

February 19, 2021

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 19 NARD Update

Floor Action

LB 148 - Transfer certain environmental safety programs to the Department of Environment and Energy. Bostelman.

The Legislature advanced LB 148 to Select File on February 16th by a 40-0 vote after adopting AM 28 by a 35-0 vote.

Previously, the Natural Resources Committee advanced LB 148 to General File on February 4th on an 8-0 vote with Committee Amendment AM 28. The amendment clarifies that water uses includes wastewater, specifies the identity of the directors, and changes the expiration date of licenses to December 31 each year.

The bill proposes to transfer the following powers and duties from the Department of Health and Human Services to the Department of Environment and Energy: A) Relating to testing of water samples and B) Issuance of licenses and permits, fees, water well contractors, recreation camps, swimming pools, mobile home parks, and drinking water.

There are no changes to the make-up of the Water Well Licensing Board. However, there are additional conflict of interest provisions and per diem requirements proposed. These include:

- No board member shall take any action or make any decision in the discharge of the duties of a member of the board that may constitute a conflict of interest. As soon as a member is aware of a potential conflict or should reasonably be aware of such potential conflict, whichever is sooner, the member shall submit a written statement to the Director of Environment and Energy describing the matter requiring action or decision and the nature of the potential conflict.
- The member shall take such action as the director shall advise or prescribe to remove the member from influence over the action or decision on the matter.
- Conflict of interest includes financial, professional, or personal obligations that may compromise or present the appearance of compromising the judgment of a member in the performance of the duties of a member of the board. The director may establish a definition of conflicts of interest for members of the board and may establish procedures in case such a conflict arises.
- Each member of the board shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of the duties of a member of the board, including compensation for the time spent in traveling to and from the place of conducting business.

- The compensation per day shall not exceed fifty dollars and shall be determined by the board with the approval of the department. The department shall be responsible for the general administration of the activities of the board. The cost of operation and administration of the board shall be paid from the General Fund and the Water Well Standards and Contractors' Licensing Fund.

Relating to testing of water samples, the director shall certify and enter into authorization agreements with laboratories to perform tests on water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes. The director shall establish, through rules and regulations, standards for certification.

Such standards (i) may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results, (ii) shall provide for certification of independent laboratories to test samples provided by public water systems for all acute toxins for which the department tests such samples, including, but not limited to, coliform, nitrates, inorganic chemicals, organic chemicals, radionuclides, and any other acute toxins for which the department tests such samples, and (iii) shall be consistent with requirements for performing laboratory tests established by the United States Environmental Protection Agency to the extent such requirements are consistent with state law.

The director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification.

Inspection fees and fees for certifying other laboratories shall be established and collected to defray the cost of the inspections and certification.

Laboratories shall be allowed to test water samples which are not compliance samples by testing methods other than the methods and procedures required to be used on compliance samples by rules and regulations of the department. For purposes of this section, compliance sample means a water sample required under the Nebraska Safe Drinking Water Act and rules and regulations of the department to determine whether a public water system meets current drinking water standards.

The Natural Resources Committee accepted testimony on LB 148 on January 27th.

During his opening, Senator Bostelman mentioned he would be providing AM 28, which simply makes 3 clarifying changes and no technical changes to the bill. He mentioned that since 2005 NDEE and DHHS have been operating under a series of MOA's and this bill would simply formalize what is already occurring.

Proponents

Director Jim Macy testified in support of LB 148 on behalf of NDEE. He highlighted that NDEE has been running the various programs in this bill under a Memorandum of Agreement for the last 3.5 years. This bill will transfer the physical assets and funds from DHHS to NDEE. Macy outlined that NDEE has been able to provide better service to communities across the state and anticipates no changes to the way the programs are run. He also mentioned the Safe Drinking Water Act and the Clean Water Act programs are both delegated to the state from EPA so it makes sense to have them both under the same agency.

Bo Botelhom, General Counsel for the Department of Health and Human Services, said DHHS & NDEE have been operating under a MOA and working towards transferring these programs and LB 148 would make this transfer official. This bill would properly consolidate the programs and would better serve Nebraskans.

Lee Orton, Executive Director of the Nebraska Well Drillers Association, testified in support of LB 148. Lee highlighted the program transfer under the MOA has worked very well over the last 3.5 years. Nebraska is recognized nationally for the success of our water well programs. Lee mentioned the well drillers were not necessarily pleased when the transfer first happened, but it has worked very well and the Well Drillers Association looks forward to working with the NDEE leadership. Lee said this move needs to be made official so we can move forward with the programs.

Opponents

No testimony was provided in opposition to the bill.

Neutral

Larry Nennekmap, Wastewater Supervisor, representing 476 communities across Nebraska and provides assistance in regulatory compliance testified in the neutral capacity. Larry mentioned many communities lack resources needed to run a water system. His concern with the transfer of these programs from DHHS to NDEE is that there will be a lack of training and technical assistance needed by smaller communities. His other concern is the programs are public health programs and not environmental programs. He said NDEE needs to make a commitment that the environmental side of things does not overshadow public health.

Letters of support were sent in from City of Blair, Lincoln, Omaha, Fremont, Village of Waunetta and the Department of Defense.

Committee Action

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

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 83 - Change the Open Meetings Act to provide for virtual conferencing. Flood.

The Government Committee reported LB 83 to General File with AM 127 on February 16th following an 8-0 vote. 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 web site 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 web site 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 collation 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 testimony 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 contract to current law of all documents considered at the meeting. He also noted he's 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.

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

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. She noted the bill would authorize the use of design build for water infrastructure projects. She noted that 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 9 - Change annexation requirements and property tax special valuation provisions. Blood.

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 242 - Provide for county bridges under the Political Subdivisions Construction Alternatives Act. Brandt.

The Government Committee reported LB 242 to General File on February 17th with AM 242 following a 7-0-1 vote. The Committee Amendment (AM 233) removes provisions relating to the County Bridge Match Program and the proposed new County Bridge Incentive Program from the bill.

With the amendment, the bill proposes to allow counties to use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for a project, in whole or in part, to repair, retrofit, reconstruct, or replace any bridge.

The original bill referencing to the County Bridge Incentive Program and County Bridge Match Program will be eliminated upon adoption of the committee amendment.

The Government, Military & Veterans Affairs Committee accepted testimony on LB 242 on February 4th.

Senator Brandt opened by offering AM 63, which replaces the bill. He noted the amendment addresses concerns raised by NDOT and eliminates the reference to the County Bridge Match Program. The amendment allows the county to use design-build and adopt a resolution which provides for project payment on a set schedule over a period of time that extends beyond the completion of construction.

He commented that this allows the construction to start sooner rather than saving funds over a period of years to pay for the bridge at one time. He also stressed that inflation costs on bridges exceed the average rate of inflation. He outlined the need for the bill by noting that 2% of all county bridges across the state are closed due to necessary repairs or replacement.

Proponents

Rick Vest testified in support on behalf of the Lancaster County Board of Commissioners. He commented that this bill provides counties a tool to address closed and damaged bridges without raising property taxes. He noted that the bill grants counties use of the same authority that was used for financing the south Lincoln beltway.

Jon Cannon testified in support on behalf of NACO. He commented that the bill benefits all counties across Nebraska. He provided a committee with an example cost for county bridge repair, noting shorter bridges average \$250K and longer bridges average \$750K in cost.

Todd Wiltgen testified in support on behalf of the Lincoln Chamber of Commerce. He noted that this would allow counties to better address repairs during emergency situations.

Matthew Manning owner of a construction company offering design-build services testified in support of the bill. He told the committee there are 20 to 30 bridge contractors that actively work in Nebraska and that most of them can support financing county bridge projects. He commented that contractors can offer and provide services that will help counties get projects done quickly and more economically.

The Nebraska Corn Growers Association submitted written testimony in support. The Nebraska Cooperative Council submitted a letter in support.

Opponents

There was no opponent testimony.

Neutral

Dallas Jones testified in a neutral capacity on behalf of the Lincoln Independent Business Association. He commented that LIBA fully supports investment in infrastructure, but they have concerns over potential

unintended consequences. He expressed concern that the bill would effectively allow political subdivisions to bond without a vote of the people. He also expressed concern that the interest rates provided by contractors could be higher than standard bonding rates.

During closing, Senator Brandt commented that this is not just a bill to benefit Lancaster County, and that it would potentially benefit all 93 counties. He also noted that the bill would allow for additional savings by allowing counties to contract for multiple bridges at a time.

The Following Bills Had Hearings This Week

LB 576 - Appropriate funds to the University of Nebraska. Bostar.

The bill appropriates \$50,000 annually from the General Fund for FY2021-22 and FY2022-23 to the Institute of Agriculture and Natural Resources and the Cooperative Extension Program for research on climate change and produce an updated version of the Assessing Climate Change report released in 2014. The Legislature intends for such report to be delivered electronically to the Governor and the Legislature by December 1, 2022.

The Appropriations Committee accepted testimony on LB 576 on February 16th.

The Appropriations Committee accepted testimony on LB 576 on the day that rolling blackouts were occurring in Nebraska and other mid-western states do to the shortage of power throughout the Southwest Power Pool service area. Many wind and solar generation systems failed during the cold snap and that shifted much of the discussion during the hearing about policies on power generation.

Senator Bostar opened with claims that there are updated climate models and Nebraska needs to take the new data into account. He outlined that the biggest impacts are going to be industries, and in Nebraska the biggest impact is to agriculture. He noted that the updated report will not include a plan but will update the data specific to Nebraska so local and state policy makers can make decisions. He stated that Nebraska is behind other states that update the reports annually.

Senator Hilkelman asked what we could have done to prepare for the cold streak, specifically would we have stopped building wind generation that doesn't work in the cold?

Senator Erdman asked if we get this updated report, would we be able to predict the cold weather that happened this week? Senator Bostar acknowledged that the data can't predict specific events.

Proponents

Martha Shulski, State Climatologists for UNL, testified in support of the bill. She testified that we have more severe climate problems in Nebraska, noting the floods of 2019 as an example. She stressed the need to keep up on current climate trends for earlier warning systems and managing risk. She noted the Climate Science department is assisting the City of Lincoln, so they do not run out of water. She claimed to be working with the Department of Natural Resources and NRDs to develop plans to mitigate the impacts of climate change.

Shulski further claimed that the current cold streak is a pattern from climate change, outlining that due to climate change, events are now magnified from the events in the past. She told the committee that the February weather is 5 degrees colder than it was 30 years ago. The arctic is warming so the change in the jet stream is causing the cold to shift over the last 30 years.

Sen. Erdman commented that there used to be an ice cap in Nebraska and asked what human activity changed that? Shulski noted it was a shift in the axis of the earth.

Sen. Stinner asked if we would have acted on the report in 2014, would we have put \$6 million in the emergency fund rather than \$4 million? Are we really talking about putting more funds into risk management? Noting he's not really interested in updating a study as he is doing disaster planning. Shulski noted additional funds are needed for disaster planning, but the report would show other programs that need to be funded and other policy changes.

Stonie Cooper, Mesonet Manager for the Climate office, testified in support and noted that the new data needs to be incorporated into the report.

Ken Winston, Nebraska Interfaith Power and Light, testified in support and claimed new information would help us be prepared for floods and drought. It would help farmers plant different crops that fit our new climate. He also noted the new data would show there is a lot of low-income people in Nebraska that could use assistance for housing and nutrition.

In his closing, Senator Bostar claimed is it imperative as state lawmakers to get all the important information needed for making policy decisions.

There were two letters of support and two letters of opposition submitted for the record. The Committee reported no action on the bill.

LB 622 - Limit the growth of real property valuations and provide for adjustments to assessed values. Friesen.

The bill proposes to limit the growth of real property values to not exceed three percent per year.

For nonagricultural real property for any year shall not be more than three percent greater than the total assessed value of all such property in the prior year, excluding any new growth occurring since the prior year's assessment. If the rate of growth exceeds three percent, the Tax Commissioner shall calculate an adjustment ratio to uniformly and proportionately adjust the assessed value of all such property so that the limit is not exceeded.

For agriculture lands, the limit is a three percent increase in values. If the rate of growth exceeds three percent, the Tax Commissioner shall calculate an adjustment ratio to uniformly and proportionately adjust the assessed value of all such property so that the limit is not exceeded.

The Revenue Committee accepted testimony on LB 622 on February 17th.

In his opening, Senator Friesen noted that his goal was to limit growth in property valuations. He gave an example of Hall county where commercial properties increased 150-200% in value in one year – The owners were not arguing the value, but the rapid increase in the value in one year rather than spreading the increase over time. It makes it difficult for the property owners to make the adjustment all in one year.

Proponents

There were no proponents. Written testimony in support of the bill was submitted by the Nebraska Federation of Independent Business and the Nebraska Bankers Association.

Opponents

Jon Cannon, NACO, testified in opposition outlining the unintended consequences of the bill. He noted when you ratchet down values artificially, it magnifies the problem as not all commercial properties are changed every year. This would result in some commercial properties that would go down artificially every year.

Connie Knoche, Open Sky Institute, testified that the bill would reduce revenue for schools and other government. For example, 192 school districts would have seen reductions in value if the bill were in effect in 2019. She also noted Ag values went down in 2019 and commercial went up. The bill would lower values for commercial and shift the taxes back to ag.

Craig Keebler, NACO, noted there are some properties that have doubled in value because they have not been reviewed in a while.

Kyle Fairbairn testified in opposition on behalf of the Greater Nebraska School Association, Nebraska Council of School Administrators and the Nebraska School Board Association. He outlined concern that the bill would force 155 school districts to increase their levy.

Lynn Rex testified on behalf of the League of Municipalities. She expressed concern over unintended consequences and the risk of lost revenue for local governments.

Neutral

There was no neutral testimony.

In his closing, Senator Friesen noted that it was not intended to be a property tax relief bill, as there are other ways to do that. The issue is trying to address the under-valuing of commercial property. If they are under by 150-200%, the problem may be bigger than some think.

Two position letters in support of the bill and two letters in opposition of the bill were submitted for the record. The Committee reported no action on the bill.

The Judiciary Committee accepted testimony on LB 52 and LB 139 jointly on February 18th. **Summaries of the bills follow and the notes from the hearing follow the summaries.**

LB 52 - Provide for immunity for injury or death resulting from COVID-19 exposure. Lathrop.

Under the proposal, no person shall be liable in any civil action for any injury or death resulting from an alleged exposure to COVID-19 if such exposure occurred after the effective date of this act.

For purposes of the bill, (a) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom; and (b) Person means (a) any natural person, sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, business trust, estate, trust, unincorporated association, or joint venture, (b) the State of Nebraska and any political subdivision of the state, (c) any public or private school, college, university, institution of higher education, religious organization, or charitable organization, or (d) any other legal or commercial entity.

LB 139 - Adopt the COVID-19 Liability Protection Act. Briese.

The bill proposes some liability protection for first responders, health care workers, person, business, political subdivision, organizations, entities from lawsuits related to COVID-19.

Under the bill, an individual shall not bring or maintain a civil action seeking recovery for any injuries or damages sustained from exposure or potential exposure to COVID-19 unless the plaintiff can prove, by clear and convincing evidence, that the civil action relates to a minimum medical condition resulting from gross negligence or willful misconduct.

Under the proposal, the following definitions are used:

- Person means: (a) any natural person, sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, business trust, estate, trust, unincorporated association, or joint venture, (b) the State of Nebraska and any political subdivision of the state, (c) any school, college, university, institution of higher education, religious organization, or charitable organization, or (d) any other legal or commercial entity.
- First responder includes state and local law enforcement personnel, including University of Nebraska police department personnel, fire department personnel, emergency medical personnel, ambulance service provider personnel, emergency management personnel, and public works personnel who may be deployed in response to a COVID-19 state of emergency.
- Gross negligence means a conscious, voluntary act or omission in reckless disregard of (a) a legal duty, (b) the consequences to another party, or (c) applicable government standards or guidance.
- Health care facility means (a) any facility in which health care services are provided, including, but not limited to, any health care facility, health care practitioner facility, hospice facility or program, elder group home, assisted-living program, and any other licensed or state-approved facility providing health care or (b) any field hospital, modular field treatment facility, or other facility designated by the Department of Health and Human Services or the Nebraska Emergency Management Agency for temporary use for the purpose of providing health care services related to a COVID-19 state of emergency;
- Health care provider means (a) a person who is licensed, registered, permitted, or certified in any state to provide health care services, whether paid or unpaid, including persons engaged in telemedicine or telehealth, and any employee, agent, or contractor of such person, (b) an emergency medical technician who is licensed in any state, or (c) a volunteer or military personnel who are approved by or work under the direction of the Department of Health and Human Services or the Nebraska Emergency Management Agency and who provide health care services in response to a COVID-19 state of emergency in the State of Nebraska.
- Health care service means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect an individual's physical or mental condition.
- Minimum medical condition means a diagnosis of COVID-19 that requires inpatient hospitalization or results in death;
- Premises means and includes any physical place, any real property, and any appurtenant building or structure serving a commercial, residential, educational, religious, governmental, cultural, charitable, or health care purpose.

A person shall not bring or maintain a civil action seeking recovery for any injuries or damages sustained from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was permitted by, in substantial compliance with, or consistent with any federal or state statute, regulation, or order or public health guidance related to COVID-19 that was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure.

A person who owns, occupies, possesses, or is in control of a premises, including a tenant, lessee, or occupant of a premises, who directly or indirectly invites or permits an individual onto a premises for any purpose, shall not be liable in any civil action seeking recovery for any injuries or damages sustained from the individual's exposure or potential exposure to COVID-19, whether the exposure or potential exposure occurs on the premises or during any activity managed by the person who owns, occupies, possesses, or is in control of a premises, unless the plaintiff can prove, by clear and convincing evidence, that the person who owns, occupies, possesses, or is in control of the premises engaged in gross negligence or willful misconduct that caused the individual's minimum medical condition.

The COVID-19 Liability Protection Act shall not be construed to (1) create, recognize, or ratify a claim or cause of action of any kind, (2) eliminate or satisfy a required element of a claim or cause of action of any kind, (3) affect the rights or limits under the Nebraska Workers' Compensation Act, or (4) abrogate, amend, repeal, alter, or affect any statutory or common law immunity or limitation of liability or constitute a waiver of the sovereign immunity of the State of Nebraska.

Notwithstanding any other provision of law, any civil action seeking recovery for any injuries or damages sustained from exposure or potential exposure to COVID-19 shall be brought within two years after the cause of action shall have accrued.

The COVID-19 Liability Protection Act shall apply to any cause of action accruing on or after the effective date of this act and before the earlier of (1) December 31, 2022, or one year after the end of the COVID-19 state of emergency.

The Judiciary Committee accepted testimony on LB 139 and LB 52 jointly on February 18th.

Senator Briece opened on LB 139 by outlining the need to implement protections and provide confidence for businesses and schools to aid in reopening. He stressed that the bill provides protections only for those that are trying to follow guidance on protections under the pandemic. Those that do not follow guidance would not have protection under the bill.

The bill provides that a plaintiff must prove gross negligence or willful misconduct. He stressed the need to raise the bar to provide protection for businesses, education and healthcare providers. Over 20 states have implemented similar legislation and that similar legislation has been proposed on the federal level. He noted that the bill does not apply retroactively. He stressed the bill will encourage adherence to public health guidance and that it contains a sunset provision.

During questioning committee members asked what would be considered gross negligence? Sen. Breise noted that would be a question of fact and left for the fact finder to determine what constitutes gross negligence.

Senator Lathrop introduced LB 52 by noting it is a simple bill that offers immunity, and that it was brought solely to allow for conversation about the topic. He noted that he is not aware of any lawsuits or threat of claims. He expressed that he does not see a need for the bill but noted that if there is a problem that needs addressed, he would rather introduce immunity than pass legislation that enacts the elements of LB 139.

Question about retroactivity of bill? Sen. Lathrop noted that past decisions from the Supreme Court have the legislature cannot retroactively negate individual right for action.

Proponents

Mark Schorr testified on behalf of the Nebraska Chamber, Greater Omaha Chamber, Lincoln Chamber, League Municipalities, American Property Causality Insurance, Hy-Vee, Nebraska Insurance Association, and more than 60 other statewide organizations in support of LB 139.

Schorr noted the economic burden is placed on business and organizations as they cannot get insurance coverage for this. The insurance companies are placing exclusions in policies now. Further, there has been advertisements in national media outlets to encourage individuals to contact a law firm if they wanted to file action for getting COVID-19.

He noted this is a middle ground approach that allows economy to get moving again. He noted the bill is largely based on Iowa law, but incorporates components of laws passed in several other states. He also reiterated that the bill does not jeopardize worker protections. Schorr stressed that the bill not only provides protections for businesses, but also applies to non-profits, religious organizations, and governmental subdivisions.

Emily Bottorf testified in support of LB 139 on behalf of the Nebraska Defense Council Association. Her testimony noted that the current body of negligence law is not a good fit for these types of lawsuits. Even if burden of proof is hard to overcome, the cost of litigation would be expensive. Bottorf noted that while we're not seeing the claims in Nebraska now, they are occurring in other areas.

Mark Whitehead testified in support on behalf of the Nebraska Petroleum Association and the Nebraska Grocers Association. He noted their industries did not have the luxury of shutting down. He claimed they are doing the best job they can to follow guidelines and continue providing services that customers need and this bill would provide added protection.

Jerry Stilmock testified in support for the Nebraska Federation of Independent Businesses. He claimed small businesses are doing everything they can to stay open, and without the protection from litigation, the cost of litigating claims would be a difficult burden.

Andy Hale testified on behalf of the Nebraska Hospital Association in support of both bills. He noted that while hospitals have provided high quality care despite ongoing challenges, they need to be able to operate with the peace of mind and sense of calm without the worry of being sued.

Heath Boddy testified in support of LB 139 on behalf of the Nebraska Healthcare Association. His testimony outlined the issues healthcare providers are facing regarding liability insurance and he noted that the perceived risk of COVID suits is driving costs higher.

Colby Coash testified in support of LB 139 on behalf of the Nebraska Association of School Boards, the Nebraska Council of School Administrators, and the Rural Schools Association. He noted the bill would provide targeted liability protection that would help keep schools open. He spoke about the issue of reinsurance companies not providing coverage for COVID claims and noted that it is adding a barrier to keeping schools open.

Dallas Jones testified in support on behalf of LIBA. He noted this is a critical function in providing protection for small businesses. He claimed the cost of just a threat of a suit can be too much for business and could lead to some businesses permanently closing.

Opponents

Johnathon Urbom testified in opposition of LB 52 and LB 139 on behalf of the Nebraska Association of Trial Attorneys. He noted Nebraska has had 26 COVID complaints filed as follows: Ten civil action cases for group gatherings; Six labor related cases; five contract dispute cases; and one miscellaneous case. He told the committee that nationally COVID exposure litigation is not widespread. He spoke about concern of injecting foreign terms into negligence law that are not there now. He also expressed concern about the minimum injury standard not being seen anywhere else in Nebraska law.

Felicia Hilton testified in opposition on behalf of the Nebraska Labor Unity Council. Her testimony focused on concerns about changing standard of proof. She noted they feel current law does protect businesses from these types of suits and the standard of proof should not have to change.

Todd Stubbendick testified in opposition of LB 139 on behalf of AARP Nebraska. He noted they are opposed expanded immunity and liability protections for nursing homes and residential care centers.

Shayla Reed, an Attorney for Victims of Nursing Home Neglect testified in opposition on behalf of the Nebraska Association of Trial Attorneys. Her testimony focused on the lack of evidence showing the need for either bill. She noted the bill is especially dangerous for nursing home residents.

Neutral

No Neutral testimony was submitted.

More than 20 letters in support of the legislation were submitted by organizations including letters from NACO, Nebraska Bankers Association, League of Municipalities, DHHS, Pharmacists Association, Community College Association, Enterprise-Rent-A-Car, Relators Association, Pinnacle Bank, Nebraska Credit Union, and University of Nebraska.

A few letters in opposition were submitted including from IBEW and Building Trades, Professional Firefighters Association and NASCA.

Closing on LB 139 Sen. Briese addressed concerns from opponents. He reiterated that bill would not decrease the precautions being taken by organizations. He noted that this is not tort reform and reminded the committee that the bill will sunset.

Closing on LB 52 Sen. Lathrop noted he only introduced the bill to be a part of the conversation. He claimed that while everybody in the state was represented, not one person came in and said there has been a claim, noting not one testifier could even reference a letter or threat from a lawyer. He commented that Government should only be involved when there is a problem. He closed by noting if this is an insurance issue, then maybe supporters should be at the banking committee.

**The Judiciary Committee accepted testimony on LB 54 and LB 71 at a joint hearing on February 18th.
Summaries of the bills follow and the notes from the hearing follow the summaries.**

LB 54 - Change immunity for intentional torts under the Political Subdivisions Tort Claims Act and the State Tort Claims Act. Lathrop.

The bill proposes that the Political Subdivisions Tort Claims Act does not apply to claims arising from such an act that is the direct result of the negligent failure of a political subdivision or an employee of a political subdivision to protect a person to whom the political subdivision or employee owes a duty of care.

LB 71 - Change provisions relating to intentional tort claims under the Political Subdivisions Tort Claims Act and State Tort Claims Act. Wayne.

The bill would allow claims based on acts committed by a third party as a result of negligence by a political subdivision or an employee of a political subdivision. Allows for the refiling of certain claims that had already been dismissed.

The Judiciary Committee accepted testimony on LB 54 and LB 71 at a joint hearing on February 18th.

Senator Lathrop opened on LB 54 by providing a background on a recent court case in Nebraska. The case involved two inmates that were placed in a cell together. The inmates got into a dispute and one strangled the other. The court concluded there was no liability as there was no intentional action by the state that caused the death. Senator Lathrop believes the prison personnel and the state should be responsible as they should have suspected the inmates did not get along.

The effect of the decision goes over to all others - example in schools where they don't do anything to stop bullying; nursing homes that have a worker that abuses patients. He reiterated the provisions in the bill would make government responsible for injury between two parties under their control.

In his opening on LB 71, Senator Wayne cited a situation where Omaha Police failed to arrest and jail an individual that was a threat to his girlfriend. The police did not have a cause of action to arrest but should have incarcerated him anyway, so he did not cause harm. The police detained and questioned him but later released him. The individual later went to his girlfriend's house and shot her.

He noted the difference between his and Lathrop's approach is his bill provides a five-year look-back.

Proponents

Lorrie Woods testified as an individual. Her special needs daughter was sexually assaulted at school. The class was under-staffed, and four students were left alone. Another special needs student sexually assaulted her daughter. The court ruled the school was not responsible.

Eric Brown, Injury and Workers Comp Lawyer. He had another similar case that ended up being a negotiated settlement as the previous court case ruled in favor of the school. Need a law change to protect individual from being placed in similar situations.

Opponents

Ryan Wiesen testified in opposition on both bills on behalf of the city of Omaha, City of Lincoln and the League of Municipalities. He noted the intent of sovereign immunity is to protect taxpayers from criminal acts of people they have no control over.

Wiesen noted there needs to be protection for police officers. Law enforcement officers cannot arrest and incarcerate individuals that have not committed a crime. Nor can police officers read the minds of individuals that may later commit a crime.

James Smith testified in opposition of both LB 54 and LB 71 on behalf of the Nebraska Attorney General's Office. He noted there is no cap on monetary damages for state tort claims and spoke about the adverse impact on Nebraska taxpayers. He claimed the bill would make taxpayers responsible for crimes committed by criminals. He noted that duty of care is not defined and claimed the bill should precisely define duty of care.

Neutral

No Neutral testimony was provided. Numerous letters in opposition of the bills were submitted for the record.

During closing Sen. Lathrop claimed the state and local government need to be responsible for individuals they have under their control.

Sen. Wayne closed by admitting there is a case that he is involved in that the bill may be involved in and under the rules, he does not have to file a conflict unless the bill reaches the floor. He mentioned that he was going after any bill the Attorney General has.

Numerous letters of opposition were filed.

The Committee reported no action on the bill.

LB 178 - Adopt the Infrastructure Improvement and Replacement Assistance Act and provide for a turnback of state sales tax revenue. Lindstrom.

The bill proposes to return a portion of the state sales tax collected on water and sewage service to political subdivisions or water utility that operate such systems to assist in repairs and improvements to such systems.

Refunds of sales taxes would be on the following schedules:

- For sales taxes imposed from July 1, 2021, through June 30, 2022: 36.36 percent;
- For sales taxes imposed from July 1, 2022, through June 30, 2024: 54.54 percent; and
- For sales taxes imposed on and after July 1, 2024: 72.72 percent.

Funds received under this section shall be used exclusively to assist in: (a) Paying for infrastructure improvements relating to constructing, upgrading, redeveloping, or replacing sewer and water infrastructure facilities; (b) Paying for the redevelopment and replacement of obsolete water or sewer facilities; or (c) Repaying bonds issued and pledged for such work.

It is the intent that funds received under the section be used to defer increases in sewer and water rates. Each political subdivision receiving funds under this section shall include, in its budget statement, the amount of funds received under this section and the percentage by which its sewer and water rates would have increased if not for the receipt of such funds.

The Revenue Committee accepted testimony on LB 178 on February 19th.

In his opening, Senator Lindstrom, noted the funding Nebraska has placed in other infrastructure such as roads and bridges. He noted we need to do more to help with our water infrastructure.

Proponents

Donna Garden, Assistant Director of Utilities for the City of Lincoln, testified in support noting it is important to keep their water and sewer systems operating and upgraded. To stay ahead of maintenance, the city upgrades seven miles of water lines every year. They spend over \$9 million a year in water service improvements, \$5 million on sewer improvements. Everything is paid for by ratepayers.

Under the proposed bill, the city would get \$1.3-2.7 million back per year to Lincoln under the bill.

Jim Theiler, Public Works Omaha, outlined the need to keep up with maintenance and growth to provide water to existing and new residents. The greater Omaha area has over 300 square miles of service area that needs to be maintained and improved.

Rick Kubat, Metropolitan Utilities District (MUD), pointed out they provide water to 600,000 people in the greater Omaha area. His testimony included data that shows only 3.7 percent of the water use in Nebraska is for domestic and industrial use and it is the only water use that is subject to sales and use tax. Also pointed out that the inputs purchased by MUD, such as new pipelines, are subject to sales tax.

The new federal rules that require upgrades of old pipelines. There is over 300 miles of water main in the service area. It costs over \$1 million to replace one mile of water line.

Lash Chaffin, League of Municipalities, pointed out that just over 500 cities/villages operate water systems, and over 450 operate sewer systems. The financial needs for cities and villages operating these systems are increasing. Twenty years ago, they had to test for about a dozen chemicals. Now water is tested for over 200 chemicals and it is not cheap.

NARD submitted a letter in support of the bill. In addition to protecting water quality and quantity, 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.

There was no testimony in opposition or neutral on the bill.

Over a dozen letters of support were submitted in support for the measure.

In his closing, Senator Lindstrom mentioned a similar bill came out of committee last year on a 7-0 vote. He did acknowledge that the fiscal note seems high but is willing to work with the interested parties to figure out a way to help communities in Nebraska to provide safe, affordable water for residents.

No action has been reported on the bill.

Hearings Continue Next Week

Hearing Protocols - Legislative hearings continue next week and the Legislature continues to utilize new protocols for testifiers and submitting testimony. Here is a summary:

- Hearings will run all day, rather than just afternoons. There will be a morning session from 9:30-noon and a second session starting at 1:30 pm.
- In person testimony is generally limited to 5 minutes, although the chair of each committee has discretion to modify that time limit.
- In lieu of in-person testimony, written testimony for the hearing record must follow these new guidelines:
 1. Submission of written testimony will only be accepted between 8:30 a.m. and 9:30 a.m. in the respective hearing room where the bill will be heard later that day.
 2. Individuals must present their written testimony in person during this time frame and sign the submitted written testimony record at the time of submission on the day of the hearing on the bill.
 3. The testifier must submit 12 copies. Failure to submit the required number of copies will result in the treatment of the submission as a position letter and not written testimony.
 4. The written testimony must be a written statement that is no longer than 2 single-spaced, typed pages or 4 double-spaced, typed pages in length.
 5. Only the written testimony from the person delivering the testimony will be accepted. No handouts, testimony, or letters from other individuals may be included outside of an individual's written testimony.
 6. Written testimony will be handed out to each member of the committee during the hearing and made available as part of the hearing transcript when the transcript is made public.

Failure to meet all of these procedures for submitted written testimony will result in the person providing the testimony to not be listed on the committee statement as a written testifier, however, the testimony will be included in the official hearing record as an exhibit.

- If you are not testifying in person on a bill or resolution, or submitting written testimony in person on a bill, but would like to submit a position letter to be included in the official hearing record as an exhibit, you must deliver your letter to the office of the committee chair or email it to the committee's email account by noon. CST on the last work day prior to the public hearing.

A list of the committee email accounts can be found at:

<https://nebraskalegislature.gov/committees/committee-emails.php>.

- In order to facilitate public input on legislation, a new feature has been added to the Nebraska Legislature's website for submission of written statements on pending legislation at any stage of the process.

To access this feature, use the Legislatures bill search feature and enter the bill you are interested in. Once the information for the bill comes up, there is a tab just below "History" labeled "Submit Written Statement for LB ...". Just click on that and you can submit up to 300 words.

These submissions will not be considered testimony or part of the public hearing record, but the submitted statements will be available on the UniNet for access by senators and staff throughout the session. Please note, there should be no expectation of privacy regarding comments submitted in this format. If a citizen uses the database to submit his or her views prior to the public hearing on a bill or resolution, this option will allow input to the members of the committee prior to any committee votes.

A full description of the public hearing process can be found at:

<https://nebraskalegislature.gov/committees/public-input.php>

Hearing Schedule – February 22-26, 2021

Tuesday, February 23rd

Transportation & Telecommunications Committee – Room 1113 – 1:30 PM

LB 166 - Provide for Josh the Otter-Be Safe Around Water Plates, create a fund, and provide powers and duties for Game and Parks. Geist.

The bill proposes to create the Josh the Otter-Be Safe Around Water Cash Fund under the control of the Nebraska Game and Parks Commission for the purpose of providing financial support for the education of persons about water safety in general and specifically for the education of children about staying away from water unless accompanied by an adult.

The commission shall use the Josh the Otter-Be Safe Around Water Cash Fund to award grants to nonprofit organizations that are dedicated to educating children about water safety. The grants shall be used by the recipient organization to support educating persons about water safety in general and specifically for the education of children about water safety.

The program would be funded by Josh the Otter-Be Safe Around Water Plates for motor vehicles.

In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Josh the Otter-Be Safe Around Water Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit such fees to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Josh the Otter-Be Safe Around Water Cash Fund.

In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Josh the Otter-Be Safe Around Water Plates shall be accompanied by a fee of forty dollars. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Josh the Otter-Be Safe Around Water Cash Fund.

The fund may also receive gifts, bequests, grants, or other contributions or donations from public or private entities.

Wednesday, February 24th

Revenue Committee – Room 1524 – 1:30 PM

LB 26 - Provide a sales tax exemption for residential water service. Wayne.

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.

Executive Board – Room 1525 – 12:00 PM

LB 605 - Create the Outdoor Recreation and Education Study Committee of the Legislature. Wishart.

The bill proposes to create the Outdoor Recreation and Education Study Committee of the Legislature to conduct an evaluation of outdoor recreational and educational opportunities in Nebraska.

The purpose of the committee would be to complete an appraisal of the state's outdoor recreation and education potential and prioritize the following goals:

- (a) Supporting the outdoor recreation economy of Nebraska and working toward equitable and inclusive access to the outdoors,
- (b) creating and developing an inventory of existing public and private resources promoting outdoor recreation and education,
- (c) coordinating outdoor recreation and education policy and management among federal, state, and local governmental entities,
- (d) assisting in promoting and marketing opportunities and events for outdoor recreation and education,
- (e) developing strategies to recruit and grow outdoor recreation businesses, to promote tourism, and to enhance recreation-related employment in Nebraska,
- (f) supporting outdoor and 14 community-based learning opportunities as a standard feature of education,
- (g) promoting education and the use of outdoor recreational assets to enhance public health,
- (i) collecting data on the impact of outdoor recreation and education in the state and the accessibility of natural resources for underserved populations, and
- (j) recommending initiatives to increase access to outdoor recreational amenities and experiences as well as to increase youth time spent outdoors during the school day, before and after school, and during the summer.

The committee should utilize research conducted by the Department of Natural Resources, the State Department of Education, the Nebraska Tourism Commission, the state's natural resources districts, Nebraska postsecondary educational institutions, the Department of Economic Development, additional

public and private sector entities experienced in outdoor recreation and education, and any other entity whose research the committee deems useful.

Weighting criteria should first be established in order to identify research needed as well as to establish statewide policy recommendations and identify projects, activities, and programs. To facilitate the creation of criteria to establish priorities, a collaborative effort of experts representing outdoor recreation and education in the state is necessary to ensure a fair and balanced outdoor recreation and education evaluation.

The nine Legislative members would include:

- Two members appointed by the chairperson of the Appropriations Committee.
- Two members appointed by the chairperson of the Education Committee.
- One member appointed by the chairperson of the Health and Human Services Committee.
- Two members appointed by the chairperson of the Natural Resources Committee.
- One member appointed by the chairperson of the Agriculture Committee.
- One member appointed by the chairperson of the Urban Affairs Committee.

The members shall be appointed within thirty days after the effective date of this act and shall begin serving immediately following notice of appointment. Members shall elect a chairperson and vice chairperson. The Director of Research shall assign an employee of the office of Legislative Research to assist the committee to fulfill its duties. The committee may utilize legal counsel and other staff from existing legislative staff and request additional advisory support from appropriate federal or state agencies and from private entities.

The committee may accept grants, donations, gifts, or contributions from public or private sources to carry out its duties and purpose. The committee may convene in person or virtually to conduct its business as deemed necessary.

The committee shall bring together a diverse group of outdoor recreation and education stakeholders and interests in Nebraska to identify short term and long-term statewide goals to improve outdoor recreation and education in the state.

On or before January 31, 2022, the committee shall develop and provide a report electronically to the Legislature which contains the following: (1) A listing of policies, programs, projects, and activities to meet the goals described in act, (2) research, data, and modeling needed to assist the state in meeting such goals, and (3) recommendations for the prioritization of policies, programs, projects, and activities to be funded.

Thursday, February 25th

Executive Board – Room 1525 – 12:00 PM

LB 212 - Prohibit charging members of the Legislature fees for public record requests. Cavanaugh, M.

The bill proposes that no fee shall be charged for public records requests for a request made by a member of the Legislature in the member's official capacity.

If the request was made by a member of the Legislature in the member's official capacity, the entire request shall be fulfilled within 15 business days after the member's response to the custodian's written explanation unless the member negotiates with the custodian to narrow or simplify the request, withdraws the request, or agrees to a longer period of time.

The existing 10 business-day time frame would remain for other requests.

Friday, February 26th

Appropriations Committee – Room 1525, 9:30 AM

Appropriations for the Nebraska Department of Environment and Energy, Nebraska Department of Natural Resources and Nebraska Game and Parks. (See spreadsheet on the next page for proposed funding summaries)

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

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.

		Governor Proposed LB's 380 & 384		Change From FY 20-21 Baseline	Change From FY 20-21 Baseline
Agency 84 - Department Environment & Energy		FY 21-22	FY 22-23	FY 21-22	FY 22-23
Program 513, 586, 587, 588 - NDEQ	General Fund	\$ 3,754,047	\$ 3,778,641	\$ 37,303	\$ 61,897
	Cash Fund	\$ 36,918,970	\$ 37,023,644	\$ 167,863	\$ 272,537
	Federal Fund est.	\$ 17,304,737	\$ 17,415,411	\$ 167,863	\$ 278,537
	Program Total	\$ 57,977,754	\$ 58,223,696	\$ 373,029	\$ 618,971
	Salary Limit	\$ 13,769,558	\$ 13,918,726	\$ 262,021	\$ 411,189
Program 523 - Wastewater Loan Fund	Cash Fund	\$ 600,000	\$ 600,000	\$ -	\$ -
	Federal Fund est.	\$ 6,940,000	\$ 6,940,000	\$ -	\$ -
	Program Total	\$ 7,540,000	\$ 7,540,000	\$ -	\$ -
Program 528 - Drinking Water Facilities Loan Fund	Cash Fund	\$ -	\$ -	\$ -	\$ -
	Federal Fund est.	\$ 8,500,000	\$ 8,500,000	\$ -	\$ -
	Program Total	\$ 8,500,000	\$ 8,500,000	\$ -	\$ -
Agency 33 - Game & Parks Commission		FY 21-22	FY 22-23	FY 21-22	FY 22-23
Program 162 - Environmental Trust	Cash Fund	\$ 20,675,791	\$ 21,182,401	\$ 8,204	\$ 514,814
	Program Total	\$ 20,675,791	\$ 21,182,401	\$ 8,204	\$ 514,814
	Salary Limit	\$ 291,891	\$ 295,908	\$ 5,467	\$ 9,484
Program 330 - Habitat Development	Cash Fund	\$ 7,590,995	\$ 7,625,097	\$ (60,454)	\$ (26,352)
	Federal Fund est.	\$ 3,901,998	\$ 3,903,350	\$ (2,118)	\$ (766)
	Program Total	\$ 11,492,993	\$ 11,528,447	\$ (62,572)	\$ (27,118)
	Salary Limit	\$ 1,607,238	\$ 1,628,840	\$ 51,501	\$ 73,103
Program 336 - Wildlife Conservation	General Fund	\$ 1,817,493	\$ 1,849,409	\$ 391,869	\$ 423,785
	Cash Fund	\$ 27,043,836	\$ 27,430,888	\$ 1,013,665	\$ 1,400,717
	Federal Fund est.	\$ 4,225,405	\$ 42,430,900	\$ 453,252	\$ 38,658,747
	Program Total	\$ 33,086,734	\$ 33,523,387	\$ 1,858,786	\$ 2,295,439
	Salary Limit	\$ 16,025,594	\$ 16,295,845	\$ 1,074,298	\$ 1,344,549
Program 338* - Niobrara Council	General Fund	\$ 42,011	\$ 42,011	\$ -	\$ -
	Cash Fund	\$ 1,000	\$ 1,000	\$ -	\$ -
	Federal Fund est.	\$ 125,000	\$ 125,000	\$ -	\$ -
	Program Total	\$ 168,011	\$ 168,011	\$ -	\$ -
Program 550 - Planning & Trails Coordination	The unexpended Cash Fund appropriation balance existing on June 30, 2021, is hereby reappropriated.				
	General Fund	\$ 494,211	\$ 502,047	\$ 4,795	\$ 12,631
	Cash Fund	\$ 1,166,192	\$ 1,181,201	\$ 22,468	\$ 37,477
	Federal Fund est.	\$ 109,414	\$ 110,298	\$ 1,503	\$ 2,387
	Program Total	\$ 1,769,817	\$ 1,793,546	\$ 28,766	\$ 52,495
	Salary Limit	\$ 969,998	\$ 983,382	\$ 24,151	\$ 37,535
	The amount expended for development & maintenance of boundary fences along the Cowboy Trail limited to \$64,000 each FY				
Agency 29 - Department of Natural Resources		FY 21-22	FY 22-23	FY 21-22	FY 22-23
Program 303 - Small Watersheds	Cash Fund	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ -	\$ -	\$ -	\$ -
*Program 304 - Nebraska Soil & Water Conservation Fund	General Fund	\$ 1,806,112	\$ 1,806,112	\$ -	\$ -
	Cash Fund	\$ 50,000	\$ 50,000	\$ -	\$ -
	Program Total	\$ 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	\$ -	\$ -
	Program Total	\$ 70,000	\$ 70,000	\$ -	\$ -
		The unexpended Cash Fund appropriation balance existing on June 30, 2021, is reappropriated.			
*Program 307 - Nebraska Resources Development Fund	General Fund	\$ -	\$ -	\$ -	\$ -
	Cash Fund	\$ -	\$ -	\$ -	\$ -
	Program Total	\$ -	\$ -	\$ -	\$ -
		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	\$ -	\$ -
	Program Total	\$ 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	\$ -	\$ -
	LB 384 Transfer	\$ 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 384 Transfer in	\$ 3,300,000	\$ 3,300,000	\$ -	\$ -
**Program 334 - Soil & Water Conservation (General Operations)	General Fund	\$ 11,017,548	\$ 10,971,400	\$ 481,098	\$ 434,950
	Cash Fund	\$ 7,784,340	\$ 7,788,195	\$ 358,596	\$ 362,451
	Federal Fund est.	\$ 839,193	\$ 845,188	\$ 36,122	\$ 42,117
	Program Total	\$ 19,641,081	\$ 19,604,783	\$ 875,816	\$ 839,518
	Salary Limit	\$ 7,066,469	\$ 7,162,623	\$ 210,329	\$ 306,483
Agency 51 - University of Nebraska		FY 21-22	FY 22-23	FY 21-22	FY 22-23
Robert B. Daugherty Water for Food Global Institute	General Fund	\$ 500,000	\$ 500,000	\$ -	\$ -
				\$ -	\$ -