

April 15, 2021

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: April 15 NARD Update

State Budget Bills Advance

Senators advanced the state budget bills to Final Reading this week after making a few adjustments to funds earmarked to address prison overcrowding. The \$9.7 billion budget proposes to keep state spending growth at 1.6% for the two-year biennium. The budget proposal includes \$1.45 billion in direct property tax relief over the biennium. The budget includes \$115 million earmarked to address prison overcrowding, including \$100 million appropriated to the capital construction fund and \$15 million set aside for prison alternatives and programs.

Senators set aside funds to replenish the Cash Reserve Fund by including a \$100 million transfer from the General Fund to replenish the Cash Reserve Fund to a balance of \$763 million. The budget proposal leaves \$210 million for pending legislation.

Summaries for bills with provisions impacting natural resources programs are included below. A spreadsheet summarizing budget bills follows on page 7.

LB 379 - Provide, change, and eliminate provisions relating to appropriations. Speaker Hilgers, at the request of the Governor.

The Legislature advanced LB 379 to Final Reading on April 13th on a voice vote.

Previously, the Legislature advanced LB 379 to Select File on April 4th by a 38-0 vote after adopting AM 392 on a 38-0 vote.

The Appropriations Committee reported LB 379 to General File on April 1st with AM 392.

The amendment (AM 392) becomes the bill. The bill adjusts the budget for the FY 2020-21. There are no adjustments related to natural resources programs.

LB 380 – Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2023. Speaker Hilgers, at the request of the Governor.

The Legislature advanced LB 380 to Final Reading on April 13th on a voice vote after adopting a series of amendments on Select File. Related to natural resources programs, AM 946 made an adjustment to increase the appropriation to the Water Sustainability Fund by \$475,000, this removes an earmark to NeDNR that is offset by an equivalent Cash Fund increase of \$475,000 to NeDNR operations.

Previously, the Legislature advanced LB 380 to Select File on April 4th by a 42-0 vote after adopting AM 393 on a 41-0 vote and AM 891 on a 28-12 vote.

The floor amendment (AM 891) increased appropriations for the Nebraska Arts Council from the committee proposal of \$100,000 to \$1,005,346.

Previously, the Appropriations Committee reported LB 380 to General File on April 1st with AM 393. The amendment (AM 393) becomes the bill.

The bill provides appropriations for operation of state government over the next two fiscal years.

For natural resources programs, the proposal recommends the following:

- **Nebraska Soil and Water Conservation Fund** - Maintains current levels of funding at \$1,806,112 and \$50,000 in Cash Funds for both FY 21-22 and FY 22-23.
- **Water Well Decommissioning** - Appropriates \$70,000 in Cash Funds for both FY 21-22 and FY 22-23.
- **Natural Resources Water Quality Fund** - \$1,187,500 in Cash Funds for both FY 21-22 and FY 22-23.
- **Nebraska Resources Development Fund** - The bill includes no additional appropriations. However unexpended balances existing on June 30, 2021, would be re-appropriated.
- **Nebraska Water Sustainability Fund** – The bill includes an appropriation of \$10,865,033 for both FY 21-22 and FY 22-23. Unexpended balances existing on June 30, 2021, would be re-appropriated
- **Critical Infrastructure Fund** - The bill includes no additional appropriations, however unexpended balances existing on June 30, 2021, would be re-appropriated.
- **Department of Natural Resources operations** - The bill appropriates \$20,134,950 in FY 2021-22 and \$20,108,208 in FY 22-23.
- **Environmental Trust** – The bill includes appropriations of \$20,676,142 for FY 21-22 and \$21,182,946 for FY 22-23.
- **Department of Environment and Energy** - The bill includes appropriations of \$62,487,792 for FY 21-22 and \$62,487,792 for FY 22-23 for Administration, Water Quality, Land Quality and Air Quality programs.
- **Drinking Water Facilities Loan Fund (NDEE)** - Appropriates \$8.5 million for both FY 21-22 and FY 22-23.
- **Nebraska Game and Parks Commission Wildlife Conservation** - Appropriates \$38,105,038 for FY 21-22 and \$38,567,910 for FY 22-23.
- **Nebraska Game and Parks Commission Habitat Development** - Appropriates \$11,482,781 for FY 21-22 and \$11,506,611 for FY 22-23.
- **Nebraska Game and Parks Commission Planning and Trails Coordination** - Appropriates \$1,770,827 for FY 21-22 and \$1,794,710 for FY 22-23.

- **Nebraska Game and Parks Commission Niobrara Council** - Appropriates \$176,000 for both FY 21-22 and FY 22-23. This includes \$125,000 from Federal sources, \$50,000 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 21-22 and FY 22-23.

The bill as amended includes the following transfers impacting natural resources programs:

- Transfers \$11 million from the General Fund to the Water Sustainability Fund in both FY 21-22 and FY 22-23.
- Transfers \$3.3 million from the General Fund to the Water Resources Cash Fund in both FY 21-22 and FY 22-23.

The bill as amended also includes provisions of LB 449 to appropriate funds to NDEE for weatherization and energy efficiency improvements. A summary of LB 449 follows the budget bill summaries.

The Appropriations Committee held hearings for the Nebraska Department of Environment and Energy, Nebraska Department of Natural Resources and Nebraska Game and Parks on February 26th.

Agency 29 – Department of Natural Resources

Director Riley testified in support on behalf of the Department. He noted he fully supports the Governor's recommendation and the committee's preliminary recommendation. He noted that program 334 contains the department's operation budget and that the Governor's recommendation includes a less than 2% increase in each FY - Excluding a one-time appropriation for \$225,000 to support development of the flood mitigation plan.

Director Riley commented that the agency works closely with the Natural Resource Commission on managing cash fund appropriations and he provided an overview of projects funded by the Water Sustainability Fund (WSF). He commented that the department supports the \$475K transfer from the WSF to the cash fund to support maintenance and study of the South Platte River. Director Riley noted that the one-time \$3.8 million appropriation does not need additional funding, but noted it is critical that the existing balance be re-appropriated to support continued work.

Sen. Stinner asked about the fund balance of the \$3.8 million transfer. Director Riley noted that approx. \$2.3 million is unexpended, and that most of the work has been completed and they're working to accelerate the reimbursement process.

Sen. Wishart noted that they have been briefed by the Attorney General's office about water litigation, and asked if the Department works closely with the AG's office, and if so, does the Department have the resources to support that? Director Riley noted that the department works closely with the AG's office and that it is the responsibility of the department to look upstream and protect our resources, further noting that at this point with what is requested the department can support those efforts. Sen. Stinner commented that it is important to monitor and respond to anything Colorado does on the South Platte.

There was no opposition or neutral testimony, and no letters were submitted for the record.

Agency 84 – Department of Environment and Energy

Director Macy testified in support on behalf of the Department. He noted the recommendation includes salary and health insurance increases of less than 1% over the current base appropriation. He commented

that he supports the Governor's proposed budget and the committee's proposed budget, with one exception - He noted the committee didn't include health insurance increases for program 106 and encouraged that be included. Sen. Stinner noted that was likely just an oversight.

Sen. Wishart requested that Director Macy provide the committee a brief on the situation with the AltEn plant at Mead. Director Macy referenced the February 25th briefing with the Natural Resources Committee. He commented that they have been on site since the emergency happened, and that they brought in a contractor and EPA to assist. Macy noted that the spill is contained, and active remediation is occurring with progress, mentioning they are toward the end of emergency phase of cleanup, telling the committee he anticipates we're days, or a week or two from seeing the finality on the emergency part of it. He told the committee the facility has March 1st date to clean up the wet-cake.

Sen. Wishart commented that she has heard the leakage went 30 feet down and asked how that was being addressed. Macy noted that's not part of the cleanup going on now and that the emergency situation is different from long standing compliance efforts of the agency in this case. He commented that according to their current groundwater results, one well had an indication of groundwater impacts. He noted that he can't yet report results of testing going on right now, telling the committee as soon as they get results they'll let them know. He further commented that the one well that showed contamination was not significant, so they're going to go look into it further and report back.

The committee asked further questions about the cost of cleanup and dealing with the situation moving forward. Macy noted there is about 100,000 tons of wet-cake and a lot of water in lagoons that needs mitigated, but noted that's the facilities job, commenting that when the facility gives them a plan he'll know more.

Sen. Wishart asked who is responsible if people's health is impacted, the company or the state? Macy commented that it is the company's responsibility, but commented they're getting into confidentiality and that he can't go further.

The committee further asked Macy if the department has the staff funding to address the situation, or can the committee anticipate a deficit request. Director Macy commented that we're in emergency stage, and he doesn't want to ask for something they haven't evaluated, noting they need to see what tools they have to fit the situation, but at this point there is no additional request for support and that he will be able to talk more about it later on.

A letter in support was submitted for the record by the League of Women Voters. There was no opposition or neutral testimony.

Agency 33 – Nebraska Game and Parks Commission

Director Douglas testified in support on behalf of the Commission. He commented that a majority of budget request was dedicated to state-approved wage and insurance adjustments. He noted there is some increase for increased campground capacity and upgrades, as well as additional staff at Lake McConaughy. He requested the committee give further consideration for agency capital request for program acquisition and management of wildlife areas. The purpose of the request is not for acquisitions, but is focused on capital development for improvements, including fencing projects and construction of a couple of wells.

During questioning, Sen. Erdman had several questions and comments to make about NGPC management. Those comments were not limited to an audit report for tracking of capital improvements, revenue sources and use of program 336, pheasant populations, mountain lion populations, and lengthy discussion over increasing elk populations.

Tanya Storer, Chair of the Niobrara Council, testified in support on behalf of the Council. Storer provided the committee with a detailed overview of the role of the Council and walked through the funding

mechanisms for the council. She commented that money received from federal sources is restricted and that the state appropriation is utilized for administrative costs.

There were no additional proponents, and no opposition or neutral testimony was provided.

LB 383 - Appropriate funds for capital construction. Speaker Hilgers, at the request of the Governor.

The Legislature advanced LB 383 to Final Reading on April 13th on a voice vote.

Previously, the Legislature advanced LB 383 to Select File on April 9th by a 37-3 vote after adopting AM 395 by a 37-3 vote and AM 911 by a 32-3 vote.

The major appropriations in the bill are for the proposed new prison, University of Nebraska projects and the State Capitol HVAC repair.

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

- **State Park System Facility Improvements** – Appropriates \$775,000 for FY 21-22 and \$925,000 for FY 22-23.
- **State Parks Facilities Deferred Maintenance** - Appropriates \$4,325,000 for FY 21-22 and \$4,175,000 for FY 22-23.
- **Improvements to State Recreation Areas** - Appropriates \$500,000 for both FY 21-22 and FY 22-23.
- **Emergency Repairs** - Appropriates \$750,000 for both FY 21-22 and FY 22-23.
- **Aquatic Habitat Enhancement and Restoration** - Appropriates \$3,000,000 for both FY 21-22 and FY 22-23 in future cash funds.

LB 384 - Provide for transfers of funds and change permitted use of a fund. Speaker Hilgers, at the request of the Governor.

The Legislature advanced LB 384 to Final Reading on April 13th on a voice vote after adopting AM 962 and 937. The amendments included no adjustments to natural resources programs and reflected compromises on funding to address prison overcrowding and behavioral health.

Previously, the Legislature advanced LB 384 to Select File on April 4th by a 44-0 vote after adopting AM 396 on a 44-0 vote.

The Appropriations Committee reported LB 384 to General File on April 1st with AM 396. The amendment (AM 396) becomes the bill.

The bill provides for transfers of funds for state operations. Original sections relating to transfers from the General Fund to the Property Tax Credit Fund, the Water Sustainability Fund, and the Water Resources Cash Fund, are now contained in the committee amendment to LB 380.

LB 384 as amended transfers \$475,000 from the Water Sustainability Fund to the Department of Natural Resources Cash Fund in both FY 21-22 and FY 22-23. During General File floor debate, Sen. Stinner noted an amendment would be brought on Select File to strike the \$475,000 transfer, as the transfer of funds for the study are no longer required.

LB 449 - Appropriate funds to the Department of Environment and Energy. Wishart.

Provisions of LB 449 were incorporated into LB 380, the mainline appropriation bill. LB 380 as amended was advanced to Final Reading on April 13th, a summary of LB 380 is included above.

The bill proposes to appropriate \$100,000 annually from the General Fund for FY2021-22 and FY2022-23, to the Department of Environment and Energy, for the Low-Income Weatherization Assistance Program, to aid in carrying out energy efficiency audits and weatherization improvements.

The Appropriations Committee accepted testimony on LB 449 on February 26th.

Senator Wishart opened by noting the bill would assist households below 200% of federal poverty level to increase energy savings by implementing weatherizing improvements.

Proponents

Britton Gable testified in support on behalf of OPPD and the Nebraska Power Association. He noted OPPD offers cost-assistance programs, but those programs don't address long-term problem. He commented that weatherization improvements can decrease energy costs by up to 25%. He provided an example of a pilot program in partnership with Habitat for Humanity that was completed on 62 homes providing an average annual savings of \$232 per home. He noted that 356 other properties have been done with other funding sources, but there is a long waiting list for projects. He clarified that the OPPD program is for owner-occupied homes, NDEE program can serve some renter occupied homes, but there are federal regulations that NDEE must deal with.

Gable pointed out the \$100,000 in state funds under the proposal would be added to the \$2.6 million in Federal funding provided to NDEE for the weatherization program.

Tracie McPherson testified in support on behalf of Habitat for Humanity of Omaha. She told the committee Habitat for Humanity for Omaha weatherizes on average 116 homes in Douglas county each year. Weatherization of homes helps reduce the energy burden on families by roughly 18%. She commented that weatherization also mitigates deterioration of homes. Tracie provided an example of a current client that has been heating her house with a wood burning stove, noting that in two weeks she will have an energy efficient furnace.

Ashley Frevert testified in support on behalf of Community Action of Nebraska. She noted they use advanced computer software to determine most efficient projects to implement to improve weatherization. She noted they weatherized 356 homes for \$134,000 in annual savings. With the average cost of \$7,500 per home. During questioning, Sen. Hilkeman commented that at an average cost of \$7,500, they're looking at nearly 50-year return on investment.

Letters of support were provided by Nebraska Interfaith Power and Light, Nebraska Sierra Club, and Audubon Society.

There was no opposition or neutral testimony. A letter was submitted by one individual in a neutral capacity.

During closing, Sen. Wishart noted that federal funds are exhausted and there is a waiting list to get funded. She addressed Sen. Hilkeman comments and noted that while there may not be a lot of short-term financial return on investment, it is an investment to improve the lives of people of the state.

		Governor Proposed LB's 380 & 384		Appropriations Committee Proposed Budget AM 393		Committee AM 393 Change From Governors Proposed LB 380		Appropriations AM 393 Change From FY 20-21 Baseline	
		FY 21-22	FY 22-23	FY 21-22	FY 22-23	FY 21-22	FY 22-23	FY 21-22	FY 22-23
Agency 84 - Department Environmental & Energy									
Program 513, 586, 587, 588 - NDEE ¹	General Fund	\$ 3,754,047	\$ 3,778,641	\$ 4,826,993	\$ 4,862,565	\$ 1,072,946	\$ 1,083,924	\$ 1,110,249	\$ 1,145,821
	Cash Fund	\$ 36,918,970	\$ 37,023,644	\$ 38,185,376	\$ 38,345,459	\$ 1,266,406	\$ 1,321,815	\$ 1,434,269	\$ 1,594,352
	Federal Fund est.	\$ 17,304,737	\$ 17,415,411	\$ 19,475,423	\$ 19,635,506	\$ 2,170,686	\$ 2,220,095	\$ 2,338,549	\$ 2,498,632
	Program Total	\$ 57,977,754	\$ 58,223,696	\$ 62,487,792	\$ 62,487,792	\$ 4,510,038	\$ 4,264,096	\$ 4,883,067	\$ 4,883,067
	Salary Limit	\$ 13,769,558	\$ 13,918,726	\$ 16,282,707	\$ 16,519,455	\$ 2,513,149	\$ 2,600,729	\$ 2,775,170	\$ 3,011,918
		¹ The increases in the Committees proposal reflect NDEE absorbing water quality programs formally housed at DHHS.							
Program 523 - Wastewater Loan Fund	Cash Fund	\$ 600,000	\$ 600,000	\$ 600,000	\$ 600,000	\$ -	\$ -	\$ -	\$ -
	Federal Fund est.	\$ 6,940,000	\$ 6,940,000	\$ 6,940,000	\$ 6,940,000	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ 7,540,000	\$ 7,540,000	\$ 7,540,000	\$ 7,540,000	\$ -	\$ -	\$ -	\$ -
Program 528 - Drinking Water Facilities Loan Fund	Cash Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Federal Fund est.	\$ 8,500,000	\$ 8,500,000	\$ 8,500,000	\$ 8,500,000	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ 8,500,000	\$ 8,500,000	\$ 8,500,000	\$ 8,500,000	\$ -	\$ -	\$ -	\$ -
Agency 33 - Game & Parks Commission									
Program 162 - Environmental Trust	Cash Fund	\$ 20,675,791	\$ 21,182,401	\$ 20,676,142	\$ 21,182,946	\$ 351	\$ 545	\$ 8,555	\$ 515,359
	Program Total	\$ 20,675,791	\$ 21,182,401	\$ 20,676,142	\$ 21,182,946	\$ 351	\$ 545	\$ 8,555	\$ 515,359
	Salary Limit	\$ 291,891	\$ 295,908	\$ 292,196	\$ 296,460	\$ 305	\$ 552	\$ 5,772	\$ 10,036
Program 330 - Habitat Development	Cash Fund	\$ 7,590,995	\$ 7,625,097	\$ 7,582,108	\$ 7,605,938	\$ (8,887)	\$ (19,159)	\$ (69,341)	\$ (45,511)
	Federal Fund est.	\$ 3,901,998	\$ 3,903,350	\$ 3,900,673	\$ 3,900,673	\$ (1,325)	\$ (2,677)	\$ (3,443)	\$ (3,443)
	Program Total	\$ 11,492,993	\$ 11,528,447	\$ 11,482,781	\$ 11,506,611	\$ (10,212)	\$ (21,836)	\$ (72,784)	\$ (48,954)
	Salary Limit	\$ 1,607,238	\$ 1,628,840	\$ 1,597,748	\$ 1,608,622	\$ (9,490)	\$ (20,218)	\$ 42,011	\$ 52,885
Program 336 - Wildlife Conservation ²	General Fund	\$ 1,817,493	\$ 1,849,409	\$ 1,825,024	\$ 1,867,895	\$ 7,531	\$ 18,486	\$ 399,400	\$ 442,271
	Cash Fund	\$ 27,043,836	\$ 27,430,888	\$ 32,061,087	\$ 32,469,593	\$ 5,017,251	\$ 5,038,705	\$ 6,030,916	\$ 6,439,422
	Federal Fund est.	\$ 4,225,405	\$ 4,243,090	\$ 4,218,927	\$ 4,230,422	\$ (6,478)	\$ (12,668)	\$ 446,774	\$ 458,269
	Program Total	\$ 33,086,734	\$ 33,523,387	\$ 38,105,038	\$ 38,567,910	\$ 5,018,304	\$ 5,044,523	\$ 6,877,090	\$ 7,339,962
	Salary Limit	\$ 16,025,594	\$ 16,295,845	\$ 16,056,219	\$ 16,370,045	\$ 30,625	\$ 74,200	\$ 1,104,923	\$ 1,418,749
		² \$5,000,000 Cash Fund increase is included in Committee proposal for wildlife damage reimbursement, which shall only be used for such purpose.							
Program 338 - Niobrara Council	General Fund	\$ 42,011	\$ 42,011	\$ 50,000	\$ 50,000	\$ 7,989	\$ 7,989	\$ 7,989	\$ 7,989
	Cash Fund	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ -	\$ -	\$ -	\$ -
	Federal Fund est.	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ 168,011	\$ 168,011	\$ 176,000	\$ 176,000	\$ 7,989	\$ 7,989	\$ 7,989	\$ 7,989
		The unexpended Cash Fund appropriation balance existing on June 30, 2021, is reappropriated.							
Program 550 - Planning & Trails Coordination	General Fund	\$ 494,211	\$ 502,047	\$ 493,544	\$ 500,230	\$ (667)	\$ (1,817)	\$ 4,128	\$ 10,814
	Cash Fund	\$ 1,166,192	\$ 1,181,201	\$ 1,167,922	\$ 1,183,924	\$ 1,730	\$ 2,723	\$ 24,198	\$ 40,200
	Federal Fund est.	\$ 109,414	\$ 110,298	\$ 109,361	\$ 110,556	\$ (53)	\$ 258	\$ 1,450	\$ 2,645
	Program Total	\$ 1,769,817	\$ 1,793,546	\$ 1,770,827	\$ 1,794,710	\$ 1,010	\$ 1,164	\$ 29,776	\$ 53,659
	Salary Limit	\$ 969,998	\$ 983,382	\$ 970,827	\$ 984,299	\$ 829	\$ 917	\$ 24,980	\$ 38,452
	Amount expended for development & maintenance of boundary fences along Cowboy Trail limited to \$64,000 CF each FY								
Agency 29 - Department of Natural Resources									
Program 303 - Small Watersheds	Cash Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Program 304 - Nebraska Soil & Water Conservation Fund	General 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, 2021, is reappropriated.							
*Program 306 - Water Well Decommissioning	Cash Fund	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ -	\$ -	\$ -	\$ -
		The unexpended Cash Fund appropriation balance existing on June 30, 2021, is reappropriated.							
Program 307 - Nebraska Resources Development Fund - The unexpended General Fund & Cash Fund appropriation balances existing on June 30, 2021, are reappropriated.									
Program 309 - Natural Resources Water Quality Fund	Cash 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 Cash Fund appropriation balance existing on June 30, 2021, is reappropriated.							
Program 313 - Water Sustainability Fund	Cash Fund	\$ 10,865,033	\$ 10,865,033	\$ 10,865,033	\$ 10,865,033	\$ -	\$ -	\$ -	\$ -
	General FundTransfer	\$ 11,000,000	\$ 11,000,000	\$ 11,000,000	\$ 11,000,000	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ 21,865,033	\$ 21,865,033	\$ 21,865,033	\$ 21,865,033	\$ -	\$ -	\$ -	\$ -
		The unexpended Cash Fund appropriation balance existing on June 30, 2021, is reappropriated.							
Program 314 - Critical Infrastructure Facilities -- The unexpended Cash Fund appropriation balance existing on June 30, 2021, is reappropriated									
Water Resources Cash Fund	LB 298 Transfer in	\$ 3,300,000	\$ 3,300,000	\$ 3,300,000	\$ 3,300,000	\$ -	\$ -	\$ -	\$ -
**Program 334 - Soil & Water Conservation (General Operations)	General Fund	\$ 11,017,548	\$ 10,971,400	\$ 11,020,779	\$ 10,972,796	\$ 3,231	\$ 1,396	\$ 484,329	\$ 436,346
	Cash Fund	\$ 7,784,340	\$ 7,788,195	\$ 8,259,150	\$ 8,263,380	\$ 474,810	\$ 475,185	\$ 833,406	\$ 837,636
	Federal Fund est.	\$ 839,193	\$ 845,188	\$ 855,021	\$ 872,032	\$ 15,828	\$ 26,844	\$ 51,950	\$ 68,961
	Program Total	\$ 19,641,081	\$ 19,604,783	\$ 20,134,950	\$ 20,108,208	\$ 493,869	\$ 503,425	\$ 1,369,685	\$ 1,342,943
	Salary Limit	\$ 7,066,469	\$ 7,162,623	\$ 7,086,478	\$ 7,194,701	\$ 20,009	\$ 32,078	\$ 230,338	\$ 338,561
Agency 51 - University of Nebraska									
Robert B. Daugherty Water for Food Global Institute	General Fund	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ -	\$ -	\$ -	\$ -
			\$ -					\$ -	\$ -

¹The increases in the Committees proposal reflect NDEE absorbing water quality programs formally housed at DHHS.

²\$5,000,000 Cash Fund increase is included in Committee proposal for wildlife damage reimbursement, which shall only be used for such purpose.

Final Reading

LB 83e - Change the Open Meetings Act to provide for virtual conferencing. Flood. Government Committee Priority Bill.

The Legislature gave final round approval to LB 83e on April 15th following a 43-0-6 vote. The bill now awaits action by Governor Ricketts. The bill includes the emergency clause and would become law immediately following the Governors approval.

Previously, the Legislature advanced LB 83 to Final Reading on April 6th by a voice vote after adopting AM 750 on a 41-0 vote. AM 750 adds Sanitary Improvement Districts to the list of public bodies able to conduct virtual conferencing during emergencies.

The Legislature advanced LB 83 to Select File on March 15th by a 48-0 after adopting AM 127 on a 48-0 vote.

Previously, the Government Committee reported LB 83 to General File with AM 127 on February 16th following an 8-0 vote. The Government Committee declared the bill a priority bill for the session.

The committee amendment (AM 127) adds language to the bill that ratifies actions taken by public bodies in reliance on Governor's executive orders issued during the pandemic. The amendment also adds MUD and regional metropolitan transit authorities to the list of political subdivisions that may utilize virtual conferencing for public meetings. The amendment adds a requirement that when multiple public participation sites are offered that each meeting site be attended by at least one member of the public entity or their designee. The amendment includes a revision clarifying that the documents that must be made available at each meeting site are those documents being considered at the meeting. The amendment requires an emergency declaration by the Governor under section 81-829.39 to trigger emergency meeting procedures under the bill. Lastly, the amendment provides an exception to an address publication requirement in instances where that address requirement may endanger a person's security.

The bill allows for virtual conferencing for the following entities:

- (i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;
- (ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;
- (iii) The governing body of a public power district having a chartered territory of more than one county in this state;
- (iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;
- (v) An educational service unit;
- (vi) The Educational Service Unit Coordinating Council;
- (vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;
- (viii) A community college board of governors;
- (ix) The Nebraska Brand Committee;
- (x) A local public health department;
- (xi) A natural resources district; and
- (xii) The Judicial Resources Commission

To hold such meeting the following criteria must be met:

- (1) Reasonable advance publicized notice is given including providing access to a dial-in number or link to the virtual conference;
- (2) Reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate including seating, in at least one designated site in a building open to the public and identified in the notice, recording of the hearing by audio or visual recording devices, and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used;
- (3) At least one copy of all documents for the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and
- (4) Except as otherwise provided in this subdivision, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year.

The bill also allows for virtual conferencing if an emergency is declared pursuant to the Emergency Management Act. Under this provision, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice. The notice shall include information regarding access for the public and news media.

In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body. The public body shall provide access by providing a dial-in number or a link to the virtual conference.

The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting.

The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection.

The bill also has changes regarding individuals that speak at meetings. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person. Under current law, this is voluntary.

Finally, beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of the governing body.

The agenda shall be placed on the website at least 24 hours before the meeting of the governing body. Minutes shall be placed on the web site at such time as the minutes are available for inspection under existing law. This information shall be available on the public website for at least six months.

The bill includes the emergency clause so it would become effective as soon as it is approved by the Governor.

The Government Committee accepted testimony on the bill on January 27th.

In his opening, Senator Flood noted this bill is a step toward modernizing the way meetings are done. He stressed that a lot of people have worked together as a coalition to draft this bill and that testimony would be consolidated. During questioning, Senator Flood was asked about the right to declare an emergency, and it was noted that this is a point of contention with the bill, but he noted he feels the local individuals are best positioned to determine the best way to address an emergency.

Proponents

Proponents of the bill included Larry Ruth testifying on behalf NARD and the LPSNRD. Ruth demonstrated the practical need for the bill by outlining the struggles and obstacles the LPSNRD board has had to overcome during the pandemic. During questioning, Senator Halloran raised concern about the issue of rural connectivity and how it could prevent constituents from participating. Senator Lowe raised questions and spoke to the need to add something in the bill to ensure board members stay actively engaged and away from outside influence.

Other proponents included Shelly Sahling-Zart testifying on behalf of the Nebraska Power Association. She told the committee the bill is not changing how ordinary meetings are conducted, it's about continuing to do public business during moments of extraordinary emergencies. She noted the bill is first and foremost about addressing safety and including transparency.

Mike Rogers of Gilmore and Bell testified on behalf of the city of Lincoln. He spoke about the unclarity in the Governor's pandemic executive order and the potential legal challenges it presents, noting that this bill adds clarity.

Lynn Rex testified in support on behalf of the League of Nebraska Municipalities and the Nebraska Association of School Boards. Rex thanked the Governor for his orders allowing for continuation of virtual conferencing. She outlined how the bill merges two sections of statute for video conferencing and teleconferencing into one section for virtual conferencing.

Sean Kelley testifying on behalf of the Douglas County Board of Commissioners told the committee they have successfully utilized virtual meetings during the pandemic and simply wanted their support for the bill on the record.

Edison McDonald testifying for Arc of Nebraska noted the bill would ensure there is more opportunity for engagement for individuals with disabilities.

Danielle Conrad for the ALCU of Nebraska told the committee this is a good government bill with increased transparency and flexibility. She noted the ALCU is pleased to hear there are amendments to offer additional privacy.

There were eleven written testimonies and nineteen position letters submitted from proponents.

Opponents

Lance Molina of Gretna testified in opposition. He testified that the bill would allow the government body to mute any individual they disagree with. He provided an example of a meeting in Gretna where proponents were unlimited in testimony, but opponents were filtered.

Written testimony in opposition to the bill was submitted from the Governor's Office. No opposition position letters were submitted.

Neutral

Neutral testimony was provided by Tim Texel on behalf of the Nebraska Power Review Board. He testified simply to raise questions about three technicalities. Asking for clarification on what does all documents

mean in contrast to current law of all documents considered at the meeting. He also noted he is not clear on what is meant by sites for copies and how an electronic copy of an agenda needs to be made available.

Neutral written testimony was submitted by Media of Nebraska. One neutral position letter was submitted. Senator Flood waived closing.

Select File

LB 9 - Change annexation requirements and property tax special valuation provisions. Blood. Speaker Priority.

The Legislature advanced LB 9 to Final Reading on April 14th following a voice vote.

Previously, the Legislature advanced LB 9 to Select File on March 30th by a 42-0 vote after adopting AM 231 on a 38-0 vote.

The Urban Affairs Committee reported LB 9 to General File with AM 231 on February 18th, following a 7-0 vote. The amendment (AM 231) limits the bill to cities of the first class located in a county with at least three cities of the first class. The amendment limits property deemed contiguous to the corporate limits and only applies if property owned by the federal government lies between the newly annexed area and the corporate limits of the city. The amendment also requires that any change to the service area of any electric utility without agreement from the electric utility serving the newly annexed area at the time of annexation.

The bill adds criteria for annexing contiguous property. This bill addresses an issue with land around Offutt Air Base in Sarpy County.

Under the proposal, lands, lots, tracts, streets, or highways shall be deemed contiguous although property owned by the federal government or a natural resources district lies between the same and the corporate limits, so long as the lands, lots, tracts, streets, or highways sought to be annexed are adjacent to or contiguous with the property owned by the federal government or a natural resources district.

The bill also adds criteria for special valuation of ag and horticultural land subject to a conservation or preservation easement as provided in the Conservation and Preservation Easements Act within the corporate boundaries of a city or village if : 1) The land is subject to air installation compatible use zone regulations; or 2) the land is within a flood plain.

Current law requires only that the governing body of the city or village approves the agreement creating the easement.

The Urban Affairs Committee accepted testimony on LB 9 on February 9th

In her opening, Senator Carol Blood mentioned the purpose of the bill deals with land in cities of the first class, it addresses an issue where there is land owned by Offutt Air Force Base in between parcels that the city of Bellevue wants to annex.

She offered an amendment to remove the language dealing with land owned by the NRD as it is not needed in this situation.

Two major focal points - The flood control efforts to protect the base creates a situation that the city of Bellevue needs to annex to assist with removing the area from the flood plain. A second issue is to skip over some ag land so that land does not lose its special valuation.

Proponents

Rusty Hike, Mayor of Bellevue, testified in support of the bill. He noted there have been some issues with contiguous land surrounding the air base for years. The base has land called “safety zones” around the base, which separates the lands in question and makes it non-contiguous. These zones can’t be developed but could be farmed. They don’t want to annex those properties and want the land to stay as agriculture and keep it is the special valuation as ag land. The city does not want to cause the land to lose its special valuation as ag land. The city wants to skip over these zones and leave them alone.

The growth of Bellevue is to the south and they want to work around Offutt.

Joe Kohout, representing United Cities of Sarpy County, testified in support of the bill. He mentioned this has been a problem for some time and voiced support for the bill to fix the problems and protect the ag land in the safety zones.

Christy Abraham, League of Municipalities, testified in support and mentioned this is a unique situation to Bellevue and wants to work with them to address the problem.

There were four letters of support and one neutral letter.

There were no opponents and no neutral testimony.

LB 65 - Change contractual conflict of interest provisions under the Nebraska Political Accountability and Disclosure Act. Williams.

The Legislature advanced LB 65 to Final Reading on April 12th by a voice vote.

Previously, the Legislature advanced LB 65 to Select File on April 6th by a 41-0 vote.

The Government Committee reported LB 65 to General File on February 16th following an 8-0 vote.

The bill proposes under the conflict of interest statutes for officers to remove the language “a direct pecuniary fee” from the law dealing with contracts. It replaces the term with “a payment or fee”.

The Government Committee accepted testimony on LB 65 on February 10th

During opening, Senator Williams outlined the bill and noted it only proposes a change that is technical in nature.

Proponents

Frank Daley testified in support on behalf of the Nebraska Accountability and Disclosure Commission. He reiterated that the bill is technical in nature and removes a conflicting section of statute.

A letter of support was submitted by the League of Municipalities.

There was no opposition or neutral testimony and Sen. Williams waived closing.

LB 414 - Change provisions of the Political Subdivisions Construction Alternatives Act. Wishart.

The Legislature advanced LB 414 to Final Reading on April 12th on a voice vote.

Previously, the Legislature advanced LB 414 to Select File on April 6th by a 41-0 vote. The Government Committee reported LB 414 to General File on February 16th following a 7-0-1 vote.

The bill adds natural resources districts to the list of political subdivisions that could use design-build contracts or construction management at risk contracts.

The bill outlines that political subdivisions may use such for a project, in whole or in part, for water, wastewater, utility, or sewer construction.

To use the contract, the governing body of the political subdivision shall adopt a resolution selecting the design-build contract or construction management at risk contract delivery system by an affirmative vote of at least two-thirds of the governing body of the political subdivision. The resolution shall include a statement that the political subdivision has made a determination that the contract is in the public interest based, at a minimum, on one of the following criteria: (a) Savings in cost or time or (b) requirement of specialized or complex construction methods suitable for the design-build contract or construction management at risk contract delivery system.

The Government, Military & Veterans Affairs Committee accepted testimony on LB 414 on February 4th.

Opening on the bill, Senator Wishart commented that she was carrying the bill for Senator Hilgers, noting this is building off of LB 890 from last session. She commented that the goal is to save time and money by allowing for a more efficient process. The bill would authorize the use of design build for water infrastructure projects. This is a compromise with the only stakeholders who were in opposition last year. She noted that NPPD would like to be added to the list of political subdivisions authorized for design-build, and requested the committee consider that as an amendment.

Proponents

Christy Abraham testified in support on behalf of the League of Nebraska Municipalities. Abraham noted that the use of design-build continues to expand and grow. She suggested that there have been many communities that would like to use design-build for water and wastewater projects.

Elizabeth Elliott testified in support on behalf of the City of Lincoln. Elliott commented that this would offer flexibility and provide cost and time savings. She noted that the City of Lincoln has successfully used design-build for other projects and would like to have the same option for water and wastewater utility projects.

Written testimony was submitted in support by NACO.

The NARD worked with Senator Wishart and submitted written testimony on the bill. The testimony outlined that Nebraska's NRDs operate and provide safe drinking water for 15 rural water systems in Nebraska. This includes more than 2,300 miles of buried water lines, serving over 19,300 people across the state. Primarily, these serve smaller communities that cannot afford to operate systems independently. They also serve many rural customers in between the communities that do not have access to drinking water.

An example would be the Logan East Rural Water & Wau-Col Rural Water system operated by the Lower Elkhorn NRD. This system has 800 miles of buried water lines, serving six communities of Belden, Magnet, McLean, Uehling, Winslow & Herman. There are also rural customers that hook on to the system in between the communities. The total population served is over 6,000.

During the floods of 2019, several rural water systems had breaks in lines and needed emergency repairs. The NRDs were able to hook on to other systems to provide temporary service while the system was repaired. The design-build process proposed in LB 414 could allow NRDs to use a design system that would expedite construction, save money and ultimately provide cost savings for the users. This process could be used in the future to add customers and communities to existing systems and/or new systems.

There was no opposition or neutral testimony and Senator Wishart waived closing. Position letters in support of the bill were submitted by the Association of General Contractors, and MUD.

LB 501 - Adopt the Uniform Easement Relocation Act. Flood. Speaker Priority.

The Legislature advanced LB 501 to Final Reading on April 14th on a voice vote.

Previously, the Legislature advanced LB 501 to Select File on April 1st by a 40-0 vote after adopting AM 526, 671, and 794.

AM 671 adds public power and irrigation district, irrigation district, reclamation district, or canal company to the list of easements that may not be relocated.

The Judiciary Committee reported LB 501 to General File on March 10th with AM 526 following an 8-0 vote. The amendment (AM 526) incorporates provisions of four other bills, none of which are on the list of bills relating to natural resources districts.

The bill proposes a process to modify easement relocation.

Specifically, the bill modifies the rule requiring mutual consent of owners for easement relocation, allowing the owner of the burdened lot to obtain permission to relocate the easement from a court. The burdened property owner must demonstrate to the court that the relocation would not materially reduce the usefulness of the easement, impose a burden on the easement holder, impair a purpose for which the easement was created, impair the safety of anyone using the easement, or reduce the value or condition of the easement holder's property.

The burdened property owner must provide advance notice of the relocation plan to parties owning an interest in the property served by the easement, and any of them may object to the relocation in court. Additionally, the burdened property owner may not disrupt the easement holder's access during relocation.

The bill does not apply to relocating a public-utility easement, conservation easement, or negative easement or to encroach on such.

The Judiciary Committee accepted testimony on LB 501 on February 4th.

In his opening, Sen. Flood noted that the Nebraska Law School contacted him about introducing the bill. It codifies what is already in the law and provides more guidance for the courts.

He provided an example for the committee. Sen. Flood owns a section of land between Sen. Lathrop's land and Sen. Lathrop has an easement to run a water pipe across Sen. Flood's land to irrigate his land. Now Sen. Flood decides he wants to develop his land and wants Sen. Lathrop to move his water pipe to the edge of the property. The law provides a process and structure for that to easily happen and guide landowners.

Flood noted that statute is silent on this issue and in 2006 the court of appeals dealt with this issue and constructed a process. Now the goal is to take that process and add it to statute, so instead of referencing the case law, you could just reference it in statute.

Proponents

Larry Ruth testified in support on behalf of the Uniform Law Commission. The Uniform Law Commission is a state agency created by statute and helps to codify court decisions. The purpose is to strengthen the federal system and judicial system. They find areas of uniformity that states can benefit from by making things uniform across the system.

Steve Willborn, UNL Law Professor and serves on the Uniform Law Commission, testified in support. This provides procedural structure and process, which ensure the easement holder is protected. This adds protections for easement holders and will help avoid nasty disputes after. This uniform bill was promulgated this summer and has been introduced in a few states, but not adopted yet anywhere.

Written testimony in support of the bill was submitted by the Nebraska State Irrigation Association.

Opposition

There was no opposition or neutral testimony and Senator Flood waived closing.

LB 650 - Adopt the Nebraska Geologic Storage of Carbon Dioxide Act. Flood. Hughes Priority Bill.

The Legislature advanced LB 650 to Final Reading on April 15th by a voice vote after adopting AM 976 on a 40-0 vote. The amendment (AM 976) adds language to the bill to require the storage operation to complete a comprehensive geologic study that includes a seismic risk assessment.

Previously, the Legislature advanced LB 650 to Select File on March 30th by a 41-0 vote after adopting AM 548 on a 40-0 vote.

The Natural Resources Committee reported LB 650 to General File with AM 548 on March 12th following a 6-0-2 vote. Senator Hughes declared the bill as his priority bill for the session. The amendment (AM 548) adds that any permit issuance under the act shall not be construed to amend or alter any statute, rule, or regulation which relates to the commission's authority to regulate operations to increase ultimate recovery from a underground oil and gas reservoir.

The bill proposes the Nebraska Geologic Storage of Carbon Dioxide Act to promote the geologic storage of carbon dioxide.

The purpose is to benefit the state and the global environment by reducing greenhouse gas emissions, help ensure the viability of the state's energy and power industries, provide storage of carbon dioxide to allow for its ready availability if needed for commercial, industrial, or other uses.

A permitting process would be established and regulated by the Nebraska Oil and Gas Commission (NOGC) to provide for injection of carbon dioxide underground, via injection wells, and provide for an underground storage right.

Title to any reservoir estate underlying the surface of lands and waters would be vested in the owner of the overlying surface estate unless it has been severed and separately conveyed. The ownership of reservoir estates may be conveyed in the manner provided by law for the transfer of mineral interests in real property.

The NOGC would be required to hold a public hearing before issuing a permit. Notice of the hearing shall be provided in accordance to commission rules and regulations. Notice of the hearing shall be given to each mineral lessee, mineral owner, and reservoir estate owner within the storage reservoir and within one-half mile of the storage reservoir's boundaries. Notice of the hearing shall also be given to each surface owner of land overlying the storage reservoir and within one-half mile of the storage reservoir's boundaries.

Before issuing a permit, the commission shall find:

- (1) That the storage operator has complied with all requirements set by the commission;
- (2) That the storage facility is suitable and feasible for carbon dioxide injection and storage;
- (3) That the carbon dioxide to be stored is of a quality that allows it to be safely and efficiently stored in the storage reservoir;
- (4) That the proposed storage facility will not endanger surface waters or underground sources of drinking water;
- (5) That carbon dioxide will not escape into the atmosphere or surface waters from the storage reservoir;
- (6) That the storage facility will not endanger human health or unduly endanger the environment;

- (7) That the horizontal and vertical boundaries of the storage reservoir are defined;
- (8) That the storage operator will establish a testing and monitoring plan to assess the location and migration of carbon dioxide injected for storage and to ensure compliance with all permit, statutory, and administrative requirements;
- (9) That the storage operator has satisfied all of the requirements under the act and if the storage operator has obtained all permits required by the applicable underground injection control program permitting authority for each storage facility injection well;
- (10) That the storage facility is in the public interest;
- (11) That the storage operator has made a good-faith effort to obtain the consent of all persons who own reservoir estates within the storage reservoir;
- (12) That the storage operator has obtained the consent of persons who own reservoir estates comprising at least sixty percent of the physical volume contained within the defined storage reservoir;
- (13) Whether the storage reservoir contains commercially valuable minerals. If it does, a permit may be issued only if the commission is satisfied that the interests of the mineral owners or mineral lessees will not be adversely affected or have been addressed in an arrangement entered into by the mineral owners or mineral lessees and the storage operator; and
- (14) That all nonconsenting reservoir estate owners are or will be equitably compensated.

The Natural Resources Committee accepted testimony on LB 650 on February 11th

Senator Flood opened by noting the bill is the result of collaboration of several individuals and groups. He noted that the bill is about employing the best technology to expand the market for Nebraska products, while also addressing climate issues. He discussed that the climate change discussion has costal states prioritizing energy sources that meet climate friendly guidelines, noting that if Nebraska can store carbon deep underground as the bill allows to be permitted, they're going to look at Nebraska and it will make our products more marketable.

Sen. Flood noted this is a unique opportunity where all sides can come to together to create a win-win scenario. He noted that the bill would allow ethanol producers to capture CO₂ that would otherwise be emitted and safely inject it 3-10K feet underground. It was discussed that EPA currently has regulatory measures in place and the bill does not diminish existing EPA standards, rather it supplements and builds a state framework around existing EPA regulations.

Sen. Flood noted that groundwater protection is an important priority, and it has been demonstrated that underground injection can be done to ensure groundwater is protected. Storage is intended to be safe and stable in perpetuity, but there were questions from the committee on who is responsible as companies come and go. He noted that financial assurances are in place for the state to address any potential issues, he also reiterated that the EPA regulatory measures have the state's best interest in mind.

Proponents

Troy Bredenkamp testified in support on behalf of Renewable Fuels Nebraska. He noted that technology is becoming increasing important for Nebraska's ethanol industry and that low carbon fuel standards are being adopted. He noted that ethanol is already a very low carbon producing energy source, but allowing for injecting CO₂ emissions will only make Nebraska ethanol more marketable and competitive in low carbon energy markets.

Hal Demuth, owner of Petretech Corporation a company specializing in oil and gas wells, testified in support. Mr. Denuth provided the committee with a lengthy overview of deep injection wells and how they work. He noted that the EPA UIC program focuses on protection of groundwater with six different classes of injection wells, CO₂ injection wells are classified as class 6 wells. He stressed that the existing EPA permit process requires a rigorous process for ensuring protection of water and safe long-term containment. He stated that the injected CO₂ is in a super critical state that is slightly heavier than water. He told the

committee there are over 800 injection wells already across the country, however only one location where wells of this specific nature are operating is in Illinois.

Charles Goreckey with the University of North Dakota's Energy & Environmental Research Center testified in support of the bill. He outlined similar legislation introduced in North Dakota in 2009. He noted this framework would be needed for Nebraska to address management of the pore space and it would also allow for the state to seek primacy if needed. He provided examples of several similar injection projects across the globe.

Chuck Woodside, CEO of KAPA Ethanol holdings also testified in support. He reiterated the opportunity this would provide for ethanol to expand markets and become an even more competitive low carbon energy source.

Kristen Hassebrook testified in support on behalf of the Nebraska Chamber. The chamber supports the bill due to the opportunity to encourage business growth.

Jan Tenbenschel testified in support for the Nebraska Ethanol Board. He echoed the advantages of being competitive in low carbon fuel markets. He specifically addressed the risk of being out competed by neighboring states if they enact similar legislation and can offer lower carbon fuel. He noted there is even the potential for ethanol to be a negative carbon fuel.

Written testimony in support of the bill was submitted Nebraska Corn Growers and the Nebraska Farmers Union.

Opponents

There was no opposition testimony.

Neutral

John Rundel, Chair of the Nebraska Oil and Gas Conservation Commission testified in a neutral position. He spoke to the advantages of injection wells and told the committee the Commission is best equipped to provide oversight for this process. He noted they are a cash funded agency funded through mill levy's assessed on oil and gas production. He noted that the bill has funding mechanisms in place to make this a self-funded program, however there may need to be some appropriations made to bridge a funding shortage during startup of the program. He outlined the rules and hearing process that would begin once the bill is passed. He noted that primacy would stay with EPA for now, but in the future if directed the state and commission could apply for primacy. He noted that currently the state has primacy over class II wells – with 110 active wells in the state.

Matt Joeckel, Director of Nebraska CSD, testified in a neutral capacity on behalf of himself. He provided the committee with a quick overview of the approximately 20 similar projects across the globe. He spoke about the need for trained geologist and engineers to provide assessments. He noted that due to geologic features these projects are feasible in several parts, but not all parts of Nebraska. He outlined the need for appropriate long-term monitoring. He addressed a question from the committee about the potential for earthquakes, noting that underground injection can result in earthquake, the risk can be addressed by running geology and engineering assessments.

Several position letters both in support and opposition of the bill were submitted for the record. Sen. Flood waived closing.

LB 507e - Prohibit the use of treated seed corn in the production of agricultural ethyl alcohol in certain circumstances. Bostelman. Natural Resources Committee Priority Bill.

The Legislature advanced LB 507, including provisions of LB 190 as amended into the bill via AM 256, to Final Reading on April 14th.

Previously, the Legislature advanced LB 507 to Select File on March 25th by a 43-0-4 vote after adopting AM 256, 567, & 365.

Provisions of LB 190 were incorporated into LB 507 with AM 256, which was adopted by a 42-0-5 vote.

LB 507 was reported to General File with the amendment AM 256 on February 23rd. LB 507 is a bill introduced by Natural Resources Committee Chair Bostelman that addresses contamination concerns at the AltEn ethanol plant near Mead by prohibiting the use of treated seed corn in the production of agricultural ethyl alcohol if the byproduct generated is deemed unsafe for livestock consumption or land application. The Natural Resources Committee declared the bill a priority bill for the session.

LB 190 - Change provisions relating to use of the Water Sustainability Fund. Hughes.

Provisions of LB 190 were amended into LB 507 with AM 256 and would prohibit the Legislature from appropriating or transferring money from the Water Sustainability Fund for any purpose other than to further the goals of the Water Sustainability Fund except upon a finding that the goals of the fund are not being accomplished by the fund.

The Natural Resources Committee accepted testimony on LB 190 on January 27th.

Senator Hughes opened by noting the bill would prevent the legislature from sweeping the WSF fund when looking to balance future budget shortfalls, or when someone is looking for funds to achieve another purpose. During questioning, Senator Moser asked if sweeping of the WSF has happened before. Senator Hughes noted that it has been discussed that the opportunity to sweep the interest has been enticing for some during past budget shortfalls and that he felt that was an inappropriate use and would like to prevent that in the future. Senator Hughes addressed a concern about NeDNR accessing those funds, noting that as long as the use of funds is related to WSF he's okay with it, noting the intent is not to impact how NeDNR is using the funds for WSF at all.

Proponents

Scott Smathers testified in support on behalf of the Natural Resources Commission. Smathers distributed a handout showing the funding history of the fund. He provided examples of past attempts to pull dollars from the fund.

Written testimony in support was submitted by Nebraska State Irrigation Association. Position letters in support were submitted by NPPD, MUD and CNPPID.

Opponents

There was no opponent testimony.

Neutral

There was no neutral testimony. A neutral letter was submitted by NeDNR.

In closing, Senator Hughes noted there would be a minor technical amendment to address any confusion on language in the bill.

Natural Resources Committee Hearing

Tuesday, April 20th

Natural Resources Committee Room 1525 - 12:00 PM

LB 406 - Create the Lower Platte River Infrastructure Task Force and provide funding. McDonnell. Speaker Priority.

The Natural Resources Committee will hold a hearing on a proposed amendment (AM 848) to LB 406 on Tuesday, April 20th.

The amendment would replace the bill. The amendment proposes a couple changes to the Lower Platte River Infrastructure Task Force outlined in the original bill and adds provisions to also create the Statewide Tourism and Recreational Water Access and Resource Sustainability Special Committee of the Legislature.

First, the amendment proposes to create the Statewide Tourism and Recreational Water Access and Resource Sustainability Special Committee.

- The committee shall consist of the Speaker of the Legislature, who shall serve as chairperson, and six members of the Legislature appointed by the Executive Board of the Legislative Council, with two members appointed from each congressional district.
- The Executive Board of the Legislative Council shall provide staff as required by the committee from existing legislative staff. In addition, the committee may hire additional staff, make expenditures for travel, and enter into contracts for consulting, engineering, and development studies.
- It is the intent of the Legislature to appropriate two million dollars for fiscal year 2021-22 to carry out the purposes of the committee.
- Studies shall be conducted on:
 - (i) The need to protect public and private property, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;
 - (ii) The need to provide for public safety, public infrastructure, land-use planning, and economic development in the Lake McConaughy region of Keith County, Nebraska;
 - (iii) The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park.
 - (b) The studies for Lake McConaughy in Keith County and Lewis and Clark Lake and Niobrara State Park in Knox County shall evaluate the outcomes and the economic benefits of proposed development and improvements to residents, the local region, and state tourism.
- The committee shall hold hearings and request and receive reports from state, county, and city agencies regarding matters pertaining to its studies. The committee may hold one or more closed sessions for the receipt of confidential information if at least one-half of the members of the committee vote in open session to hold a closed session. The committee may appoint a subcommittee for the purpose of receiving public input as it relates to protection from flooding along the Platte River from Columbus, Nebraska, to Plattsmouth, Nebraska.
- Any studies conducted by the committee shall be completed on or before December 31, 2021.
- The committee shall seek input from the Statewide Water Resources Infrastructure Task Force regarding its study of the Platte River region.

The bill as amended also proposes to create the Statewide Water Resources Infrastructure Task Force to study three to five potential flood-control infrastructure projects along the river basin of the lower Platte River.

The task force shall consist of the following members, appointed by the Director of Natural Resources: (a) Four directors or general managers of natural resources districts, each from the board of directors or offices of four natural resources districts with boundaries that include river basins along the lower Platte River, (b) the dean of the College of Engineering at the University of Nebraska-Lincoln or the dean's designee, (c) the mayor of a city of the primary class, (d) the mayor of a city of the second class, (e) three representatives from a city or village located adjacent to the lower Platte River, (f) one member of a metropolitan utilities district board, and (g) the Director of Natural Resources as a nonvoting, ex officio member.

The task force shall select a chairperson from the members of the task force and may hire consultants with funds appropriated by the Legislature. The task force shall convene within forty-five days after the effective date of this act at the call of the chairperson of the task force. Task force members shall receive no compensation for their services on the task force other than reimbursement for expenses incurred in carrying out their duties.

The task force would be required to study three to five potential flood-control infrastructure projects along the river basin of the lower Platte River, the lower Platte River or lower Platte River basin is that corridor of the lower Platte River from Columbus, Nebraska, to Plattsmouth, Nebraska.

For each project, the task force shall gather information as required by subsections (4) through (6) of this section and gather the following data and information to compile an analysis:

(i) identify potential project locations and project size based on existing constraints, (ii) develop threshold criteria for project size to be of adequate scale to serve regional, or at a minimum, sub-regional populations, with appropriate amenities, and (iii) establish criteria for regional and sub-regional projects.

The task force would gather the following data and information to compile an analysis:

- (a) Hydrology and water supply;
- (b) Topography of the area;
- (c) Geotechnical information;
- (d) Existing infrastructure that may be impacted;
- (e) Existing and future recreation and economic needs of the area;
- (f) Existing and expected economic data of the area;
- (g) Existing and expected demographic data of the area;
- (h) Environmental data of flood sites and regional environmental data;
- (i) Future land-use master plans;
- (j) Existing and planned transportation infrastructure; and
- (k) Land ownership data.

Factors for task force consideration include:

- (i) Location. The proximity to urban areas and centers of economic development;
- (ii) Size. Identify opportunities to serve regional or sub-regional populations;
- (iii) Water supply and land availability, including minimum water supplies required to sustain and support a water-based project in addition to sediment storage for reservoir sustainability and contiguous land areas for a project;
- (iv) Infrastructure considerations, including public and private infrastructure that present opportunities or pose constraints and the degree of such opportunities or constraints;

- (v) Socioeconomic considerations, including socioeconomic factors that are opportunities or constraints;
- (vi) Environmental considerations, including environmental resources that may be augmented, or possibly impacted, and that may influence siting;
- (vii) Public acceptance, including the general likelihood of public acceptance of a project in a proposed area;
- (viii) Property protections
 - a. No potential intervention for a project may harm or relocate any city of the second class, and protecting private property shall be prioritized.

The task force shall define project elements to maximize project benefits within physical constraints of a project, including concept level definition of project features sufficient to estimate costs, benefits and anticipated water-based project benefits that could include flood control, water supply, water quality, and hydropower.

An event based hydrologic model shall be developed and used in conjunction with existing hydrologic models to define flood-risk-reduction benefits. A long-term hydrologic model shall be used to determine firm yield of a potential site for assessing pool viability, water quality, water supply, and hydropower benefits.

The definition of project features shall include type and size of project infrastructure, property acquisition, existing infrastructure impacts, recreation amenities, relocations, if applicable or required, and an estimate of costs.

The task force shall also perform an economic analysis to assess project economic benefits, including:

- (a) Flood-risk reduction;
- (b) Water supply;
- (c) Hydropower;
- (d) Increased flat water recreational opportunities near the major population centers of Nebraska;
- (e) Enhanced tourism in Nebraska from surrounding areas, capitalizing on and complimenting existing state recreational facilities in eastern Nebraska;
- (f) Direct and indirect regional economic benefits associated with development of major recreation opportunities in eastern Nebraska;
- (g) Population and workforce retention; and
- (h) Any other relevant benefits.

The task force shall also perform an environmental analysis to identify environmental constraints, impacts, and challenges to project development, including a general socioeconomic and natural resource assessment and evaluation of potential project-related effects. Such assessment and evaluation shall be performed in the context of a federal National Environmental Policy Act evaluation and evaluate typical social and natural resource categories, identify federal, state, and local regulatory authorizations that would be required, and evaluate the complexity of obtaining any regulatory authorizations.

The date for completing the report and submitting to the legislature is no later than December 31, 2021

The Natural Resources Committee accepted testimony on LB 406 on January 28th.

Opening on the bill, Tim Pendrell, legislative staff for Senator McDonnell, provided the committee with an overview of the need for the bill. He noted this bill is a follow up to LR 138 from last year. It was discussed that the tools outlined to be studied in the bill would have assisted in mitigating an estimated \$3 billion worth of damages from flooding in 2019 alone. He mentioned that while Governor Ricketts has

joined a coalition to advocate for USACE to address flooding, we need to understand that the 2019 flooding was not just from Missouri River flooding, rather it was from the Platte and its uncontrolled tributaries.

Proponents

John Winkler, General Manager of the Papio-Missouri River NRD, testified on behalf of NARD. Winkler outlined the need to mitigate extremes to improve safety and protect communities. He reiterated that up to \$3 billion in damages could have been prevented from one single event. He outlined the impact of drought on the area and the benefits reservoirs could provide in protecting against the impacts of drought, including supplementing municipal water supplies, and ensuring junior irrigated users are not shut down. He also outlined the additional benefits of recreation that the reservoirs could provide. Winkler told the committee a large reservoir could have a \$200-\$300 million economic impact annually, not including the conservation benefits.

Winkler was asked several questions by committee members. Senator Gragert asked if this is about a large lake at Ashland, and if not, what type of infrastructures is the bill considering. Winkler discussed that historically this has been about one large reservoir near Ashland, but this bill and effort is different. It is taking a look at the whole basin, and would evaluate the potential of smaller reservoirs, evaluating all options beyond just the reservoir near Ashland. Winkler reiterated this is about much more than one big reservoir, noting that the Platte River is the wild west of flood control right now with lots of opportunities.

It was discussed that with matching funds the total study would provide \$1.8 million in funding, which would utilize existing data and work to narrow down and refine locations, many of which have been considered previously in some cases as early as the late 1800s.

Senator Cavanaugh asked several questions, including where the water to fill the reservoirs would come from. Winkler noted that existing streamflows and permits would have to be honored and it would only be excess flows captured, with no harm to downstream users.

Sen. Cavanaugh also inquired about the reason for the shift away from major dam projects. Winkler noted this has been a national trend and said there are multiple reasons but that it's often due to environmental concerns. Winkler stressed that these types of projects can be used to enhance natural environment for endangered species and can have an overall positive environmental impact.

Senator Bostelman commented that LB 1201 from last year does exactly what this bill is targeting, except that this bill is limiting the area to a few NRDs and not the entire state. He feels there needs to be an overall state look first. Winkler acknowledged the benefits of LB 1201 and the statewide effort, noting that this digs down into the specific lower Platte reach. Winkler testified that this would be a great compliment to LB 1201, because it'll provide unprecedented information to assist in providing resources for the LB 1201 effort.

Senator Gragert spoke to the need for a top to bottom watershed approach, and the benefits of projects such as the proposed Battle Creek reservoir were discussed.

Senator Bostelman highlighted efforts by LPNNRD to build 6 smaller dam structures and expressed that they are an example of why a comprehensive overview is needed. He also commented that the USACE failed us on the levee system in 2019.

Senator Wayne acknowledged efforts to protect the Water Sustainability Fund and questioned why they would not just apply for the funds. Winkler responded he doesn't think there's a problem with applying.

Senator Cavanaugh asked if the same objectives can be accomplished by smaller reservoirs? Winkler discussed that it's possible, but until you do this study you don't know. It was also asked who pays for the reservoirs? Winkler noted that it would be multiple funding sources, providing examples of how PMRNRD has utilized several private and public partnerships to fund past projects.

Opponents

Rick Grauerholz, mayor of Ashland, testified that the Ashland area needs better flood control. He said this idea of the Ashland dam surfaces every few years and discussion of a large-scale dam and water impoundment from past discussions would cause significant problems for the people in Ashland as some maps show parts of the community being inundated. Given these past studies he's concerned over some of the language in the bill. He stressed that 2019 was an extreme and not a good judgment of what the normal is. He requested the committee add language to protect the people of Ashland from being flooded by impoundment.

Shirley Niemeyer testified that she doesn't object to using dollars for repair of damages and for building of smaller dams, but she opposes recreation and economic opportunities targeted toward large population areas. She said this bill is focused too much on recreation. She testified that there's been no major dams constructed since 1970 because they are immensely detrimental to the environment.

Written testimony in opposition was provided by Scott Smathers of the Natural Resources Commission, Lee Orton, Helen Raikes, Al Davis of the Sierra Club, and Charles Neymeyer.

Neutral

Bradley Pfiefer, Ashland Chamber of commerce, testified in a neutral capacity. He raised concern over the impacts of the unknowns about what's going to happen to Ashland. He spoke to the development ongoing around Ashland. He said as a taxpayer, he doesn't understand why government would double up if 1201 already does the same thing. Written neutral testimony was provided by the Nebraska Airboat Association.