

April 30, 2021

TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: April 30 NARD Update

### **Local Political Subdivision redistricting amendment filed – Hearing set**

Delays with the 2020 census data will cause delays with redistricting for local political subdivisions to meet election deadlines. The NARD has been working with the Nebraska Secretary of State's office and the Legislative Research Division to address potential problems.

In general, current Nebraska law gives political subdivisions six months after receiving the census data to re-draw subdivisions. Because of the delay in receiving the information, it is possible that candidate filing deadlines could be missed.

As a result of consultation with the Secretary of State and other parties, Senator Brewer introduced AM 1133 to LB 285 to change the deadlines for this current year to December 30, 2021. The hearing for the amendment is set for May 5, 2021 in the Government Committee Hearing Room #1113 starting at noon.

For NRDs, the proposed language reads as follows:

*“ Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, any board of directors requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the board and subjected to all public review and challenge ordinances of the natural resources district by December 30, 2021 ”.*

LB 285 is on Select File and makes several changes to election laws. It provides for secure data-sharing with certain third parties by the Secretary of State to facilitate participation in the Electronic Registration Information Center and improve voter file accuracy. The bill also adjusts provisions relating to write-in candidates and modifies certain filing deadlines for candidates and certain political subdivisions. The bill is a Government Committee Priority Bill and was advanced to Select File by a 46-0 vote on March 15th

Those involved in the discussion realize that most political subdivisions are going to have to hire consultants or companies to change boundaries on short notices. Thus, we are working with senators and others to add an appropriation to the bill to help offset costs for making the changes on a quick turn-around.

### **General File Floor Action**

#### ***LB 26 - Provide a sales tax exemption for residential water service. Wayne. Pahls Priority Bill.***

State senators advanced LB 26 to Select File on a 38-3 vote. The Revenue Committee reported LB 26 to General File on March 10<sup>th</sup> following a 8-0 vote. Senator Pahls declared LB 26 a personal priority bill for the session.

The bill proposes to exempt the sale, lease, or rental of and the storage, use, or other consumption in this state of residential water service from state sales and use tax.

*The Revenue Committee accepted testimony on LB 26 on February 24<sup>th</sup>.*

Opening on the bill, Senator Wayne noted that Nebraska does not impose sales tax on bottled water but taxes tap water and residential service. He commented that people cannot survive without water and it should not be taxed.

*Proponents*

Doug Kagan testified in support on behalf of Nebraska Taxpayers for Freedom. He claimed that the exemptions and savings are offered to businesses and noted that it is only fair if residential water service is not taxed.

*Opponents*

Jack Cheloha testified in opposition on behalf of the city of Omaha. He noted that the city would lose between \$1.6 million and \$2 million per year in sales tax revenue if the bill were passed. Cheloha further commented that the loss in state revenue would be greater than \$8 million.

Lash Chaffin testified in opposition on behalf of the League of Nebraska Municipalities. He noted that the bill would cut revenue for more than 200 Nebraska cities that impose a local option sales tax. He told the committee the bill would result in increased water rates or in local property taxes to offset the lost revenue.

*Neutral*

There was no neutral testimony. Five letters in support of the bill and two in opposition were submitted for the record.

During closing, Sen. Wayne commented that this bill is for the people, arguing residents should not be taxed for water, while exempting bottled water from the tax when purchased at a store.

***LB 103 - Appropriate funds to aid counties to pay certain federal judgments. Dorn. Dorn Priority Bill***

A bill introduced by Senator Dorn to help out Gage County with a judgement on the wrongful conviction of six individuals for a murder of a woman in 1985 was debated this week. The bill, LB 103, originally proposed to appropriate \$2 million from the General Fund in FY2021-22 and FY2022-23 to any county which has a judgment against it from a federal court in excess of \$25 million, if the total cost of the judgment exceeds 20% of the county's annual budget.

The Appropriations Committee advanced the bill to General file on a 9-0 vote with AM588 that would increase the appropriation to \$5 million and direct the appropriation to the State Treasurer for aid to counties. A county is eligible if it: (1) has a judgment against it from a federal court in excess of \$25 million, if the total cost of the judgment exceeds 20% of the county's annual budget; and (2) has set its property tax levy at the maximum for each year it receives aid. The aid can be used only for payment of the judgment.

After some floor debate, Senator Dorn offered a compromise amendment to reduce the committee amendment to \$2 million per year as the original bill proposed. That amendment (AM 1216) was adopted on a 37-2-10 vote.

Senator Groene filed AM1107 to LB 103 which proposed to take \$10 million each year for the next two fiscal years from the Water Sustainability fund and provide state aid to NRDs which are members of an interlocal river augmentation agreement to offset costs incurred to develop an existing water augmentation project resulting from a settlement of an interstate river compact in which Nebraska is a member. Such funds

could only be used to pay down the principle of debt and shall not be used for regularly scheduled bond payments. The NARD was not involved with drafting his amendment.

There was some debate on the amendment offered by Senator Groene, which led to another amendment offered by Senator Machaela Cavanaugh to increase aid to a child welfare program by \$17 million. After some debate, both Senator Groene and Senator M. Cavanaugh withdrew their amendments.

The bill was then advanced to Select File on a 35-3-11 vote. The bill is Senator Dorn's Priority Bill for the session.

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

State senators advanced LB 406 to Select File on a 42-2-5 vote after adopting the committee amendment (AM 1092) and a floor amendment (FA38).

The Natural Resources Committee held a hearing on a proposed amendment (AM 848) to LB 406 on Tuesday, April 20<sup>th</sup>. After the hearing, the committee advanced AM 1092 which replaces the bill.

The amendment (AM 1092) proposes to create the Statewide Tourism and Recreational Water Access and Resource Sustainability Special Committee of the Legislature. It was adopted on a 43-2-4 vote. The floor amendment adopted on a 40-2-7 vote incorporates the acronym "STAR WARS" for the "Statewide Tourism and Recreational Water Access and Resource Sustainability" committee.

The committee shall consist of the Speaker of the Legislature, who shall serve as chairperson. Other members would include the chairperson of the Natural Resources Committee, one member of the Appropriations Committee, and at least four other members of the Legislature appointed by the executive board. The appointed members of the special legislative committee shall be members who represent legislative districts comprising portions of the areas under study or who otherwise have knowledge of such areas.

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:

- 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. The study of the Lower Platte River shall not include a study of any dam on a Platte River channel but may include infrastructure options that maintain the integrity of the main channel of the Platte River. The committee may study dams relating to tributaries of the Platte River and levees in such area.
- The need to provide for public safety, public infrastructure, land-use planning, and economic development in the Lake McConaughy region of Keith County, Nebraska.
- The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region

in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park.

- The 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.

The special legislative committee shall endeavor to complete each study on or before December 31, 2021, but such studies shall be completed no later than December 31, 2022.

*The Natural Resources Committee accepted testimony on the Amendment 848 to LB 406 on April 20<sup>th</sup>.*

Opening on the amendment to the bill, Senator McDonnell provided the committee with an overview of the negotiations and discussions that led to a compromise amendment to the issue. He noted the language in the bill specifically outlines the study of the Lower Platte River shall not include a study of any dam on a Platte River channel but may include infrastructure options that maintain the integrity of the main channel of the Platte River. The committee may study dams relating to tributaries of the Platte River and levees in such area. The potential for a dam on the mainstream of the Platte River was the center-point of opposition to the original bill and that has now been alleviated.

#### *Proponents*

John Winkler, General Manager of the Papio-Missouri River NRD, testified on behalf of NARD.

Winkler offered the NRDs assistance to formulate proactive options to mitigate the devastating impacts of flooding and drought, create recreational opportunities, foster economic and community development, create jobs and investment, as well as improve the natural environment. The historic flood of 2019 was all about the uncontrolled tributaries of the state like the Platte, Elkhorn, and Loup Rivers. Preliminary analysis illustrates that if a significant reservoir or several reservoirs were in place in the Lower Platte Basin during the March 2019 flood event the certified levee systems south of the mouth of the Platte and Missouri River in Iowa, Nebraska, Kansas, and Missouri would have been within their design capacities and potentially would not have been overtopped or failed.

At a minimum over two and a half billion dollars in damages to critical public and private infrastructure and property could have been prevented. This figure does not include damages to agricultural land, homes, businesses, lost income, entire communities destroyed and the future productivity of thousands of acres of farm ground compromised; all from one single event.

In stark contrast to the impacts of flooding, it is estimated that the duration and intensity of droughts will increase, flash droughts like the one in 2021 may become more frequent. Throughout the state's history there has always been stresses on our drinkable and irrigated water supplies that test their resiliency and sustainability. Several significant reservoirs that could provide enough surface water augmentation on demand and enhance aquifer recharge all year round would be a tremendous boost to the resiliency of the lower Platte corridor where nearly 70% of the state's population resides.

In fact, the most recent statewide groundwater report published by the University of Nebraska at Lincoln's School of Natural Resources highlighted that groundwater wells near reservoirs and canals continue to show increases as they benefit from seepage or groundwater recharge. Groundwater levels have risen as much as 60 feet near Lake McConaughy due to recharge from the lake. In south-central, central, and western Nebraska, groundwater has risen by more than 100 feet due to the influence of canals and reservoirs. This type of sustainable water supply would be especially beneficial to the City of Lincoln who relies solely on the Platte River Basin for its water needs.

Winkler noted that reservoirs would add a tremendous number of recreational benefits both land and water based to the Omaha/Lincoln metropolitan area. It is consistently reported that the urban areas of our state and country lack sufficient outdoor recreational opportunities. With addition acres of flat-water recreation, that would also provide flood control benefits, it is reasonable to conservatively expect several hundred million dollars in economic impact to the state's economy.

Others testifying in support had a common theme of flood control, recreation, and economic development. Testifiers in support included: Speaker Mike Hilgers; Mark Simpson, Knox County; Deb Schilz, Keith County Visitors Committee; Kelly Hanvey, Knox County Development Agency; Jessop Adams, Keith County Planning and Zoning; Corey Crandall, Keith County Commissioner; Lane Anderson, Keith County Commissioner; Karla Scott, Keith County Chamber; Jeff Davis, BNSF Railway; Patrick Liska, Knox County Supervisor; Kevin Barta, Knox County Road Department; Kristal Stoner, Audubon Society.

Written testimony in support was submitted by Angela Janda-Craig, Nebraska Game and Parks;

Written testimony in a neutral capacity included: Jeff Buettner, Central Nebraska Public Power and Irrigation District; and Jay Ferris, Nebraska Farm Bureau.

***LB 209 - Change provisions relating to treatment of deferred compensation by certain political subdivisions, state agencies, and the Public Employees Retirement Board. McDonnell.***

State senators advanced LB 209 to Select File on a 42-0-7 vote after adopting the committee amendment (AM 880) on a 39-0-10 vote.

The Retirement Systems Committee reported LB 209 to General File on April 8<sup>th</sup> with AM 880 by a 6-0 vote. The amendment (AM 880) strikes the original provisions and becomes the bill.

The amendment clarifies that a plan of deferred compensation offered by a county, municipality, or other political subdivision may provide for the deferral on either a pretax basis or an after-tax Roth contribution basis under a qualified Roth contribution program pursuant to section 402A of the Internal Revenue Code. The bill clarifies that Roth IRA contribution amounts, as part of a deferred compensation package, are to be included in the computation of federal or state taxes withheld on behalf of public employees.

The Retirement Committee accepted testimony on LB 209 on March 3<sup>rd</sup>.

### **Select File Floor Action**

***LB 644 – Adopt the Property Tax Request Act. Hansen, B. Hansen, B. Priority Bill.***

The legislature advanced LB 644 to Final Reading on a voice vote after adopting several amendments to clarify the bill on Select File.

After lengthy debate, Senator Hansen introduced an amendment on Select File (AM 1019) that he said was the result of a compromise with other senators and representatives of the affected political subdivisions. The amendment eliminated other provisions previously adopted and becomes the bill.

To accommodate growing communities the amendment will require those political subdivisions to hold the joint public hearing only if they seek to increase their property tax request by more than an allowable growth percentage, equal to two percent plus the political subdivision's real growth percentage. This is limited to counties, cities, school districts and community colleges.

Senators voted 36-0 to adopt Hansen's amendment.

Omaha Sen. Robert Hilkemann introduced an amendment, adopted 41-0, that would require publication of notice of the hearing in a newspaper of general circulation in the relevant county.

On general file, provisions of LB 189 were incorporated into LB644 which would require a political subdivision's governing body to make provisions in its next budget to pay a refund of real or personal property taxes. An amendment on Select File, offered by Senator John Cavanaugh, includes a provision that interest on refunds would accrue at a rate of nine percent on the unpaid balance beginning 30 days after the entry of the final non-appealable order or other action approving the refund.

After adopting the Cavanaugh amendment 40-0, lawmakers advanced LB644 to final reading by voice vote.

The Revenue Committee previously reported LB 644 to General File with AM 755 following a 7-0-1 vote.

The bill as amended and now pending on Final Reading proposes the following for cities, counties, schools and ESU's if they exceed allowable growth on tax requests:

- Allowable growth percentage is defined in the bill as a percentage equal to the sum of (a) two percent plus (b) the political subdivision's real growth percentage.
- Real growth percentage is defined in the bill as percentage obtained by dividing (a) the political subdivision's real growth value by (b) the political subdivision's total real property valuation from the prior year.
- Real growth value means and includes:
  - 1) The increase in a political subdivision's real property valuation from the prior year to the current year due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, (iii) annexation of real property by the political subdivision, and (iv) a change in the use of real property; and
  - 2) The annual increase in the excess value for any tax increment financing project located in the political subdivision.
- For any county, city, school district, or community college, that seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision may do so if:
  - A joint public hearing is held, and notice of such hearing is provided. Notice of the joint public hearing shall be provided by:
    - 1) Sending a postcard to all affected property taxpayers. The postcard shall be sent to the name and address to which the property tax statement is mailed; and
    - 2) By posting notice of the hearing on the home page of the relevant county's web site, except that this requirement shall only apply if the county has a population of more than twenty-five thousand inhabitants.

- 3) The postcard and the notice posted on the county's web site shall include the date, time, and location for the joint public hearing, a listing of and telephone number for each political subdivision that will be participating in the joint public hearing, and the amount of each participating political subdivision's property tax request.
  - 4) The postcard shall also contain the following words in capitalized type at the top of the postcard: NOTICE OF PROPOSED TAX INCREASE
  - 5) The county assessor shall mail the postcards at least seven calendar days before the joint public hearing.
  - 6) The cost of creating and mailing the postcards, including staff time, materials, and postage, shall be divided among the political subdivisions participating in the joint public hearing.
- The joint public hearing shall be held on or after September 17 and prior to September 29 and before any of the participating political subdivisions file their adopted budget statement.
  - Each such political subdivision shall designate one representative to attend the joint public hearing on behalf of the political subdivision. If a political subdivision includes area in more than one county, the political subdivision shall be deemed to be within the county in which the political subdivision's principal headquarters are located.
  - The governing body of such political subdivision passes a resolution or an ordinance that outlines the political subdivision is increasing its property tax request in excess of allowable growth.
  - Any levy which is not in compliance with the Property Tax Request Act shall be construed as an unauthorized levy.

The resolution/ordinance process for budgeting that was adopted in 2019 remains in place for other political subdivisions that have a property tax request greater than the previous year. This includes NRDs.

*The Revenue Committee accepted testimony on LB 644 on February 10<sup>th</sup>*

Senator Hansen opened by providing an overview of the truth in taxation initiative. This model was first enacted in Utah in 1985. He noted this is an informed consent bill that provides taxpayers information about what taxes are going up, by how much, who is raising them, and provides a mechanism to make elected officials more accountable for decisions. Hansen said current law does not require political subdivisions to send taxpayers direct notification of a property tax request hearing and that a postcard showing the amount that an individual's taxes would increase would be more effective at getting their attention than the currently required newspaper advertisement.

*Proponents*

Jessica Shelburn with Americans for Prosperity-Nebraska testified in support. She commented that Nebraska has excessive taxation, noting that the state ranks in bottom for property taxes. She testified that the Utah model would strengthen the impact of LB 103, which was passed during the previous session.

Sarah Curry testified in support on behalf of The Platte Institute. She commented that this is an extension of LB 103 and puts teeth in current law. She provided results from an institute poll that said 77% of respondents supported mailed notification of property tax hearing. She commented that there is no

mechanism to check if all tax entities are complying with law and holding hearings. She noted that other states including IL, MN, TX and AZ have implemented measures similar to the Utah model.

Written testimony in support of the bill was provided by the Nebraska Chamber of Commerce and the Nebraska Bankers Association

### Opponents

Lynn Rex testified in opposition on behalf of the League of Municipalities. She outlined a number of unworkable issues with the bill. The first being related to the timeline and the issues the bill would create with meeting the filing deadline. She expressed concern over the hearing process, providing an example for Polk County, where there are 29 Political Subdivisions that would all have to come together at 1 hearing. She raised the issue of how political subdivisions with jurisdiction in multiple counties would determine where to hold a hearing.

Jon Cannon testified in opposition on behalf of NACO and raised the same concerns outlined by Lynn Rex.

Colby Coash testified in opposition on behalf of the Nebraska Association of School Boards. He noted that provisions of LB 148 just passed last session, already require separate hearings to be noticed and conducted for budgets.

Written testimony in opposition was submitted by the Nebraska Community College Association and Lancaster County.

### Neutral

No neutral testimony was provided and a letter in the neutral position was submitted by Open Sky.

In closing, Sen. Hansen noted that the postcard is key and what gets people interested. He addressed some questions raised by opponents and noted that the bill allows for an extra week by pushing the filing deadline to September 27<sup>th</sup>. He also noted that hearings would not be too large to manage because the bill lists that only specific subdivisions are required to participate, so not all would be at the hearings. He also noted that the postcards would be shared cost only of those subdivisions raising taxes.

### ***LB 189 - Change provisions relating to property tax refunds. Halloran***

Provisions of LB 189 were incorporated into LB 644 via AM 854 by a 35-1 vote. LB 644 was advanced to Final Reading this week and a summary of the bill can be found beginning on page 5 of this report.

The Revenue Committee reported LB 189 to General File on March 12<sup>th</sup> following a 7-0-1 vote.

The bill proposes to change procedures for making a property tax refund. Under the bill, if sufficient funds are not available, the county treasurer shall register the refund which remains unpaid as a claim against each political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim.

The bill eliminates existing language regarding the political subdivision certifying to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund is paid. It adds language to require the political subdivision to make provisions in its next budget for the refund claim amount. The bill also eliminates the five-year allowance for refund.

### *The Revenue Committee accepted testimony on LB 189 on February 10<sup>th</sup>*

During his opening remarks, Sen. Halloran mentioned the Mid-America Agri Products-Wheatland (MAP-W) ethanol plant in Madrid, Nebraska, protested their taxes and found that they were being charged double what they should have owed. Perkins County owed the MAP-W ethanol plant a repayment of nearly \$110,000. Per statute, political subdivisions can declare a hardship and not have to make the repayment. This bill would



require them to include the repayment in their next budget to ensure the taxpayer, who was overcharged receives their money. He noted that the MAP-W ethanol plant is just one example of a taxpayer not being repaid and we need to hold political subdivisions to repayments.

### Proponents

David Bracht, attorney at Kutak Rock representing MAP-W ethanol plant, testified in support. Bracht noted that MAP-W employs 30-35 employees in Madrid and has some of the highest salaries in Madrid and Perkins County. He said the hardship clause in statute, doesn't have a specific meaning other than the repayment would interfere with the government operation. The political subdivision also doesn't have to pay interest on that repayment unless it is still unpaid after five years. Bracht asked the committee to contrast that with the taxpayer, who pays 14 percent interest if they don't pay their taxes in first year and could lose their property if they don't eventually pay.

Frederick Stehlik, attorney with Gross and Welch and represented MAP-W on various tax appeals, testified in support. Frederick noted that it can take some time for the clock to even start on repayment. In MAP-W's case, they appealed the 2017 tax valuation and three years later the Nebraska Supreme Court heard the case and made a judgement, which then started the five-year clock for the county to make repayment. Frederick noted there is no way for the taxpayer to enforce repayment of the taxes and they can't ask the political subdivision to take the repayment off the next year's taxes. He said it's essentially an interest-free loan for the political subdivision and there is no rule that says the political subdivision can't come back the next year and raise the taxes back up. He noted when the ethanol plant or another manufacturer is the largest employer, this can happen.

Robert Lundeen, CEO of MAP-W and Mid-America Bio Energy, testified in support. Lundeen noted that in the early 2000s they built two ethanol plants – one in Cambridge and one in Madrid. They have a board member who serves on both ethanol plant boards, and they discovered that the Cambridge plant was valued at 50 percent less than the Madrid plant even though they were identical. Lundeen noted the board tried to be respectful as a member of the community and employer in Perkins County, but the fact that they were being charged twice than an identical plant 80 miles away was not OK. Lundeen said his board directed him to take action and they started litigation and exhausted their means, and now they are before the legislature pleading for fairness. We buy 16 million bushels of corn in the area and we help increase the value of the corn basis. Lundeen noted that if it's happening to them, it's happening to others but since their revenue is larger, they went through the extra cost to litigate it. He said counties are indebted to various taxpayers.

Don Kain, representing himself and the Independent Cattlemen of Nebraska, testified in support. He noted that he just raises cows and is not a CEO of anything, but his ranch in Custer County had a 250% tax increase in one year. He noted he has two Nebraska Supreme Court decisions in his favor and has only received one partial payment (\$12,000 of \$18,000) for being overtaxed. He noted he is concerned the county will use the hardship clause to hurt him financially and get out of repaying him. He said it's such a ludicrous situation in Custer County and it's happening across the state, not only to the big guy but also the little guy. He said he often gets phone calls from people who are going through this same situation and would try to provide a list for the committee.

### Opponents

Jon Cannon, NACO, testified in opposition. He noted that in some cases the hardship clause is certainly needed as in case of MAP-W the village of Madrid's repayment would have been 1/3 of their budget. He said, the clause is for the benefit of all taxpayers, because the levy would have to be increased for everyone to offset the repayment. The reason the hardships are in statute is because the burden would be shifted onto every other taxpayer. Cannon noted that Perkins County repaid the settlement, however the ESU, NRD and smaller subdivisions still have the judgment outstanding.

Lynn Rex, League of Municipalities, testified in opposition. Repayment might become a levy issue and come down to issuing a bond, vote of the people, etc. Rex noted that the hardship line is critically important as in the case of the village of Madrid with it being 1/3 of the budget. Rex note if there is budget capacity, the political subdivision would get it paid because they don't want that repayment sitting on their books. Rex said she didn't believe this bill is ready to pass, because there is more information that is needed like how many refunds are pending and how widespread of an issue this is.

### Neutral

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

In closing, Sen. Halloran said that Sen. Flood hit it on the head, "it's not their money." He said it's about equity and fairness for the taxpayer, and it's essentially an interest-free business loan for the political subdivision.

## **Final Reading**

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

The Legislature gave final approval to LB 9 on April 29<sup>th</sup> by a 46-0-3 vote. The bill now awaits action of Governor Ricketts.

Previously, the Legislature advanced LB 9 to Select File on March 30<sup>th</sup> by a 42-0 vote after adopting AM 231 on a 38-0 vote. On Select File, senators advanced the bill to Final Reading on April 14<sup>th</sup> following a voice vote.

The Urban Affairs Committee reported LB 9 to General File with AM 231 on February 18<sup>th</sup>, 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 9<sup>th</sup>*

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

State senators gave final approval to LB 501 on April 29<sup>th</sup> by a 48-0-1 vote. The bill now awaits action of Governor Ricketts.

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

Previously, the Legislature advanced LB 501 to Select File on April 1<sup>st</sup> 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 10<sup>th</sup> 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 4<sup>th</sup>.*

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

State senators gave final approval to LB 507 on April 29<sup>th</sup> by a 48-0-1 vote. The bill now awaits action of Governor Ricketts.

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

Previously, the Legislature advanced LB 507 to Select File on March 25<sup>th</sup> 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 23<sup>rd</sup>. 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 27<sup>th</sup>.

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.

**State Budget Bills Signed into Law**

Senators gave final round approval to the state budget bills last week. The bills were signed into law on April 26, 2021 by Governor Ricketts without any vetoes.

The \$9.7 billion budget keeps state spending growth at 1.6% for the two-year biennium. The budget 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 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 379e - Provide, change, and eliminate provisions relating to appropriations. Speaker Hilgers, at the request of the Governor.***

The Legislature passed LB 379 on April 20<sup>th</sup> by a 47-0-2 vote. The bill was presented to the Governor on April 20<sup>th</sup> and was signed into law on April 26<sup>th</sup>.

Previously, the Legislature advanced LB 379 to Final Reading on April 13<sup>th</sup> on a voice vote. On April 4<sup>th</sup> the bill was advanced to Select File 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 1<sup>st</sup> 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 380e – 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 passed LB 380 on April 20<sup>th</sup> by a 47-0-2 vote. The bill was presented to the Governor on April 20<sup>th</sup> and was signed into law on April 26<sup>th</sup>.

Previously, the Legislature advanced LB 380 to Final Reading on April 13<sup>th</sup> 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.

On April 4<sup>th</sup>, the Legislature advanced LB 380 to Select File 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 1<sup>st</sup> with AM 393. The amendment (AM 393) became 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 26<sup>th</sup>.***

#### 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 departments 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 25<sup>th</sup> 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 1<sup>st</sup> 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 383e - Appropriate funds for capital construction. Speaker Hilgers, at the request of the Governor.***

The Legislature passed LB 383 on April 20<sup>th</sup> by a 38-2-9 vote. The bill was presented to the Governor on April 20<sup>th</sup> and was signed into law on April 26<sup>th</sup>.

Previously, the Legislature advanced LB 383 to Final Reading on April 13<sup>th</sup> on a voice vote. The bill was advanced to Select File on April 9<sup>th</sup> by a 37-3 vote after adoption of 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 384e - Provide for transfers of funds and change permitted use of a fund. Speaker Hilgers, at the request of the Governor.***

The Legislature passed LB 384 on April 20<sup>th</sup> by a 41-0-8 vote. The bill was presented to the Governor on April 20<sup>th</sup> and was signed into law on April 26<sup>th</sup>.

Previously, the Legislature advanced LB 384 to Final Reading on April 13<sup>th</sup> 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.

The bill was advanced to Select File on April 4<sup>th</sup> by a 44-0 vote after adoption of AM 396 on a 44-0 vote.

The Appropriations Committee reported LB 384 to General File on April 1<sup>st</sup> with AM 396. The amendment (AM 396) became 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 and was passed and signed into law by Governor Ricketts. A summary of LB 380 is included above.

The bill appropriates \$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 26<sup>th</sup>.*

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
<b>Agency 84 - Department Environmental &amp; Energy</b>									
Program 513, 586, 587, 588 - NDEE <sup>1</sup>	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
		<sup>1</sup> 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	\$ -	\$ -	\$ -	\$ -
<b>Agency 33 - Game &amp; Parks Commission</b>									
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 <sup>2</sup>	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
		<sup>2</sup> \$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	\$ 969,988	\$ 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							
<b>Agency 29 - Department of Natural Resources</b>									
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 Fund Transfer	\$ 11,000,000	\$ 11,000,000	\$ 11,000,000	\$ 11,000,000	\$ -	\$ -	\$ -	\$ -
		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
<b>Agency 51 - University of Nebraska</b>									
Robert B. Daugherty Water for Food Global Institute	General Fund	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ -	\$ -	\$ -	\$ -
			\$ -					\$ -	\$ -
		<sup>1</sup> The increases in the Committees proposal reflect NDEE absorbing water quality programs formally housed at DHHS.							
		<sup>2</sup> \$5,000,000 Cash Fund increase is included in Committee proposal for wildlife damage reimbursement, which shall only be used for such purpose.							

## **Governor Action**

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

The Legislature passed LB 65 on April 20<sup>th</sup> by a 48-0-1 vote. The bill was presented to the Governor on April 20<sup>th</sup> and was signed into law on April 23, 2021.

Previously, the Legislature advanced LB 65 to Final Reading on April 12<sup>th</sup> by a voice vote. The bill was advanced to Select File on April 6<sup>th</sup> by a 41-0 vote.

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

The bill makes minor changes 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 10<sup>th</sup>**

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 passed LB 414 on April 20<sup>th</sup> by a 47-0-2 vote. The bill was presented to the Governor on April 20<sup>th</sup> and was signed into law on April 23, 2021.

Previously, the Legislature advanced LB 414 to Final Reading on April 12<sup>th</sup> on a voice vote. The bill was advanced to Select File on April 6<sup>th</sup> by a 41-0 vote. The Government Committee reported LB 414 to General File on February 16<sup>th</sup> 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 4<sup>th</sup>.*

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.