't get more opposition. He expressed that everyone who testified in opposition was representing a government agency. And that the people impacted couldn't be there because they are at home working trying to make a living to pay their property taxes.

He asked so what if it costs the state or county more money, noting it's time to put the taxpayers first for a change.

There were two letters in support and five letters in opposition submitted for the record.

The Committee reported no action on the bill.

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.

The Nebraska Attorney General released Opinion 23-006 on May 31, 2023, on the bill that raised multiple legal issues with the bill. Below is the conclusion and additional questions raised by the Attorney General.

CONCLUSION

“At common law, the ability to use ground water has always been tied to ownership of the overlying land and so would not allow N-CORPE or other similarly situated augmentation projects to sell the land and retain the ability to pump ground water as if they still owned the land. The Legislature has the authority to abrogate the common law by statute but must do so with clear and express language. We conclude that the language of LB396 is not sufficiently clear and express so as to abrogate the common law.”

The opinion also noted follow on questions:

“We note that there are additional follow-on questions that are not addressed in LB396 and therefore outside the scope of this analysis. For instance:

- If both the landowner and the NRDs have equal entitlement to use ground water from the same parcel, how would the correlative rights doctrine be applied?*
- Would the augmentation project be prohibited or limited from the use of ground water, or owe damages, due to its effect on the use by the landowner?*
- If the right to use ground water is severed from the land and only the NRDs retain the right to use, what happens if the NRD abandons the augmentation project?*
- Is that right then held by the NRD for another purpose? Can it be transferred further? Does it revert to the purchasers of the overlying acres?*
- If LB396 legally severs the ability to use ground water on those acres, by what mechanism could that right be granted again?*

The Natural Resources Committee accepted testimony on the bill on March 1st.

Opening on the bill, Sen. Erdman noted this matter has been heard by the committee on several occasions. He put on record that he has not spoken with former Sen. Groene on the bill. Sen. Erdman expressed that he introduced the bill because it affects irrigators in his district. He testified that two years ago, LR 23 led to several conclusions that multiple things needed to happen with NRDs and that it's very peculiar what NCORPE does. He claimed that in 2012, NeDNR contacted four NRDs and suggested that they purchase 19,500 acres of land and it is strange how they purchased land so quickly. He referenced his former legislative resolution (LR 23) and what he considered strange conclusions relating to NCORPE.

Sen. Erdman attempted to lay out an explanation for why he feels the land can be sold and water rights retained. He distributed a document showing the purchase of water by an ethanol plant, mentioning this proves water can be separated from land. He also referenced examples of NCORPE was selling off small parcels already.

Concluding his opening, Sen. Erdman told the committee that numerous people will come and testify that you can't sell the land, but none of those things are true. He noted that NRDs are charged with clean water but claimed that nitrate contamination is going out of sight.

During opening questioning, Sen. Jacobson expressed that he's a huge fan of NRDs and their mission is important, however he views NCORPE as mission creep and a distraction. He reiterated the examples of the ethanol plant and NCORPE selling parcels as to why the water can be separated from the land. Jacobson noted there was an opinion from Stephen Mossman [attorney with Mattson Ricketts], there's no restriction on selling the land and separating the water rights. Sen. Erdman, acknowledged the opinion exists and also expressed that he's reached out to Attorney General Hilgers, but he's been busy and unable to respond yet. However, he fully anticipates the Attorney General will come to the same conclusion.

Sen. Hughes outlined her appreciation for the positive impact of NCORPE and then asked if the constitution says land and water are joined? Sen. Erdman claimed again that NCORPE has already sold land. Sen. Hughes responded with concern over the precedent that would be set if this bill were to separate the water from the land.

Sen. Bostelman proposed the concept and question of whether funding the bonding indebtedness would alleviate concerns about the occupation tax. Sen. Erdman responded that it would not solve the problem, because NCORPE still wouldn't pay \$900K in taxes annually as irrigated land. Sen. Bostelman raised the point that the property will not be irrigated, and the valuation would not generate \$900K, even if it were in private hands.

Proponents

There were no proponents for the bill.

Opponents

Tom Riley, Director NeDNR, provided testimony in opposition to the bill. LB 396 appears to seek the creation of an additional exception to our common law's usual relationship of groundwater to overlying land. Usually, any rights for beneficial use of the state's groundwater are dependent upon ownership of the overlying land. The Department is concerned about possible unintended consequences from such a deviation.

LB 396 modifications would require the natural resources districts to "sell the overlying surface interest...after an augmentation project has been developed." This exception runs counter to our common law's usual relationship of groundwater to the overlying land ownership which is foundational to protecting future access to our groundwater resources for Nebraskans. These concepts have been proposed in prior Legislatures and the Department has consistently expressed concern that this change in law may impact the

states strategies and abilities for compliance with the Republican River Compact and potentially create other unintended consequences.

Nebraska's water laws are a complex, interrelated system that beg for stability and legislative caution. Any modification to the state's water law structure may create a potential impact that is not readily apparent in the moment. In this case, such changes to fundamental provisions of our water laws may affect our future Compact obligations and the protections our groundwater users currently enjoy.

During questioning, Sen. Jacobson asked if the Attorney General opinion were to come back saying this could be done, would that satisfy your concerns? Dir. Riley mentioned it could go a long way – but concerns around the ability to maintain compliance with the compact would remain. He also expressed that with bills that so significantly impact water law, we need to not think about the past, but also think about what it might do for the future. These steps could potentially lead to additional future steps that might include efforts to take water out of the state.

Don Batie, Dawson County irrigator, testified in opposition on behalf of Nebraska Farm Bureau, Nebraska Cattleman, Nebraska Corn Growers Association, and Nebraska Soybean Association. Batie expressed they support common law procedures and oppose any efforts to separate groundwater from the overlying land – and this bill would be dangerous precedent. Batie provided the committee with a summary of clear Supreme Court rulings tying the water to the overlying land. Batie also outlined how augmentation projects have multiple purposes and this bill may impact additional projects across the state now, or into the future. Augmentation projects are essential for compliance. Batie also expressed that they feel it would be disingenuous to not leave it up to locally elected NRDs to manage projects.

Batie closed his testimony by expressing that there are a lot of areas of the state that have land off of the tax rolls, he further noted in this case they're fortunate to be receiving in lieu of payments.

Sen. Jacobson asked Batie a similar question of if the Attorney General opinion were to come back that there was nothing was wrong with this, would it change the opinion? Batie responded it would not – the precedent would be dangerous, even if the AG would say it's permissible. The Supreme Court has ruled over and over tying the land and access to water together.

Don Blankenau provided testimony on behalf of NARD. He provided the committee with a historical perspective regarding the bill. When NRDs first developed augmentation projects to ensure state compliance with interstate agreements, a previous senator from North Platte objected arguing that the land acquired for the project would be tax exempt and thereby diminish the property tax base of Lincoln County. The NRDs responded by drafting legislation, carried by Senator Dan Hughes, which allowed for the payment of in lieu property tax. That legislation passed and the NRDs have since made the in lieu of payments. But resolving that key issue did not stop future attempts to undermine the stability of these projects. LB 396 is now the sixth iteration of the same legislation that attempts to sever the legal connection between land ownership and the volume of water allowed to be used for augmentation. If passed, LB 396 will inject significant legal instability to the continued operation of the augmentation projects and Nebraska's ability to comply with its interstate agreements.

It is worth noting that in *Upper Republican NRD v. Dundy County Bd. Of Equalization*, 912 N.W.2d 796 (2018), the Nebraska Supreme Court explained: "The right to use groundwater does not float in a vacuum of abstraction but exists only in reference to and results from ownership of the overlying land." *Id.* In other words, the amount of water an augmentation project can use is directly related to the amount of land that the project owns. While LB 396 would eliminate this requirement, the bill creates a minefield of uncertainty.

Just some of the unresolved questions created by this bill include: How is the right to access and use groundwater to be determined? Who makes that determination? Must a project sponsor buy the proportional amount of land to acquire the right to groundwater and then sell? How much land must be retained around each well? By what legal mechanism is the restriction to use groundwater on the sold lands to be recorded?

Who will enforce any such restriction? And most importantly, is the state willing to deal with noncompliance of its interstate agreements if augmentation projects are prevented from future operations as a result of LB 396? None of these questions are answered by this bill and all of these questions are important.

Ultimately LB 396 does not address any issue of statewide concern. Neither the State nor any water manager is calling for this change. To the contrary, LB 396 creates legal instability to an established process for the development and continued operation of water augmentation projects and actually increases risks to taxpayers across Nebraska.

Accordingly, the Association asks the Committee to keep the lid on this Pandora's Box tightly closed and request that LB 396 be indefinitely postponed.

Sen. Jacobson raised the question about selling a 99-year lease? Blankenau responded that a lease would have to be just for dryland uses – he further outlined that Lincoln County wouldn't receive any more in taxes with a lease. He outlined legislative action to pay in lieu of taxes. He expressed to the committee the purpose of that legislative action was to make Lincoln County whole. Blankenau concluded his response by noting that much of the land is already leased out for a variety of private purposes.

Steve Fack, a Lincoln County landowner and neighbor of NCORPE testified in opposition to the bill. He provided the committee with an overview of his leasing experience with NCORPE. He started leasing via bid deal and that has turned into a long-term bid deal. He summarized that NCORPE has been good neighbors. He expressed to the committee he was concerned about the precedent of selling the property and noted that if the property was sold it would likely sell to one outfit that would buy the whole thing.

Jeremy Martin, a Lincoln County landowner and NCORPE neighbor, testified in opposition to the bill. He reiterated the comments from Mr. Fack that NCORPE has been a good neighbor and their leasing processes are excellent with a responsive and helpful grazing management team. Martin also expressed that the in-lieu of tax payments are appropriate.

Jeff Wallin, a Southwest Nebraska landowner, testified in opposition of the bill. Wallin provided the committee with some historical context and noted local landowners and NRDs were faced with the problem of compact compliance and NRDs worked with local landowners to solve the problem for the state. These augmentation projects have been used and have kept the state in compliance, so why would leaders question projects that are protecting the irrigators and all the people of Nebraska.

Dr. Jasper Fanning, General Manager of Upper Republican NRD, testified in opposition of the bill. Dr. Fanning used his time to address some questions the committee raised. He noted that what NCORPE pays for in lieu of taxes is what the assessor determines the value would be if the land were in private hands. NCORPE has made about \$2.34 million in lieu of tax payments to Lincoln County. Dr. Fanning noted the project happened quickly because it needed to, as the state was in a position that it needed to immediately operate a project for compliance. He also noted that engineering studies had already been completed for very similar sites.

Dr. Fanning addressed concerns over the need for employees and money saving, noting that even if the land was in private hands, there would need to be employees to monitor and maintain augmentation equipment. He also provided the committee with examples of augmentation projects in Colorado that have 1/3 the pumping capacity of NCORPE, yet have larger budgets. Dr. Fanning also provided the committee with a summary of leasing activities at NCORPE, noting leases are 5-year contracts with the option to renew for 5 years. They are working on long-term leases to provide landowners with stability. Dr. Fanning also addressed Sen. Bostelman's question on the indebtedness, noting that NCORPE owes \$94.2M and has made \$51M in payments.

Sen. Jacobson asked about additional future uses? Dr. Fanning noted that the NCORPE board looked into wind and solar options, however that would be driven by demand, and it would be other neighboring landowners and the local counties that would have any final say.

Al Davis, testified in opposition on behalf of the Nebraska Sierra Club and Nebraska Farms Union.

Neutral - There was no neutral testimony.

During closing, Sen. Erdman reiterated comments made during his opening remarks.

The committee reported no action on the bill.

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 50,000 predators which totals \$500,000 a year.

The Natural Resources Committee accepted testimony on the bill on February 8th.

Opening on the bill, Sen. Brewer spoke about the pastime of pheasant hunting. He outlined how populations in Nebraska are dwindling and not sufficient to provide Nebraska youth with a rewarding experience. He also outlined the economic impact hunting plays in rural areas. This bill is a way to reduce the predator population to get the population of the birds up. He acknowledged that some pheasant issues are due to farming fence row to fence row. He mentioned that the bill is like what other states have done and has incorporated some of their language.

The source of funding was raised during questioning and Sen. Brewer noted that it would probably first come from General Funds and eventually be transferred to the Game and Parks.

Proponents

Michael Herring of rural Fremont testified in support. He has been a trapper and hunter most of his life and believes the bird population has been devastated. Landowners reach out to him to kill coyotes because they are after their dogs, cats, calves, etc. In the past year one landowner near Valley lost 10 calves, and he has killed 200 coyotes in just a 20 square mile area. He noted that the furs of predators used to have value, but now they're not worth anything.

John Ross, testified in support. He has hunted and farmed for 60+ years and populations of pheasants were great up until the 1970s, but as farming changed, habitat began to change. During the late 1970s and 1980s fur prices were high and there was predator control, but prices dropped, and now with more predators, the pheasant population has dropped. Despite adding habitat, the birds have not returned.

Ken Lamb of Otoe County testified in support. He has been involved in CRP programs and Pheasants Forever and \$7 corn was one of the big factors in reducing CRP. He used to see 30 pheasants in a trip, but last fall he only saw one despite having 70 acres of CRP. He noted the predator population is large and a bounty could be an opportunity to get youth involved in trapping/hunting.

Opponents

Alicia Hardin of the Nebraska Game and Parks Commission testified in opposition. The most important factor for pheasant survival is habitat and weather conditions during brood and nesting. She cited several studies that predator removal is rarely successful, hard to sustain, and doesn't account for all predators out there. If NGPC funds are targeted, it would be a diversion of funds and they would need additional appropriations to sustain the program.

When asked by the committee what the legislature could do to help restore the pheasant population and if predator control and habitat restoration can exist together?

Hardin responded that habitat is the main thing, so incentivizing more CRP land would be helpful. She noted that NGPC also provides benefits for landowners to conserve their land and match against federal dollars, so additional funding for that program would be helpful. Hardin noted there have been a lot of nesting studies with predators, and habitat should be first and then maybe some predator removal. She noted you can't take all of one animal and not expect it to impact everything else.

Drew Larsen with Pheasants Forever testified in opposition. While they appreciate the goal is to increase pheasant populations, the bill doesn't address habitat and weather, which are the two main factors in low pheasant numbers. He noted they don't support taking money from existing successful programs to divert it to predator bounty.

Laura Stastny with Nebraska Wildlife Rehab testified in opposition. Pheasants need large suitable, uninterrupted habitat. She noted that animals are resourceful and will respond to bounty numbers, and that a bounty during March-July will kill the predators when they should be rearing their young leaving orphans to die in dens, which is cruel and immoral. We should rely on NGPC wildlife biologists to implement their science-based conservation plans.

Scott Smathers with Nebraska Sportsman Foundation testified in opposition. Their primary objection to the bill is the lack of a funding source. He said it could divert funding from NGPC programming or be passed onto sportsmen as fees. He mentioned South Dakota is in transition with their pheasant program and they have \$500,000 program to restore habitat that has been lost, and their bounty program has not had the impact they were hoping.

Katie Torpy with the Nature Conservancy testified in opposition. Land use change is the biggest cause to pheasant population, and eastern red cedar encroachment is also taking away grassland habitat, so more resources should be allocated to habitat programs.

Al Davis with the Sierra Club testified in opposition. He noted habitat has changed and farming leaves fewer grains on the ground for birds.

John Hansen, Nebraska Farmers Union, testified in opposition. He noted that more habitat is needed for the birds.

Joel Sartore, Nebraska landowner and National Geographic photographer, testified in opposition. He noted that farmers use insecticides that kill off insects that birds feed their chicks. There needs to be large tracts of habitats without chemical spraying and that blaming the predator is common, but it is a tiny part of the problem. He also mentioned delaying mowing on state grounds and ditches could help pheasants establish nests.

Additional individuals testified in opposition echoing that habitat restoration should be the focus of any funding.

Neutral

Bill Hawkins, a rural Lancaster County resident testified in the neutral. He noted concerns about using traps and suggested clear signage. He also suggested releasing more pheasants.

Michael Ryan testified in the neutral. He noted that he raises pheasants, and they can be purchased for \$0.50/each. He questioned the Pheasants Forever business model and suggested they focus less on raising money and more on raising pheasants.

Sen. Brewer closed on the bill by expressing displeasure with NGPC testimony, noting they should talk in advance and not ambush hearings. He echoed that the mission of Pheasants Forever should be looked into further and questioned why we are not releasing more pheasants. He expressed that hunting predators is only a piece of the solution, but not a piece that we should forget.

There were 8 proponent letters submitted and 11 opponent letters.

The Committee reported no action on the bill.

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 FY2023-24 and \$550,000 from the General Fund for FY2024-25 to the Department of Natural Resources for costs associated with operating the Nebraska Mesonet system.

The Appropriations Committee accepted testimony on the bill on March 14th.

Sen. Dorn opened noting that it's not acceptable that Nebraska has fallen behind other states. He provided an example of the MESONET system in Oklahoma and the services it provides users. Sen. Dorn discussed that after introducing the bill, many partners came together and agreed that the best way forward is to conduct an interim study targeted at making Nebraska a leader with our Mesonet system.

Proponents

Lyndon Vogt, General Manager CPNRD, provided testimony in support on behalf of CPNRD. The CPNRD currently provides partial financial support for six Mesonet sites. We are concerned with the continued operations for these sites as they are used by numerous entities to support on-going studies, groundwater management plans, and flood risk reductions projects. With climate change concerns and its effect on rainfall and future cropping systems, now is the time to secure funding to continue collecting the data that many decisions are based on when looking to the past and future.

Our financial support for Mesonet sites comes from local property tax. I know local property taxes were not the intended funds to support these sites when they were established. We felt if we did not provide the local financial support when we were asked, operations of the sites would be discontinued. We look forward to securing a stable source of funds to continue the Mesonet program.

Ken Herz, Nebraska Cattleman, testified in support on behalf of the Nebraska Ag Leaders working group. Ag producers rely on data collected from Mesonet systems, several other industries, including insurance companies also use information. Nebraska's system is underfunded, used to be premier network and now we've fallen severely behind. Neighboring states fund it at a state level. They look forward to discussions with all parties to develop and obtain a robust Nebraska Mesonet system.

Tom Hoegmeyer, testified in support on behalf of Nebraska Climate Elder Legacy group. He noted they support holding over and studying further. He expressed concern over environmental variability and increasing natural disasters. He noted that the Mesonet system had up to 65 stations at one point, Oklahoma was so impressed by Nebraska's Mesonet system they created their own system. Now Oklahoma has far surpassed Nebraska's system. Funding has been piecemeal and unstable and data quality is in danger.

Moni Usasz testified in support on behalf of the Nebraska Citizens Climate Lobby. Decisions are only as good as the data available. Nebraska has the technology but not the funding to support the data collection. Currently there are 55 active stations and Nebraska should have 130 stations for accurate data collection and use across Nebraska.

A representative of the Climate Action Team, testified in support and reiterated prior testimony.

Opponents

There was no opposition or neutral testimony. Sen. Dorn waived closing.

Letters were submitted for the record by 32 proponents and no opponents or neutral positions. The committee reported no action on the bill.

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.

Provisions of the bill appropriating money for a grant to city of primary class for water supplies were incorporated into LB 814 (see pages 13-14) which was passed and signed by the Gov. Pillen on May 24, 2023.

The Appropriations Committee accepted testimony on the bill on March 14th.

Opening on the bill, Sen. Bostar noted this proposal is ideally suited for ARPA funds. Securing a second water source for Lincoln is one of the most pressing objectives. A growing population and unforeseen circumstances jeopardize Lincoln's water supplies. The Mayor's Water Source Advisory Council has completed a survey and design with task force research that has generated official recommendation of a

Missouri River wellfield and treatment facility with direct transfer to Lincoln. Sen. Bostar highlighted how a second source would aid in avoiding conflict with the Agriculture community along the Platte River, as current water uses could be diverted for residential use. He also discussed the regional benefit that this project could address by offering regional opportunities across southeast Nebraska and neighboring small communities.

Proponents

Elizabeth Elliott, Director of Lincoln Transportation and Utilities, testified in support. Water is our backbone and sustainable resources are important. Water reliability is vulnerable coming from just one source, 2019 flood highlighted vulnerability of wells in Platte River. In May 2022 Lincoln established a 27-member council to review all second source options, 14 alternatives were considered, well field and treatment along MO river with direct transport of treated water direct to Lincoln became the recommended option. She noted the task force recommendation was to also explore impacts of the proposed reservoir. Elliott noted the project would also provide opportunity for southeast NE communities to connect to water supply.

Elliott discussed this would protect Nebraska farmers by preventing a call on river. The second source would lessen the chance Lincoln would exercise its water right and provides assurance farmers will have water for their crops. She noted thanks to the extensive planning, the city is poised to strategically expend these funds by the end of 2026.

Sen. Erdman raised questions on the date of Lincoln's water right and their ability to make a call? Elliott noted that municipality rights are unique, and not necessarily based on the date.

Sen. Wishart asked for a history of water sources? Elliott noted that the first source was in Lincoln, but it was too salty, so 99 years ago the plant in Ashland was constructed, it has been expanded over time to continue operations. Based on water modeling and growth, wells and treatment are able to meet demand until 2048.

Elliott was asked about cost and longevity of new source. Planning would ensure its use is 100 years and beyond. The bill is asking for \$200 million, but expect second source to cost \$1.39 Billion, 15-20 years to build. City is setting aside money in current rate model and continue to leverage state and federal dollars.

Bruce Boherr, testified in support on behalf of the Lincoln Chamber, LIBA and the Nebraska Chamber of Commerce. The second source would allow growth opportunities for the future. The bill also benefits other small communities with \$20 million for RO systems. Water will continue to play a central role in Nebraska's development.

Dave Landis, Chair of Lower Platte South NRD board, testified in support on behalf of LPSNRD and NARD. Landis thanked the committee for the support the state of Nebraska has already provided to begin the planning process to develop a second source of water for Lincoln and the surrounding areas of southeast Nebraska.

Water is our state's most precious resource. The project before you in LB506 will be the largest and potentially most important project for the state's second largest city and southeast Nebraska for generations to come. Securing a second source of water is necessary to ensure the economic and environmental resilience of southeast Nebraska is secure.

Without this support for a water treatment plant, transmission pipes, right-of-way, wellfields and related activities the city of Lincoln may have to draw more water from the already limited Platte River which could further impact endangered species and upstream users. This investment will provide assurances for Lincoln and southeast Nebraska water resources through 2075.

Sen. Dorn asked if the wells would need permits from the LPSNRD or a different NRD? Landis noted that the exact location of the wells has not been identified.

Stephanie Fischer, City of Waverly, testified in support of the bill. Waverly is facing obstacles to clean and safe drinking water due to rising nitrate levels. The city has been receiving technical assistance from LPSNRD, NDEE and UNL. They have wells that have exceeded the MCL, and other wells show increasing levels. So far, they've been able to blend water, but if levels continue to rise the city will be forced to do costly treatment. They're working with the NRD to reduce nitrate loading and public education and outreach in a volunteer approach are being implemented. Concern if these efforts may not be enough, but opportunities in this bill may help address challenges, either through RO funding or potentially even connecting or purchasing water from City of Lincoln.

Lynn Rex, League of Nebraska Municipalities, testified in support of the bill. Rex noted she served on the Mayor's Water Source Advisory Council and it was the most extensive civic engagement process she's been involved in. Will provide opportunity for city of Hickman and other surrounding areas and regions to partner and collaborate with City of Lincoln.

Opponents

There was no opposition testimony.

Neutral

Andrew Dunkley, Nebraska Farm Bureau, testified in a neutral capacity. He noted the neutral position stems from the funding provided for city of Lincoln. Appreciate the process that evaluated options, recommendation was best option for Ag and would also benefit communities in southeast Nebraska. They support \$20 million for RO funding as addressing nitrate will require both short and long-term solutions. RO is just a band aid, but a necessary one. Long-term solutions are not one-size-fits-all and we support \$1 million for NDEE to study and research the problem.

Sen. Bostar closed by outlining Nebraska water rights structure, mentioning it's only first-in-time, first-in-right with like uses, but when it's municipal/residential it's superior to Agriculture, but likewise Agriculture is superior to industrial. Recapped importance of project and scope. He noted that all money requested with the bill would be federal funds. During questioning the committee engaged in dialogue over water rights.

There were 19 proponent letters submitted for the record, no opponents and one neutral.

The committee reported no action on the bill.

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

The Government Committee advanced the bill to General File on February 16, 2023, following an 8-0 committee vote.

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.

The Government Committee accepted testimony on the bill on February 10th.

Opening on the bill, Sen. Brewer said he brought the bill on behalf of the League of the Nebraska Municipalities. This bill expands on the progress of Sen. Flood's 2021 bill.

Proponents

NARD presented testimony to strongly support using the websites for additional posting of upcoming meetings. All 23 NRDs have websites and have been posting meeting notices and minutes on their sites for years.

Developing a state public notice web system will help get information out to the public for meeting notices. We also support the provision in LB 513 to require the local newspapers and the Press Association to work together so we only have one contact to post online. It should not be the responsibility of the political subdivision to post in both. This can be streamlined as proposed in the bill.

One of the problems we have run into over the past several years, is the loss of local newspapers to run notices. This is a larger problem for rural areas.

An example is the Gothenburg Times, a weekly newspaper that had been in business for more than 100 years. It was the site for public notices for that community. Last spring, they made an announcement that they ceased operations immediately and there would not be any further publications. The website was taken down as well.

Not only did the political subdivisions lose out on the public notice for the next edition, but they also lost the local paper to publish notices permanently. Some had to cancel regularly scheduled meetings as the newspaper posting was not available and they would have been in violation of the Open Meetings Act. This could be an on-going problem.

There is also declining readership of a “hard copy” newspaper. The younger generation gets their news from other sources, not newspapers. This will lead to the problem outlined above of more papers shutting down. Right now, the only way we are reaching the younger generation about meeting notices is our websites and social media.

For example, recently the Lower Loup NRD had a proposed change to their water quality regulations. It cost the district just over \$30,000 to public notice the meeting in local weekly and daily newspapers circulated within the district. The district did have some complaints from some farmers that the meeting notice did not go out on Twitter.

We need to get ahead of this trend, so the public is informed of meetings.

Lynn Rex, League of Nebraska Municipalities, testified in support. The bill is a result of a negotiated agreement with Nebraska Press Association, NACO, NARD and the Nebraska Community Colleges. She spent her time reviewing the Open Meeting Act changes line by line with the committee. She outlined that the date of Jan. 1, 2024, allows the Nebraska Press Association a year to get their online platform up to host open meetings postings.

John Spatz, Nebraska Association of School Boards, testified in support. He gave a couple of real-world examples where these updates would help. If you have a meeting on Monday, you couldn’t schedule the next special meeting for another week due to the timing of the newspaper. If the newspaper forgets to publish, you can’t host your meeting, and this has happened to various school boards. He said their risk pool membership includes people from Scottsbluff, Chadron and Dundy County and that is a financial burden for them to drive to participate.

Elaine Menzel, Nebraska Association of County Officials, testified in support. We view 513 as a reasonable effort and appreciate the partnership with the press association to move forward with the alternatives proposed.

Robin Spady, Nebraska Municipal Power Pool and Nebraska Power Association, testified in support. She noted the bill would allow their interlocal group the Public Alliance for Community Energy (ACE) to be included in the virtual meeting process.

Kevin Edwards, Millard & Papillion Rural Fire District, testified in support. He noted the local newspaper did not print their meeting notice and they had to cancel and move their meeting, adding that alternatives would be helpful.

Opponents – There were no opponents.

Neutral

Dennis Derossett, executive director for the Nebraska Press Association, testified in the neutral. The Nebraska Press Association is one of the oldest associations now celebrating 150 years. He said the language they drafted was offered to deal with meeting notices of the public body and they wanted to accommodate a schedule for non-routine business items. The Press Association launched the statewide website in June 2021 and as of October 2022 all newspapers upload a public notice to their website after it appears in print. The statewide website is no cost to the government. Their intent with language is to advocate for transparency but also show our good faith intent to work with elected officials to find solutions to problems.

Four proponent letters were submitted for the record.

Senator Brewer waived closing.

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 10 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 10 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.

The Appropriations Committee accepted testimony on the bill on March 13th.

Sen. Slama opened on the bill by noting rural communities face unique challenges. The flood of 2019 was a reminder of how important clean drinking water is. Clean water is not a luxury, it's a human right, yet many communities struggle to provide clean drinking water to their people. Sen. Slama presented an amendment noting it would further define the communities that would be eligible for these grants. This bill would make sure quality rural drinking water is addressed.

During questioning, Sen. Slama was asked if she would be interested in partnering with NDEE on a comprehensive study? She noted she would be happy to partner with a study, but the need is now for clean drinking water not down the road.

There was no testimony on the bill. Senator Slama waived closing.

Letters submitted for the record included 5 proponents, 0 opponents, and 2 neutral. The committee reported no action on the bill.

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.

The Government Committee accepted testimony on the bill on March 24th.

Sen. Vargas opened by outlining provisions of the bill. He noted the issue is labor brokers are not issuing payroll and are excluding unemployment and workers compensations taxes. He wants to work with the committee on the measure over the interim and develop apprenticeships.

Proponents

Several individuals testified in support of the bill. They all testified to the need to eliminate payroll fraud in the construction industry. Some contractors are currently using subs or labor brokers on projects that are employing individuals working without payroll, excluding them from unemployment and workers compensation taxes. This is allowing them to lower bids by 30-40% below what legitimate contractors with employees on payroll offer.

Opponents

There was no opposition testimony.

Neutral

John Nabel, testified in a neutral capacity on behalf of the Nebraska Trade Council. He noted the neutral testimony was based on timing, as they did not have time to review the amendment and they anticipate being supportive of the bill with amendment. They support the amendment that will create incentive for contractors to use established apprenticeships.

In closing, Senator Vargas noted he wants to develop more apprentice programs and ensure contractors are following labor laws. Again, he noted that he would work with the interested parties over the interim. He noted there is no shortage of projects and demand for trade labor is high so time for this is now.

Position letters were submitted for the record by 1 proponent, 3 opponents, and 1 neutral.

The Committee reported no action on the measure.

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.

The Appropriations Committee accepted testimony on the bill on March 6th.

Opening on the bill, Sen. Blood focused her testimony on aspects of the bill that would require an emphasis on two areas of the Inflation Reduction Act (IRA), including the high efficiency electric home rebate program and the high energy whole house rebate program. She noted that \$91 million is available to Nebraska through these two programs for electrifying homes. Funds would enable 100,000 households to reduce energy costs in homes, would generate income for businesses and contractors, and would be good for the environment and reduce greenhouse gas emissions.

Lastly, the IRA would allow farmers to invest in soil conservation and measures that reduce greenhouse gas emissions. Sen. Blood noted the IRA is a large, complicated bill, but she focused just on those two areas of the bill with the intent to ensure the state receives all funds entitled to it under the IRA. She closed by pointing out the deadline for filing notice of intent for climate action planning money is March 31st – so it's too late to pass legislation in time, but intent is to start discussion and encourage Department to file intent.

Proponents

David Corbin, Public Health Professor UNO and Creighton, Center For Climate Healthy and Equity, testified in support. He doesn't want to see Nebraska miss out on this money, which would reduce air pollution and help public health.

Al Davis, testified in support on behalf of the Sierra Club and Nebraska Farmers Union. He stressed the importance that Nebraska focuses on bringing these dollars to our state. Davis mentioned red states have the most to gain from this act and there are subsidies available for installation of solar panels.

Terry Langan, Engineer and Consultant, testified in support. Nebraska public power sectors have made commitment to become fully renewable. Lower energy electric appliances can be funded 50-100% under the IRA depending on income. Opportunity to expand the 18,800 clean energy jobs in Nebraska. Langan mentioned the IRA will provide farmers rewards for stewardship and provide a consistent source of funding over 10 years regardless of commodity prices. During questioning, Sen. Dorn expressed concern over the agriculture portion of IRA not paying those already utilizing practices and only paying for those doing practices for the first time.

Kenneth Winston, Nebraska Interfaith Power and Light, testified in support. They support caring for people and the earth and this would do both by reducing energy bills and reducing the energy environmental footprint.

David Holtzcaw testified in support of the bill. Little to no requirements for these funds, the funds are just incentives that create clean energy jobs. The IRA requires each state's energy office to apply for what would be \$91 million for Nebraska in renewable funds. Other states have set up programs to administer these IRA funds, and he has emailed and sent NDEE multiple inquires and questions about plans for how Nebraska will utilize the funds.

Edison McDonald, GC Resolve, testified in support. Ensures that Nebraska gets tax funds back. Focused on pursuing funds for tribes and battery development.

Eric Moyer, Lincoln resident, testified in support. Installs solar panel systems and sees the energy improvements provided by the IRA funds as critical to energy savings.

Shirley Neimeyer, testified in support. Need to buy time with solar and wind until we can get to newer technologies to prevent climate change crisis.

Opponents

There were no opponents and no one testifying in a neutral capacity. Letters submitted for the record included 72 proponent letters, 2 opponent letters, and 1 neutral letter.

Sen. Blood closed by apologizing for how many people testified. She expressed this is an opportunity to utilize funds for struggling Nebraskans and to help create jobs. We don't need to utilize all aspects and can cherry pick what pieces of IRA we want to use.

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.

The Appropriations Committee accepted testimony on the bill on March 13th.

Sen. Lippincott opened on the bill by summarizing the activities of the Water Well Standards and Contractors Act. While this program does collect licensing fees, there are less than 1,000 licenses across the state and the fees do not maintain the funds needed for the program. He noted that Gov. Pillen's budget does include an appropriation of \$630,000 each year for this program, but this funding would be for the maintenance of current staffing levels of 1 PT Supervisor, 3 FT field staff inspectors, and 1 office support staff. The appropriation of \$750,000 is an additional \$115,000 over the governor's budget. Those funds would be used to look at issues across the state.

Proponents

Tonny Beck, Chair of the Board of Directors of Water Well Standards, testified in support of the bill. The program does not have the ability to do the work it was created to do without additional fundings. The fees fall short of what is needed to support the program. In 2021, the legislature shifted the program from DHHS to NDEE and as a result the program lost a significant source of funding. The \$630,000 per year is a minimum funding level, the higher requested amount is because the program can't keep up with needs. Historically, we have done more to protect our groundwater resources than we can do today. There are many aspects of protecting our groundwater resources and our state faces many challenges in protecting that vital resource.

Beck was asked how many inspections are completed annually? He noted they inspect every municipal well, 25-30% of irrigation wells and 30% of stock wells. We do not have the resources to inspect all the wells.

The committee asked what percent of the board's operating budget is supported by fees? Beck noted that approximately 15% of total budget is covered by registration and licensing fees.

The committee asked if they have had discussions to collaborate with NDEE on the proposed statewide comprehensive study? Beck responded that information will be vital to everyone. The reality is we don't have a good snapshot of what the problems are with nitrate in the private drinking water wells. It would be helpful to have a study of some sort and have that information available to all of us.

Lynn Webster, Assistant Manager Upper Niobrara White NRD, and Water Well Standards and Contractors Licensing Board representative, provided testimony in support of the bill on behalf of UNWNRD and NARD. Water quality is very important to the State of Nebraska; groundwater quality is especially valuable. The majority of Nebraskan's drink groundwater every day, provided by their community water supply or their private domestic well. Groundwater is also utilized for the majority of the state's agricultural activities.

The Water Well Standards and Contractor's Practice Act (Act) and the Water Well Standards and Contractor's Licensing Board (Board) was established in 1986 with the approval of LB310. The purpose of the Act is to provide for the protection of groundwater through the education, licensing and regulation of the various categories of water well contractors/managers in the State of Nebraska. The Act is supported by the water well industry and the Natural Resource Districts as there is a need for established standards for the construction and decommissioning of water wells across the state for continued water quality protection. Along with the standards that are currently in place, continued work is needed to study, revise and improve practices as new information pertinent to this industry is gathered.

The Act is funded by receiving a portion of water well registration fees and the licensing fees for all license holders under the Act. There are statutory limits to the fee amount that can be charged for water well registrations and the reasonable fee that shall be set for licensing fees. With the transition of the Water Well Standards Program from the Department of Health and Human Services to the Nebraska Department of Environment and Energy, the historic funding source through Unified Credentialing is no longer available. The Board has been reviewing possible funding options with existing fee structures.

The proposed bill, LB571, provides for the necessary funding to carry out the important water quality protection purposes of the Act.

During questioning, Webster was asked about NRD sampling for Nitrates? He responded that NRDs have a water sampling plan and program, but he can't speak on behalf of all NRDs just to UNWNRD. He noted they have ~2,000 active irrigation wells, 1,600 of those systems are set up for chemigation, with inspections every other year, they collect samples at this time, so approximately 800-900 water samples ever year. The district goal is to take a sample out of every active irrigation well a minimum of 1 time every 4 years. He also noted they do domestic well sampling, and each year and it ranges from 180-225 well samples.

Andrew Dunkley, Nebraska Farm Bureau, testified in support on behalf of the Nebraska Pork Producers and Farm Bureau. Ag is not only the state's largest industry, but we are also home to center pivot irrigation and it is dependent on our water resource for Nebraska's success. This is a small investment that would generate a huge return on investment.

Opponents

There was no opposition and no neutral testimony.

In closing, Sen. Lippincott noted when the program was with the Department of Health and Human services the budget was \$1 million, substantially more than what is being requested now.

Letters submitted for the record included 1 proponent and no opposition or neutral.

The committee reported no action on the bill.

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.

The Judiciary Committee accepted testimony on the bill on March 3rd.

Legislative Aide Dave Sund introduced the bill on behalf of Sen. J. Cavanaugh. A few years ago, Sen. J. Cavanaugh did a prescribed burn tour with Sen. Gragert and landowners and learned the importance of land management practices. He introduced a similar bill last year, but it didn't make it through, and this bill is a result of compromises.

Proponents

Bill Hiatt, Resources Conservationist with the Central Platte NRD, testified in support on behalf of CPNRD and NARD. The Central Platte NRD Fire Program began in 2004. It assists landowners in planning, preparing, and implementing prescribed burns through different means: education and training, cost-share, advice, or contracting. Through contracting, our staff will write the plan, work with the landowner on what preparation needs to be done, and our burn crew will implement the burn plan with help from the landowner.

The ultimate goal of our fire program is to give landowners the knowledge and means to use prescribed fire safely, using the best science, information, and techniques available.

This proposed amendment will be a tremendous benefit to prescribed burners in Nebraska. Liability has been a constant concern to landowners and professionals alike. The amendment would provide reassurance that if you have done your due diligence throughout the process that you are offered reasonable protection under the law.

There is a great need for the expansion of the use of prescribed fire for many reasons, the main being woody species encroachment, Eastern redcedar in particular. As has been seen throughout the Great Plains, grassland conversion to woodland has extremely detrimental effects on rangeland productivity, and the loss of suitable wildlife habitat for endemic prairie species, such as grassland birds. Fire is the most effective tool we have against this conversion, and with Nebraska being 97% privately-owned, landowners are the ones that will be and are leading the effort. As a fire professional, my part is to provide those landowners with expertise and advice to accomplish their goals in a safe and effective manner.

Sen. DeBoer asked questions about weather conditions for prescribed burns and who runs the prescribed burns?

Hiatt indicated the plans include relative humidity, wind speed/direction, and temperature. He noted there is someone known as the "Burn Boss," who leads the effort. A Burn Boss is selected based on experience and comfort with fire. There are no specific credentials to be a burn boss; however, burn associations have organized processes in place to establish burn bosses.

Sen. DeKay asked the average size of burn in the district.

Hiatt noted in the Central Platte NRD, the average burn size on the eastern side of the district is 70 acres and on the west side of the district is 850 acres.

Kristal Stoner testified in support of Audubon Nebraska. She noted that maintaining grasslands and preventing woody encroachment is essential for ranchers and grassland birds. Prescribed fires is the most cost-effective and efficient conservation tool. Some landowners may be hesitant on prescribed burning due to liability concerns.

Katie Torpy testified in support of the Nature Conservancy. Nature Conservancy owns and manages more than 66,000 acres and they also work with private landowners to keep range lands productive by using prescribed burns. She noted this bill provides needed clarity, which could lead to a greater uptick in use of this essential tool.

Mark Goes, cattle producer, testified in support on behalf of Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Soybean Growers, Farm Bureau and Nebraska Pork Producers. He explained what is included on prescribed burn plan. He noted that prescribed fire is a critical tool is protecting grasslands and landowners regularly show that it can be done safely.

Opponents

Dan Thayer testified in opposition on behalf of Nebraska Trial Attorneys. He shared photos of cedar trees on fire describing that flames can reach 30 feet and these fires are dangerous. He noted that current Nebraska law works and Jurys can determine and make controlled decisions on cases. He explained the legal changes this bill would make vs. what is currently in place. He cited an Oklahoma State study stating that 99.3% success rate on prescribed fires is not getting out of control, so the status quo is working.

Neutral

Jerry Stilmock testified in the neutral for the Nebraska Volunteer Firefighters Association and Nebraska Fire Chiefs. He listed various fires recently and said that firefighting is dangerous. However, he noted that none of the fires he mentioned were initiated from prescribed burns. This is a big issue and deaths happen, so it is important to use caution.

There were 2 letters of support and 1 neutral letter submitted for the record.

In closing, Sen. J. Cavanaugh noted the need for prescribed burns and the goal of the bill is to try and help people be able to do this easier. Prescribed fire plans are very detailed and onerous, so the burn teams are doing their due diligence.

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.

The Appropriations Committee accepted testimony on the bill on February 22nd.

Opening on the bill, Sen. McDonnell expressed the immense economic value water has for the state. He noted that Nebraska currently has \$8.4 billion in existing water efforts on the books. He expressed that the bill would assist in developing a new public private partnership that could move forward with testing and developing new irrigation technologies being used in Israel. The funding would require a dollar for dollar match from the private sector and project completion could be as quick as 1-year.

Proponents

Sara Cohen, a resident of Omaha, testified in support of the bill. She expressed that during a recent trip to Israel she saw the success they've had in irrigation innovation. This bill presents an opportunity to help businesses develop new technologies in Nebraska. During questioning Sen. Erdman asked what Israel is currently doing better than Nebraska – she mentioned they used drip irrigation but did not elaborate on what specific technology or techniques they're doing.

Opponents

There was no opponent or neutral testimony provided.

During closing Sen. McDonnell reiterated the value of a public private partnership and noted that we should use this opportunity to build on the ideas being utilized in Israel by Dr. Clive Lipchin.

The Committee reported no action on the bill.

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

The Government Committee reported the bill to General File on March 22, 2023, following a 7-1 committee vote. 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.

The Government Committee accepted testimony on the bill on February 24th.

In her opening on the bill, Senator Albrecht expressed that she's heard from numerous individuals who have voiced concern over not being heard by representatives who are spending their tax dollars. She mentioned that the change is simple, and the goal is clear -- if officials can decide how to spend the people's money, then they need to listen to them. She provided an example of how she listened to lengthy testimony as a council member from those opposed to a Wal-Mart in the community, but listening to that opposition was worth it because now they have the nicest Wal-Mart in the state.

Proponents

Proponents of the bill included representatives from the ALCU, Nebraska Taxpayers for Freedom and Nebraskans Against Government Overreach, along with more than a dozen individuals. Proponent testimony addressed concerns over the inconsistency in how public bodies are allowing public comment during open meetings. Several testifiers suggested that public comment should be allowed on every item at every meeting.

Opponents

Lynn Rex, testified in opposition on behalf of the League of Municipalities and NACO. Rex provided the example that there are currently individuals outside the hearing room that want to talk about issues before the legislature - should they be allowed to come in and talk about that at this hearing?

Advance notice of meetings includes the ability to view the agenda items that will be discussed. The League supports allowing individuals to speak on agenda items, however, they oppose open mic sessions.

Representatives of the Rural Community Schools Association and the Nebraska Association of School Boards also testified in opposition. The testimony expressed that the vast majority of school boards allow public comment at each of their meetings and the remainder have public comment period regularly. They also reiterated that public comments periods are appropriate for agenda items.

Neutral

Bill Hawkins, testified as an individual in the neutral capacity. He testified that government needs to listen to the people, and all should have the right to speak, but public hearings should not be disrupted.

There were 129 proponents, 6 opponents, and 1 neutral letter submitted.

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, which 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.

The Appropriations Committee accepted testimony on the bill on March 16th.

Senator McDonnell opened by outlining provisions of the bill. The average data breach costs \$2.1 million and can result in loss of personal information. Public entities are far behind private sector in cyber security and ransom attacks are common in the public sector, with 50-60% of public sector entities facing ransom attack in 2021. It's critical that the state invest to prevent attacks for both the state and political subdivisions, without requiring political subdivisions to raise property taxes.

Proponents

Craig Lofquist, testified in support on behalf of Nebraska ESU and Council of Nebraska School Administrators. No public subdivisions are exempt and it's not a matter of if, but when there will be ransom attack. He provided several examples of Nebraska schools that have experienced cyber security attacks. It was also noted that Insurance companies are requiring extensive measures be implemented before offering coverage.

Elaine Menzel, NACO, testified in support. Cyber security has been critical for counties and this measure would assist counties in combatting security vulnerabilities. She outlined some concern that the will bill would require technology services, noting that some counties have established a cooperative security network.

Chad Daley testified in support of the bill representing himself. Information security approach should be altered from what is proposed in the bill. Cyber security tools should incorporate human resources.

Dana Turner, Chief Information Security Office Union Bank, testified in support. Cyber security is becoming worse, cost of inaction is only going to increase. Should ensure that security data is only housed in the United States. Insurance companies are auditing claims to ensure required protections were in place.

Opponents

There were no opponents or neutral testimony,

Letters were submitted for the record by 4 proponents, 0 opponents and 0 neutral. Senator McDonald waived closing. The committee reported no action on the bill.

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 (WFPO) projects active on December 31, 2022.

The Natural Resources Committee accepted testimony on the bill on March 1st.

Opening on the bill, Sen. McDonnell distributed a map of active WFPO projects noting the measure could impact projects covering 5.5 million acres and 43 legislative districts. The bill would provide access to federal funding that will reduce floods and guard communities through variety of projects. Sen. McDonnell noted the combined cost of local cost share is \$404 million to secure available federal funds.

During questioning, Sen. Brandt noted the fiscal note mentioned the fund can only be used for land rights. Sen. McDonnell acknowledged this and noted the need and willingness to expand the use.

Proponents

John Winkler, General Manager of Papio-Missouri River NRD, testified in support on behalf of NARD. The Small Watershed Fund was originally created in the 1960s to serve as a local match for federal funds for the PL-566 program. The fund largely went dormant after the federal funds dried up. However, this fund is set up to do exactly what we in Nebraska need to do to access and bring home hundreds of millions of dollars in federal funding through the USDA-NRCS Watershed and Flood Prevention Operations Program (WFPO).

The WFPO program provides technical and financial assistance to states, local governments and tribal organizations to help plan and implement authorized watershed projects for the purpose of: 1. Flood damage reduction; 2. Watershed protection; 3. Public recreation; 4. Public fish and wildlife; 5. Agriculture water management; 6. Water supply and management; and 7. Water Quality and stream restoration.

Currently, NRDs have applied to the Water Sustainability Fund (WSF) for local cost share funding assistance for three WFPO Plans (Wahoo Creek, Papio Creek, Long Pine Creek) and have thus far been successful on all three application requests. However, if all the NRD and local sponsors begin trying to tap the WSF for every eligible WFPO project, the fund will not be sufficient or other valuable water sustainability projects will not get funding.

Winkler attached a map that identifies all the potential WFPO projects throughout the state. The potential exists for \$400 million in required local cost share if all the plans identified are implemented. There are thirty-three (33) current WFPO projects in Nebraska. In addition, 43 out of 49 legislative districts have active watershed plans and could be eligible for federal WFPO project funding.

Nebraska's NRDs spend a tremendous amount of time and effort to apply for outside funding sources to assist in implementing projects and programs for the protection of life and property and to wisely manage our states most valuable natural resources. For example, the Papio NRD has recently been awarded more than \$5.3 million in federal FEMA funding for the construction of a flood control reservoir in Sarpy County and last month was authorized for more \$91 million in federal funds through the 2022 Water Resources Development Act (WRDA) for construction of flood control reservoirs, levee improvements and a floodwall in Douglas and Sarpy Counties. However, most if not all these outside funding sources including federal funding, requires a local match of varying percentages in order to access the program funds. Therefore, to bring more outside funding sources to the State of Nebraska and further reduce our reliance on property taxes to get vital projects constructed we need the ability to match those funds with local resources.

Following his testimony, Winkler addressed several questions from the committee. Sen. Bostelman asked if these projects are completed by cooperating with landowners? Winkler noted that most projects are working

in partnership with landowners on conservation programs, often these projects are not the larger dams that are seen in metro areas.

Sen. Hughes asked how the state funding would be prioritized? Winkler outlined the lengthy federal process for first receiving approval, noting projects don't all get approved at once, so there would be time to fund them out over time. Winkler further noted he anticipates it would be NeDNR that would administer how the funds are distributed to NRDs.

Sen. Jacobson followed up asking if it would become first-come, first-serve or if a basis of dividing funds via congressional districts would make sense? Winkler responded that it's unlikely any district would have the capacity to use the entire \$40 million. He further noted that NRDs work very well together, and we would be comfortable working on a plan for distribution with Sen. McDonnell.

Sen. Moser asked how often these projects use eminent domain? Winkler responded that the federal funds require the applicant to have eminent domain authority; however, it's rarely used with no examples he knows of and that NRDs work closely with landowners to implement these projects.

Winkler also noted that the bill is not asking to cover all the local share, this would just assist and alleviate the need to capture funds from property taxes. Mentioning that even with their larger tax base Papio NRD struggles to come up with the match for these projects, in the case of rural districts, they may have to forgo tens of millions of federal dollars simply because they can't generate the required match.

Winkler also addressed Sen. Brandt's question and noted while the fund was originally limited to land rights, we are willing to work with the committee and legislature to include other purposes.

Mike Murphy, General Manager of the Middle Niobrara NRD, testified in support of the bill. Murphy provided the committee with the following prepared testimony and then utilized time to outline MNNRD's experience in applying for WFPO projects for the Long Pine Creek watershed.

The MNNRD supports Nebraska Legislative Bill 656 and strongly urges the Legislature to adopt LB 656 because this bill will:

- Assist NRDs across Nebraska implementing watershed and flood prevention operations projects. There are thirty-three (33) current watershed and flood preventions operations program (WFPO) planning efforts in Nebraska, and some ready for implementing projects. Sponsors of those WFPOs are looking for additional funding to supplement the USDA-NRCS funding to construct projects through their respective WFPO Plans and -Environmental Assessment (EA). Various funding sources are available, but most are limited in funding or tied to certain match requirements. The MNNRD currently has 4 WFPO planning efforts throughout our District with another WFPO Preliminary Investigation Feasibility Report (PIFR) recently approved. One planning effort is associated with the Long Pine Creek Watershed (LPCW) in Brown County, Nebraska and three, soon to be four, in Cherry County, Nebraska. The LPCW WFPO Plan-EA is at the final stages of approval with final design, permitting, and construction of thirty-six (36) projects expected to occur in the next five (5) years. Total estimated project costs of the LPCW WFPO projects are \$7,144,400.00. The Sponsor (MNNRD) portion would be approximately \$1,786,000 (25%). If the MNNRD utilized 10% of our tax request (\$90,000), it would take twenty (20) years to pay 25% just for the LPCW WFPO projects at today's cost estimates.
- Projects will aid in local and state revenues. Contractors hired will provide monies into local communities. They will stay in local town hotels, eat at local dining establishments, get fuel at local stations, and get project supplies and materials locally, if possible.
- Provide watershed protection and flood prevention to local constituents and districts. The WFPO Program establishes measures through planning and project implementation to protect, conserve, and

mitigate flooding, erosion and sedimentation, public recreation, fish and wildlife, water quality, municipal and industrial water supply, agricultural water management, property owners, and county lifelines.

Impacts from the flooding and 2019 Bomb Cyclone continue to wreak havoc across the state. The MNNRD requests support of this important legislation to provide NRDs and the State of Nebraska the chance at large-scale conservation success by utilizing USDA-NRCS WFPO project funding which will allow implementation.

Kyle Hauschild, General Manager of the Nemaha NRD, provided testimony in support of the bill. The Nemaha NRD operates and maintains over 460 watershed structures that make up the biggest stormwater infrastructure in southeast Nebraska. In the 1950's and 1960's the SCS, now the NRCS, worked on watershed plans that are some of the oldest in the country with Brownell Creek that is located to the east and south of Syracuse being the third oldest nationwide. The Nemaha NRD's 460 structures are the most dams that are maintained by any NRD in the state.

As these structures start to age and near the end of their design life, they are tasked with rehabbing or rebuilding them. The standard design life of a dam is 50 years. They have some dams that are approaching 70 years old, which have outlived their design life. The time has come for the Nemaha NRD to invest in the rehabilitation or rebuilding of these structures to ensure that they can continue to perform their intended purpose. The dams that were built 40, 50, and 60+ years ago were designed to the standards and the precipitation needs of that time. Advancements in engineering and modeling will likely change the footprint or the size of some structures to make them as effective as they were when they were first built.

The Nemaha NRD is currently working on multiple Watershed and Flood Prevention Operations (WFPO) (formally PL-566) plans with NRCS to bring these structures up to today's standards and on a new plan to bring watershed protection and improved water quality to my District. One part of the plans are to make sure that the cost benefit is worth doing these projects. In the area of the 3 WFPO's that we are currently working on, there are 137 structures in the Brownell, Wilson and Ziegler watersheds. The influx of Federal funds to Nebraska through the WFPO program will help to implement these projects but the need for local funding remains.

With the help of LB 656, the Nemaha NRD will be able to continue to improve their watersheds and provide vital stormwater protection to the District that was intended 60+ years ago when PL-566 plans were put in place for flood and grade control structures.

Lyndon Vogt, General Manager of the Central Platte NRD, submitted testimony in support of the bill. When many of our current flood control structures were built, the Nebraska Small Watershed Fund was well funded and available to match federal grants to address flood damage reduction in the state. With the federal funds being directed elsewhere the state fund was no longer in demand or well-funded the last few years. Through the Federal Watershed and Flood Prevention Operations (WFPO) fund millions of dollars in federal funds are again available to address: Flood damage reduction, Watershed reduction, Public recreation, Public fish and wildlife, Ag water management, Water supply and demand and Water quality and Stream restoration.

Current state programs available to assist with the local share of these projects are insufficient to meet the demand, which could result in the loss of millions of federal funds and flood risk not being addressed in many areas of the state.

The Central Platte NRD currently has three WFPO grants that are considering flood risk reduction projects for the communities of Kearney, Gibbon, Shelton, Wood River, Lexington and Alda as well as thousands of acres of productive crop ground. These are all communities that sustained substantial flood damage in 2019, as well numerous times before, but cannot afford to address these issues on their own. Estimated cost to reduce flooding risk in the areas mentioned is well over \$100 million. This just addresses three of the 33 current projects in the state.

The act of pursuing outside funding to address these projects is very time consuming for the sponsoring agencies, which is usually an NRD. After we have been successfully granted federal funds, we are almost always required to come up with a local match of some percentage to move forward with a project. If we cannot find a local grant to match these funds, we are forced to rely on local tax dollars. LB 656 gives us the opportunity to reduce our reliance on local property tax when constructing vital projects that are in the best interest of the State of Nebraska.

Opponents

Al Davis, testified in opposition on behalf of the Nebraska Sierra Club. He mentioned that dams are the wrong approach to reducing flood reduction. No land management process can control flooding, they can only do flood risk reduction. He claimed that dams have negative environmental impacts and flood control is antiquated thinking. Funds should be used on covenants and other management in the floodplain.

Neutral

Don Batie, Dawson County Farmer and Chair of the Natural Resources Commission, testified on his own behalf. Water Sustainability Fund has been appropriated \$11 million a year and there has been no shortage of applicants for funds. Small watersheds fund is still there but has not been funded in recent years. While the fund can currently only be used for land rights, the commission would change that if directed by legislature.

There were 3 letters submitted in support of the bill.

In closing, Sen. McDonnell noted he'd be willing to work to ensure the question about fair distribution across the state is addressed. He reiterated that this is our taxpayers' money at the federal level, but we need the cost share locally to capture it.

The committee reported no action on the bill.

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.

The Appropriations Committee accepted testimony on the bill on March 13th.

This bill expands funding for program 513. Asking for funds because Blair is no longer using water for the city, but they are serving the whole state of Nebraska by supporting Cargill. They are trucking large amounts of water to Cargill Bio Campus.

Cargill process 320,000 bushels of corn per day. Blair provides water for this facility at 15.5 million gallons per day of their 20 million per day capacity. Blair is under NDEE and EPA mandate to lower lime discharges.

Cities like Blair cannot continue to do this alone. Blair is a town of 8,000 people and with the increase in trucks on the highways they are needing to construct a bypass.

Proponents

Aaron Barrow, Assistant City Administrator City of Blair, testified in support. When industrial development came to Blair, they took advantage of the campus. The city of Blair doesn't have any annex authority or property taxes to use for funding. To address the question of "why isn't Cargill paying for much of this?" If we aren't competitive these companies will go somewhere else. We have a really robust pipeline of companies that want to move to Blair but it's all based on water. If we can't produce this amount of water, we are going to lose out on this opportunity. These bring jobs to the area and with the closing for Fort Calhoun and Dana College we are a losing population. Blair's sole source of water is from the river.

What is the income off the 15.5 million gallons? \$550,000/month. Cargill pays property tax to Washington county, not the city of Blair.

Current expansion is \$44 million. Commitment currently is \$24 million right now and we are looking for an additional \$18 million.

Al Shoemaker, Public works City of Blair, testified in support. Clarified an earlier question on sales tax: 7% sales tax is charged to the water, 1.5% goes to the city of Blair and the rest goes to the state.

20.5 million gallons will be appropriated to Cargill Campus and the remainder 6.5 million gallons to residential use and Washington county. We can't get water from wells because the water is low quality with iron and manganese. \$15 million just for a new water intake. The US Army Corp of Engineers decrease their releases from Gavin's Point Dam making them drop their intake level.

This problem was first identified in 2012. All water intake users needed to make plans for future drought situations.

With the current expansion project, we have an SRF loan with 1% interest and 35% forgiveness. Inflation has had a big impact on this project as well.

\$4 million mandate from EPA to meet Clean Water Act and reduce lime discharges.

Opponents

There were no opponents and no neutral testimony.

In closing, Sen. Hansen noted it's a very competitive industry and water is so important to attract and retain these industries.

Letters submitted for the record included 1 proponent and no opposition or neutral.

The committee reported no action on the bill.

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. Provisions of the bill were incorporated into LB 565e (pages 5-8) which was passed and signed by Gov. Pillen on May 26, 2023.

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.

The Natural Resources Committee accepted testimony on the bill on February 2nd.

Sen. Bostelman opened by providing a summary of provisions of the bill. He noted the measure would grant NeDNR the same authority that has been authorized for NDOT, NGPC and other political subdivisions. He outlined how utilizing these innovative methods will create efficiencies in contracting.

Proponents

Director Tom Riley testified in support on behalf of NeDNR. He noted Gov. Pillen asked that the bill be introduced to meet the need of facilitating large projects enacted by the legislature with the passing of LB 1023 and LB 1015 last session. He noted that the legislation was modeled off the Transportation Innovation Act and those same contracting provisions are a good match for NeDNR projects. He provided the committee with a detailed summary of each of the design build processes authorized by the bill.

Sen. Cavanaugh asked why the public private partnership components were added and Director Riley noted that they wanted provisions of LB 1023 to be captured in this bill.

Kent Miller, General Manager, Twin Platte NRD testified in support on behalf of NARD. He noted that LB 723 will help expedite building the Perkins County Canal and that he's been promoting that Nebraska utilize the provisions of Article VI of the South Platte River Compact and to build the Perkins County Canal for 40 years.

Miller testified the Twin Platte NRD has been observing the developments occurring in the Front Range of Colorado and their desperate need for water. Enthusiastically applaud and thank Governor Pillen for supporting, and funding in his Budget, the Perkins County Canal Project. This is the right time and Nebraska cannot wait any longer. It is essential to the economic prosperity, health, and welfare of the people of Nebraska, and to the environmental health of the entire Platte River Basin

across Nebraska to protect Nebraska's full entitlement to the flows of the South Platte River as provided for in the South Platte River Compact.

The Twin Platte Natural Resources District has extensive requirements in their Integrated Management Plan required by the Legislature in 2004 for conjunctive management of ground water and surface water for the Over Appropriated Upper Platte River Basin in Nebraska. These regulatory burdens will increase if South Platte River flows continue to decrease.

Nebraska must protect the flows we are now receiving in the South Platte River.

Miller summarized provisions of the bill and noted he is a licensed Professional Engineer in Nebraska and he's observed the benefits of a design-build contract used by several Natural Resources Districts and knows the benefits of a design-build contract.

Miller ended his testimony by noting that LB 723 will be very beneficial to expedite the building of the Perkins County Canal which needs to happen as soon as possible.

Alex Linden, CNPPID Government and Public Relations Manager, testified in support of the bill. He noted that the practice of contracting has advanced over the years. NeDNR should have the same access as CNPPID to these practices to allow for efficient and cost-effective completion of projects.

Opponents - There were no opponents and no neutral testimony was provided.

Sen. Bostelman utilized closing to address questions addressing qualifications and noted that it would allow for qualification short listing and enable preapproving those that are qualified and appropriate to complete the work. He also reiterated that design build techniques allow adjustments to be made without entering a new contract as design obstacles arise during construction.

The committee reported no action on the bill.

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.

The Natural Resources Committee accepted testimony on the bill on February 23rd.

Sen. McDonnell opened by explaining the need for the bill and noted the bill has zero negative impact.

Proponents - There was no proponent testimony.

Opponents

Opponents included two Sarpy County landowners, Al Davis, Nebraska Sierra Club, and John Hansen, Nebraska Farmers Union. Their testimony didn't necessarily address the bill, but instead offered opposition to the lake project proposed by the JEDI act. They also expressed concern over what is a perceived threat of use of eminent domain by the NRDs for the project.

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.

The Appropriations Committee accepted testimony on the bill on March 13th.

Sen. DeKay opened noting he brought this bill on behalf of Nebraska Farm Bureau and for Nebraskan's wanting clean drinking water. This bill would provide a short-term solution to clean drinking water. Would like LB 766 to be considered to add to existing RO funding if there are unused ARPA appropriations.

Proponents

Andrew Dunkley, testified in support for Nebraska Farm Bureau and on behalf of the Nebraska Cattleman, Soybean Association, Pork Producers, Dairy Producers, and Corn Growers Association.

Water is an important issue. This is the only statewide mechanism to offer a short-term solution to nitrate in groundwater while we work on a longer-term solution. Many rural homes have elevated nitrate in their drinking water wells and a reverse osmosis system is the only way to address that issue. Based on soil composition water and nitrate moves differently through the soil profile. Producers have changed their farming practices, but this is not a one-size-fits-all approach.

Sen. Erdman asked why in the Fiscal Note NDEE is asking for two more FTE for an existing program. Dunkley was unsure why it would require additional FTE.

Opponents - There was no opposition or neutral testimony.

In closing, Sen. DeKay discussed that the cost of RO systems ranges from \$500-\$4,000 for a point-of-use system, and the upkeep would be the responsibility of the homeowner.

There were no proponent or neutral letters submitted for the record, 1 letter in opposition was submitted.

The committee reported no action on the bill.

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

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. Senator DeKay declared LB 768 as his personal priority bill for the session. There was \$7 million added to the appropriations bill for the Cedar/Know Rural Water project, but it was vetoed by Governor Pillen. There was no override attempt made on the veto.

The Appropriations Committee accepted testimony on the bill on March 14th.

Senator DeKay opened on the bill by outlining the need, noting that due to sedimentation and aging infrastructure, there is growing concern for access to safe and drinkable water. There is an increase in population and no ability to expand the existing system to meet demand. He noted there was a similar request from Sen. Gragert last year and while they were grateful to receive \$7 million, due to competing interests they didn't receive the \$32 million that was requested. It was noted that the rate payers of the rural

water district already have some of the highest rates in the state. Sen. Dekay offered an amendment that would address fiscal office concerns about usage of the critical infrastructure fund.

Proponents

Annette Sudbeck, General Manager LCNRD, provided testimony on behalf of LCNRD and NARD, to allocate \$30 million from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund in support of the Cedar Knox Rural Water Project (CNRWP) and much needed changes to update the system including changing the source water and completing system upgrades to allow continued service for the current and future customers. Thank you also to Senator DeKay for his dedication to District 40 and his understanding of the critical need of this project in northeast Nebraska.

Sudbeck thanked the committee for the support of the project through the generous appropriation of \$7 million in ARPA dollars last year. Those funds are being put to use in getting the project rolling. Test wells are planned for this spring and summer in the identified well locations. Engineering is being completed for system upgrades including line upsizing and tank replacement. The engineering to change water sources will enter the final design phase once final determination of the well site is made. Also remaining on the table is an option to connect to the City of Yankton, South Dakota across the Missouri river to supply drinking water.

We have been able to secure additional funds for the project, including \$8.4 million in Water Sustainability Funding from the Department of Natural Resources which requires \$5.6 million in local match. In the last year the cost of the planned project has increased dramatically due to the crazy price increases impacting projects across the state and country. We are anticipating the project to cost nearly double what was estimated initially.

The match will come directly from customer charges that will be financed through a State Revolving Fund loan. If we are able to secure an additional \$20 - \$30 million to support the project, we would be able to realize completion and secure service for the long term. Thirty million would be ideal to ensure, without fail, that we are able to complete all planned project components. However; \$20 million would get us to the point where we could make some hard decisions if necessary to postpone some improvements until later.

The CKRWP provides drinking water in northern Cedar and Knox Counties, an area of the state where locating groundwater resources of a quality and quantity suitable for drinking can be difficult. This difficulty is the primary reason a rural water system exists in the area. The historic action of glaciers eroded much of the primary aquifer formation away and left behind a mix of glacial till and bedrock that is near the land surface. Much of these materials do not readily yield water. When aquifer materials are present the amount of water they yield, and the quality of the water is highly variable. This variability exists across much of the northern portion of Knox and Cedar Counties which is the main reason why we have the Cedar Knox Rural Water Project serving the area. As you go south, and west groundwater is much more readily available.

The variability in the resource is what originally led two communities and approximately 200 rural residents to work with LCNRD in development of the rural water project. Many landowners were unable to locate water for their homes and for livestock, some relied on cisterns for collecting water that was used in their households' others had to have water trucked to their homes.

The CKRWP currently uses treated surface water to provide drinking water, in part because of the difficulty in locating a groundwater source of sufficient quality and quantity to meet community and rural resident needs. It was also the case that at the time CKRWP was established in 1979 that there was a treatment plant for sale which had been intended to serve a housing development in the Devils Nest region of Knox County along Lewis and Clark Lake. The development company declared bankruptcy and the treatment plant was purchased for use by CKRWP. The plant has been expanded several times and is very near capacity and will require millions of dollars of improvements if it were to remain in use. CKRWP has been under an

Administrative Order for exceeding the EPA Maximum Contaminant Level (MCL) for a disinfection by-product, Total Trihalomethane (TTHM) that the system is required to resolve. Treating surface water often results in the production of TTHM as is occurs when chlorine reacts with organics in the water.

The goal for the CKRWP is to develop a groundwater wellfield, replace the undersized, outdated treatment plant in a more accessible area, and replace portions of the distribution system that are undersized. The wellfield will not only eliminate the concerns of sediment over-taking the intake structure but also reduce organics in the water to drastically lower disinfection by-products and bring the Project back into compliance with EPA requirements. The new treatment plant would be designed to remove hardness, total dissolved solids, manganese and the ability to include nitrate removal if necessary. If the groundwater source proves not to be the right solution for the project CKRWP could look to Yankton, South Dakota to provide drinking water. Connecting to Yankton has been investigated but was not selected as the preferred solution because the cost to customers over time will be more than developing a groundwater source.

The NRD has been working hard to explore all options and costs both in the short term and for the long haul. The planning process has been very long and we are now in the process of sharing all of the findings with community members and are seeking their input so the right solution can be executed. I want you to know that there are people here that will oppose this request. The NRD understands their concerns and we are working hard to bring forth more information and gain more input to ensure everyone is informed on the options that have been researched and the associated costs.

Safe, reliable drinking water is critical for rural and residential growth. If CKRWP is not able to finalize solutions for a safe drinking water alternative and expand system capacity the communities and rural customers served may be without a water source. This is not acceptable, and we are dedicated to moving forward with a solution that meets current need and allows for future development. We want to see northeast Nebraska thrive – by supporting and balancing both agriculture and residential needs.

It is critical we have safe drinking water for our residents. Groundwater has proven to be a safe reliable source for much of the state, including northeast Nebraska. The source identified for this project appears to have all of the characteristics necessary to fulfill long term needs. Additional testing is planned to ensure that development of the source will not negatively impact the project or the project neighbors who rely on the source for domestic and agricultural uses.

Don Blankenau, testified in support on behalf of the Lewis & Clark NRD. The district is exploring multiple options to meet demand. High quality water in LCNRD is not readily available without significant treatment costs. More extensive infrastructure required at higher costs, serving rural Nebraskans increasingly costly. Explored all options, including contract with City of Yankton, however that option would be limited by terms of a contract negotiated with city in another state. Protecting and growing all parts of Nebraska requires an investment in all parts of Nebraska.

Russell Schmidt, LCNRD board member, testified in support of the bill. Need a holistic look at water and LCNRD Board is constantly evaluating the water situation and Cedar-Knox supply is in jeopardy. A new source has been identified and studied, but financing is difficult. Project will use 152 million gallons of water per year, which is only equivalent to use of 4 or 5 irrigation systems over one year. He noted some are opposed to the location, but the NRD wants to ensure that no one will be impacted in a negative way, and if studies were to find that they will be, the NRD will work to find a new source.

Matt Weinandt, Chair of LCNRD Board, testified in support. The district has invested seven years of research to study locations and research impact to not adversely impact anyone. He noted they've been using this utility for 40 years and it is time to find a resource for the next generation.

Lyndon Vogt, General Manager CPNRD, submitted testimony in support. In many areas of the state, finding groundwater that meets drinking water standards is very difficult. With aging infrastructure concerns, the cost of replacing and upsizing old infrastructure to meet modern needs can be very challenging

for many communities and rural areas. Safe drinking water from a secure source is fundamental to the future success of the State.

Brad Wilken testified as a proponent. He noted he's in favor of funding for the project; however, he expressed opposition to the groundwater wellfield location due to potential impacts.

Opponents

Rita Wilken testified in opposition to the bill. She expressed opposition to the project the bill proposes to fund. Area is designated as livestock-friendly, and the wellfield neighbors have a large feed yard in Knox County, a hog confinement, and a chicken barn. Her well between the two locations has tested high for nitrates and eventually these new wells will pull in nitrates. Nebraska's nitrate problem is growing worse, and you cannot clean nitrates out of water, so eventually that will happen with this project and people will pay for water they will have to boil.

Craig Wilken testified in opposition noting he represents farmers, ranchers, and neighbors in the township. He noted he lives between proposed wells and expressed concern with the project. He expressed that Yankton and the Missouri River could meet the drinking water needs.

Evelyn Hennings, landowner, testified in opposition. She noted she owns two quarters that connect to the wellfield. In addition to outlining concerns about the project, she expressed that no one knew anything about the project before the public meeting intended to inform everyone about the project.

Patricia Kromberg testified in opposition and reiterated the prior opposition testimony.

In closing, Sen. DeKay noted that when it comes to where the wells are being dug that is still to be determined. There are still options on the table to address the needs and determine the best source for sustainable water for everyone. Regardless of if they are using the rural water district, domestic well or irrigating. We will be having open house meetings to address these concerns.

Position letters were submitted by 19 proponents, 9 opponents, and no neutral. The committee reported no action on the bill.

LB 817 - Appropriate funds for capital construction. Speaker Arch, at the request of the Governor.

The major appropriations in the bill are for the Department of Corrections, University of Nebraska projects and State Colleges. Provisions of the bill were incorporated into LB 814 (see pages 13-14) which was passed and signed by Gov. Pillen on May 24, 2023.

Included in the bill are several capital construction projects for the Nebraska Game and Parks Commission as follows:

- **State Park System Facility Improvements** – Appropriates \$925,000 for both FY 23-24 and FY 24-25.
- **State Parks Facilities Deferred Maintenance** - Appropriates \$4,175,000 for both FY 23-24 and FY 24-25.
- **Wildlife Land Acquisition and Improvement** - Appropriates \$200,000 for both FY 21-22 and FY 22-23.
- **Improvements to State Recreation Areas** - Appropriates \$500,000 for both FY 23-24 and FY 24-25.
- **Emergency Repairs** - Appropriates \$750,000 for both FY 23-24 and FY 24-25.
- **Aquatic Habitat Enhancement and Restoration** - Appropriates \$3,000,000 for both FY 23-24 and FY 24-25.

LB 819 - Change provisions relating to the Cash Reserve Fund. Speaker Arch, at the request of the Governor.

The bill provides for transfers of funds from the state Cash Reserve Fund. Related to Natural Resources the bill includes a one-time transfer of \$574,500,000 from the Cash Reserve Fund to the Perkins County Canal Project Fund in FY 23-24. Provisions of the bill were incorporated into LB 818 (see pages 14-16) which was passed and signed by Gov. Pillen on May 24, 2023.

Section 4 -- Interim Study Resolutions that were introduced in 2023

Below is a list of interim studies of interest to NRDs. A full list can be found at:
<https://www.nebraskalegislature.gov/session/interim.php>

LEGISLATIVE RESOLUTION 133, Introduced by Bostelman, 23.

PURPOSE: The purpose of this resolution is to propose an interim study to examine any issues within the jurisdiction of the Natural Resources Committee of the Legislature that may arise during the interim.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 156, Introduced by McDonnell, 5.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the impact and increased frequency and intensity of wildfires in Nebraska and the sufficiency of the firefighting response to such wildfires. The study should focus on reviewing the resources available in Nebraska to fight wildfires, the limitations and burdens placed upon the present resources used in fighting wildfires in Nebraska, and the development of additional state-supported resources to assist in fighting wildfires.

The interim study shall include, but not be limited to:

1. An identification of the different resources presently available in fighting wildfires, including those resources supplied by Nebraska's volunteer firefighters, the State Fire Marshal, the Nebraska Emergency Management Agency, the Nebraska Forest Service, and the Game and Parks Commission;
2. An examination of the policies and procedures presently used by each of the above entities to fight wildfires, recommended improvements to such policies and procedures, if additional state funding is

needed to assist each of such entities to fight wildfires, and if state-funded wildfire task forces should be created to support intrastate mutual aid to fight wildfires; and

3. A cost-benefit analysis of assigning and funding a state agency, department, program, or division with jurisdiction over wildfire task forces to support intrastate mutual aid.

LEGISLATIVE RESOLUTION 162, Introduced by Bostelman, 23.

PURPOSE: The purpose of this resolution is to propose an interim study to examine any issues within the jurisdiction of the Game and Parks Commission that may arise during the interim.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 163, Introduced by Hughes, 24, Armendariz, 18.

PURPOSE: The purpose of this resolution is to propose an interim study to examine opportunities that increase recycling of municipal solid waste while also facilitating economic development and growth.

The study shall include, but need not be limited to:

1. An analysis of ongoing instate efforts to divert more municipal solid waste from landfills into recycling and remanufacturing;
2. An analysis of regional efforts to divert more municipal solid waste from landfills into recycling and remanufacturing;
3. An examination of the potential for Nebraska to update existing law to develop and sustain private innovative solutions to managing municipal solid waste through the remanufacture of recycled materials into useful products of value for other Nebraska-based industries; and
4. Recommendations for potential legislation to simultaneously increase recycling in Nebraska and promote economic growth. In order to carry out the purpose of this resolution, the committee may seek the assistance of entities such as the League of Nebraska Municipalities, the Nebraska Recycling Council, the Nebraska Chamber of Commerce and Industry, the Colorado General Assembly, the United States Environmental Protection Agency Region 7, the Association of Plastic Recyclers, and any other entities the committee deems necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 208, Introduced by Dorn, 30.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the current funding mechanisms and operations of Nebraska's Mesonet system and to determine necessary changes in such funding and operations to ensure the future viability of the system.

Mesonet is a statewide weather monitoring and data collection system consisting of sixty-eight individual weather stations in forty-nine Nebraska counties. Each weather station collects real-time data on approximately thirty separate weather-related data points. Nebraska's agricultural producers rely upon this publicly available data for a variety of important production decisions.

Nebraska's Mesonet system lacks a clear and consistent source of state funding. The Department of Natural Resources, the University of Nebraska Institute of Agriculture and Natural Resources, the state's natural resources districts, and other various entities have at times contributed funding to the system's operation.

The interim study shall include, but need not be limited to, a review of:

1. The historical and current level of Mesonet funding and the sources from which that funding is derived;
2. The current scale of the Mesonet system in Nebraska and whether such scale is consistent with the needs of Nebraska's agricultural producers and other current and potential users of Mesonet data;
3. The current operational structure for the Mesonet system and whether changes in such structure would benefit Nebraska's agricultural producers and other current and potential users of Mesonet data; and
4. Any other issues relevant to Nebraska's Mesonet system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Appropriations Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 212, Introduced by Halloran, 33.

PURPOSE: The purpose of this resolution is to propose an interim study to examine any issues within the jurisdiction of the Agriculture Committee of the Legislature that may arise during the interim.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Agriculture Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 224, Introduced by Brewer, 43.

PURPOSE: The purpose of this resolution is to propose an interim study to examine laws governing the ring-necked pheasant upland game bird in hopes of improving the population of the species for increased hunting and tourism in Nebraska.

The study should include, but need not be limited to, an examination of the following:

1. Laws governing how the Game and Parks Commission regulates pheasant hunting in Nebraska, specifically those laws and programs that concern federal and state revenue sources relating to pheasants;
2. Laws and programs that govern what can be done to improve pheasant habitat in Nebraska;
3. Laws and programs that govern what can be done to reduce the impacts nest predators have on the pheasant population;
4. Laws and programs that govern youth hunting, specifically the practice of early youth hunting on public land with released birds; and
5. The thoughts and opinions of individual citizens and sportsman groups that have experience and knowledge of the aforementioned subjects.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 238, Introduced by McDonnell, 5.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the location of recreational vehicle parks, entertainment venues, and other recreational development and the impact of zoning regulations related to flooding on locating such facilities.

This study should include, but need not be limited to:

1. Examining the rules, regulations, and ordinances for flood plains or floodways relating to obstructions, permanent structures, recreational vehicle parks, other recreational venues, and recreational development;
2. Evaluating the subsequent risk of potential property loss due to lack of enforcement of rules, regulations, and ordinances in flood plains or floodways; and
3. Evaluating eminent life, safety, and financial loss facing Nebraskans under the current rules, regulations, and ordinances in flood plains and floodways and enforcement of those rules, regulations, and ordinances.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 247, Introduced by Cavanaugh, J., 9.

PURPOSE: The purpose of this resolution is to propose an interim study to examine issues related to Legislative Bill 133 introduced in the One Hundred Eighth Legislature, First Session.

The study should include, but need not be limited to:

1. An examination of current laws regarding the use of eminent domain by state agencies, boards, commissions, and other political subdivisions and the process such entities must follow to use eminent domain;
2. An examination of current laws regarding the use of eminent domain by nonpublic or private entities and how the process differs, if at all, from the process used by political subdivisions;
3. An examination of which public and nonpublic entities have the right of eminent domain;
4. A determination of whether a public hearing prior to the use of eminent domain should be required; and
5. An examination of any other potential policy changes regarding the use of eminent domain that the Legislature may consider.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Government, Military and Veterans Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LEGISLATIVE RESOLUTION 250, Introduced by McDonnell, 5.

PURPOSE: The purpose of this study is to consider improvements to the Property Assessed Clean Energy Act and property assessed clean energy financing for real estate development projects. Property assessed clean energy financing was authorized by the Nebraska Legislature in 2016. Commercial property assessed clean energy financing programs have been subsequently implemented by multiple cities across Nebraska and have been utilized for dozens of commercial real estate projects in Nebraska.

Property assessed clean energy financing can help fund the hard and soft costs of completing an energy efficiency, renewable energy, or water conservation project. This financing tool has helped communities not only meet the economic development goals of the community, but also to prioritize renewable energy and energy efficiency. Property assessed clean energy financing helps to generate significant local economic activity and job creation.

States that have authorized property assessed clean energy financing programs each have different aspects of the program unique to that state. Aspects of such programs found in other states such as retroactive financing or allowing the financing of resiliency measures may be a benefit to Nebraska.

Amending the Property Assessed Clean Energy Act may be advantageous to ensure a robust and competitive program in Nebraska that further supports economic development and energy efficiency objectives.

The study shall consider the utilization of and potential improvements to the Property Assessed Clean Energy Act and potential legislative changes that may be necessary or beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

5/25/2023		Governor Proposed Budget (LB 814)		Appropriations Committee Proposed Budget AM 915		Committee AM 915 Change From Governors Proposed LB 814		Proposed Budget (AM 915) Change From FY22-23 Baseline	
		FY 23-24	FY 24-25	FY 23-24	FY 24-25	FY 23-24	FY 24-25	FY 23-24*	FY 24-25
Agency 84 - Department Environmental & Energy									
General Fund		\$ 7,917,648	\$ 7,524,976	\$ 14,271,875	\$ 6,814,094	\$ 6,354,227	\$ (710,882)	\$ 9,373,973	\$ 1,916,192
Cash Fund		\$ 38,981,241	\$ 39,381,720	\$ 49,470,230	\$ 40,095,891	\$ 10,488,989	\$ 714,171	\$ 11,065,552	\$ 1,691,213
Program 513, 586, 587, 588 - NDEE Operations *		\$ 20,135,763	\$ 20,534,936	\$ 20,395,650	\$ 20,856,132	\$ 259,887	\$ 321,196	\$ 674,640	\$ 1,135,122
Program Total		\$ 67,034,652	\$ 67,441,632	\$ 84,137,755	\$ 67,766,117	\$ 17,103,103	\$ 324,485	\$ 21,469,903	\$ 5,098,265
Salary Limit		\$ 18,555,241	\$ 19,506,302	\$ 18,618,830	\$ 19,649,335	\$ 63,589	\$ 143,033	\$ 1,873,765	\$ 2,904,270
*Includes \$1,000,000 General Funds for a water quality study. Originally included \$7,000,000 General Funds to Cedar/Knox Rural Waterthat was line-item vetoed by Governor Pilleen.									
Cash Fund		\$ 1,000,000	\$ 1,200,000	\$ 1,000,000	\$ 1,200,000	\$ -	\$ -	\$ 400,000	\$ 600,000
Federal Fund est.		\$ 8,109,000	\$ 8,109,000	\$ 8,109,000	\$ 8,109,000	\$ -	\$ -	\$ 1,169,000	\$ 1,169,000
Program Total		\$ 9,109,000	\$ 9,309,000	\$ 9,109,000	\$ 9,309,000	\$ -	\$ -	\$ 1,569,000	\$ 1,769,000
*Grants to small communities shall not be commingled with funds deposited in the Wastewater Treatment Facilities Construction Loan Fund									
Cash Fund		\$ 650,000	\$ 700,000	\$ 700,000	\$ 800,000	\$ 50,000	\$ 100,000	\$ 700,000	\$ 800,000
Federal Fund est.		\$ 12,010,000	\$ 12,010,000	\$ 12,010,000	\$ 12,010,000	\$ -	\$ -	\$ 3,510,000	\$ 3,510,000
Program Total		\$ 12,660,000	\$ 12,710,000	\$ 12,710,000	\$ 12,810,000	\$ 50,000	\$ 100,000	\$ 4,210,000	\$ 4,310,000
Agency 33 - Game & Parks Commission									
Cash Fund		\$ 21,289,823	\$ 21,555,153	\$ 21,309,636	\$ 21,581,666	\$ 19,813	\$ 26,513	\$ 122,322	\$ 394,352
Program Total		\$ 21,289,823	\$ 21,555,153	\$ 21,309,636	\$ 21,581,666	\$ 19,813	\$ 26,513	\$ 122,322	\$ 394,352
Salary Limit		\$ 315,713	\$ 328,424	\$ 331,975	\$ 349,379	\$ 16,262	\$ 20,955	\$ 29,586	\$ 46,990
Program 162 - Environmental Trust									
Cash Fund		\$ 8,347,768	\$ 8,455,157	\$ 8,380,097	\$ 8,488,682	\$ 32,329	\$ 33,525	\$ 757,229	\$ 865,814
Federal Fund est.		\$ 3,908,764	\$ 3,916,492	\$ 3,900,673	\$ 3,900,673	\$ (8,091)	\$ (15,819)	\$ -	\$ -
Program Total		\$ 12,256,532	\$ 12,371,649	\$ 12,280,770	\$ 12,389,355	\$ 24,238	\$ 17,706	\$ 757,229	\$ 865,814
Salary Limit		\$ 1,933,269	\$ 2,021,714	\$ 1,960,708	\$ 2,048,234	\$ 27,439	\$ 26,520	\$ 319,914	\$ 407,440
Program 330 - Habitat Development									
General Fund		\$ 2,002,937	\$ 2,075,490	\$ 1,988,073	\$ 2,072,461	\$ (14,864)	\$ (3,029)	\$ 104,775	\$ 189,163
Cash Fund		\$ 29,443,436	\$ 30,391,937	\$ 34,694,853	\$ 35,688,076	\$ 5,251,417	\$ 5,296,139	\$ 2,035,655	\$ 3,028,878
Federal Fund est.		\$ 4,292,558	\$ 4,350,150	\$ 4,251,677	\$ 4,267,306	\$ (40,881)	\$ (82,844)	\$ 19,074	\$ 34,703
Program Total		\$ 35,738,931	\$ 36,817,577	\$ 40,934,603	\$ 42,027,843	\$ 5,195,672	\$ 5,210,266	\$ 2,159,504	\$ 3,252,744
Salary Limit		\$ 17,766,887	\$ 18,569,142	\$ 17,977,438	\$ 18,802,876	\$ 210,551	\$ 233,734	\$ 1,288,260	\$ 2,113,698
*Includes \$5,000,000 Cash Funds each FY for wildlife damage reimbursement to landowners for damage caused by deer, antelope, or elk.									
General Fund		\$ 52,500	\$ 52,500	\$ 52,500	\$ 52,500	\$ -	\$ -	\$ 2,500	\$ 2,500
Cash Fund		\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ -	\$ -	\$ -	\$ -
Federal Fund est.		\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ -	\$ -	\$ -	\$ -
Program Total		\$ 178,500	\$ 178,500	\$ 178,500	\$ 178,500	\$ -	\$ -	\$ 2,500	\$ 2,500
The unexpended Cash Fund appropriation balance existing on June 30, 2023, is reappropriated.									
General Fund		\$ 531,059	\$ 556,616	\$ 536,090	\$ 559,668	\$ 5,031	\$ 3,052	\$ 31,557	\$ 55,135
Cash Fund		\$ 1,347,719	\$ 1,389,548	\$ 1,364,781	\$ 1,410,921	\$ 17,062	\$ 21,373	\$ (8,126,419)	\$ (8,080,279)
Federal Fund est.		\$ 114,376	\$ 117,448	\$ 111,172	\$ 111,172	\$ (3,204)	\$ (6,276)	\$ -	\$ -
Program Total		\$ 1,993,154	\$ 2,063,612	\$ 2,012,043	\$ 2,081,761	\$ 18,889	\$ 18,149	\$ (8,094,862)	\$ (8,025,144)
Salary Limit		\$ 1,117,251	\$ 1,170,477	\$ 1,134,918	\$ 1,188,450	\$ 17,667	\$ 17,973	\$ 130,933	\$ 184,465
*Development & maintenance of boundary fences along Cowboy Trail limited to \$64,000 CF each FY. Unexpended Cash Fund balance is reappropriated up to \$8.3 M to fund MOPCA trail.									
Agency 29 - Department of Natural Resources									
Program 303 - Small Watersheds		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Program 304 - Nebraska Soil & Water Conservation Fund		\$ 1,806,112	\$ 1,806,112	\$ 1,806,112	\$ 1,806,112	\$ -	\$ -	\$ -	\$ -
Cash Fund		\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ -	\$ -
Program Total		\$ 1,856,112	\$ 1,856,112	\$ 1,856,112	\$ 1,856,112	\$ -	\$ -	\$ -	\$ -
The unexpended General Fund appropriation balance existing on June 30, 2023, is reappropriated.									
Cash Fund		\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ -	\$ -	\$ -	\$ -
Program Total		\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ -	\$ -	\$ -	\$ -
The unexpended General Fund appropriation balance existing on June 30, 2023, is reappropriated.									
Program 307 - Nebraska Resources Development Fund - The unexpended General Fund & Cash Fund appropriation balances existing on June 30, 2023, are reappropriated.									
Program 309 - Natural Resources Water Quality Fund		\$ 1,187,500	\$ 1,187,500	\$ 1,187,500	\$ 1,187,500	\$ -	\$ -	\$ -	\$ -
Program Total		\$ 1,187,500	\$ 1,187,500	\$ 1,187,500	\$ 1,187,500	\$ -	\$ -	\$ -	\$ -
The unexpended General Fund appropriation balance existing on June 30, 2023, is reappropriated.									
Cash Fund		\$ 10,865,033	\$ 10,865,033	\$ 10,865,033	\$ 10,865,033	\$ -	\$ -	\$ -	\$ -
General Fund Transfer		\$ 11,000,000	\$ 11,000,000	\$ 11,000,000	\$ 11,000,000	\$ -	\$ -	\$ -	\$ -
The unexpended General Fund appropriation balance existing on June 30, 2023, is reappropriated.									
Cash Fund		\$ -	\$ -	\$ 10,000,000	\$ -	\$ 10,000,000	\$ -	\$ 10,000,000	\$ -
General Fund Transfer		\$ -	\$ -	\$ -	\$ 10,000,000	\$ -	\$ -	\$ 10,000,000	\$ -
Program 319 - Water Projects *		\$ 87,800,000	\$ 87,800,000	\$ 87,800,000	\$ 87,800,000	\$ -	\$ -	\$ 87,800,000	\$ 87,800,000
Federal Fund		\$ -	\$ -	\$ 179,200,000	\$ -	\$ 179,200,000	\$ -	\$ 179,200,000	\$ -
Program Total		\$ 87,800,000	\$ 87,800,000	\$ 267,000,000	\$ 87,800,000	\$ 179,200,000	\$ -	\$ 267,000,000	\$ 87,800,000
*\$62,800,000 CF Perkins County Canal Project Fund FY23-24 & 24-25. \$25,000,000 CF JEDI Fund FY 23-24 & 24-25. \$177,200,000 ARPA Funds Grant for Lincoln Water. \$2,000,000 ARPA Funds Grant for Norfolk.									
Perkins County Canal Project Fund	Cash Reserve Transfer	\$ 574,500,000	\$ -	\$ 574,500,000	\$ -	\$ -	\$ -	\$ 574,500,000	\$ -
Water Resources Cash Fund	General Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (3,300,000)	\$ (3,300,000)
	*LB 814 Fund Transfer	\$ 7,000,000	\$ 7,000,000	\$ 7,000,000	\$ 7,000,000	\$ -	\$ -	\$ 3,700,000	\$ 3,700,000
*Transfer from the Nebraska Environmental Trust Fund to Water Resources Cash Fund									
General Fund		\$ 11,793,956	\$ 12,257,791	\$ 11,837,784	\$ 12,223,866	\$ 43,828	\$ (33,925)	\$ 776,245	\$ 1,162,327
Cash Fund		\$ 8,795,326	\$ 8,801,907	\$ 8,483,790	\$ 8,551,272	\$ (311,536)	\$ (250,635)	\$ (49,781,354)	\$ (49,713,872)
Federal Fund est.*		\$ 2,074,784	\$ 2,077,647	\$ 2,114,582	\$ 2,144,722	\$ 39,798	\$ 67,075	\$ 1,242,550	\$ 1,272,690
Program Total		\$ 22,664,066	\$ 23,137,345	\$ 22,436,156	\$ 22,919,860	\$ (227,910)	\$ (217,485)	\$ (47,762,289)	\$ (47,278,585)
Salary Limit		\$ 7,879,036	\$ 8,251,662	\$ 8,126,131	\$ 8,503,142	\$ 247,095	\$ 251,480	\$ 807,769	\$ 1,184,780
*\$1.2 Million in ARPA for enhanced data collection.									
Agency 51 - University of Nebraska									
Robert B. Daugherty Water*	General Fund	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ -	\$ -	\$ -	\$ -
Nebraska Forest Service	General Fund	\$ 2,804,862	\$ 2,804,862	\$ 2,804,862	\$ 2,804,862	\$ -	\$ -	\$ -	\$ -
*To support water and agricultural research and existing collaborative initiatives to implement best practices in water conservation.									
Agency 11 - Attorney General									
Program 496 Interstate Water	General Fund	\$ 300,000	\$ 300,000	\$ 600,000	\$ 600,000	\$ 300,000	\$ 300,000	\$ 300,000	\$ 300,000
	Cash Fund	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ -	\$ -	\$ 200,000	\$ 200,000
	Program Total	\$ 500,000	\$ 500,000	\$ 800,000	\$ 800,000	\$ 300,000	\$ 300,000	\$ 500,000	\$ 500,000
*\$300,000 in General Funds for Program 496 in each FY was part of Line-item veto by Governor Pilleen.									