

February 5, 2021

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 5 NARD Update

Committee Action

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

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 Bostleman 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 Wennekmap, 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 Wanetta and the Department of Defense.

The Following Bills Had Hearings This Week

LB 314 - Change provisions related to insurance coverage of telehealth. Pahls.

The bill proposes that health insurance coverages provide a reimbursement rate for a telehealth consultation, at a minimum, be the same as for a comparable in-person consultation.

The Banking, Commerce & Insurance Committee accepted testimony on LB 314 on February 1st.

Senator Pahls opened by noting there will be a lot of the same comments made during LB 487 hearing, which focuses on behavioral health parity, but this bill goes a step further and offers full parity for all utilization of telehealth. He told the committee everything would fall under this as they need to look at telehealth as a full spectrum.

Proponents

Ann Buettner, testified in support on behalf of the Nebraska Association for Marriage and Family Therapy. She testified that similar to an earlier bill (LB 487) this would provide parity for behavioral health visits. She addressed questions about concern over telehealth replacing in person visits, telling the committee one can't replace the other, rather they supplement each other.

A physician representing Nebraska Medical Center testified in support. She testified that care should not be based on where you live, and that telehealth provides expanded care to rural Nebraskans. She told the committee it takes multiple steps to provide good telehealth care and that the misconceptions that telehealth is easier and saves providers time are inaccurate. She offered that there is large evidence that managing diabetes can be better accomplished via telehealth and that patient surveys show that telehealth patients are more likely to recommend it over in-person visits. She told the committee that telehealth will not continue to expand if there is not payment parity.

Scott Jansen testified on behalf of the Nebraska Medical Association. He stressed that private practice physicians need to have telehealth as a tool to provide service to patients, especially those in rural areas. He noted that 30% of visits at Children's Medicine in 2020 were via telehealth. He expressed that telehealth services through existing physicians with physical office capabilities can result in patients receiving a higher level of care and can prevent duplication of services when compared to strictly remote telehealth providers.

Brian Bossard, a practicing physician and hospital administrator, noted that there are profound gaps in life-saving services and stressed that clinical care needs to be delivered differently and better.

Pat Connell testified on behalf of the Nebraska Association of Behavioral Health Organizations. He told the committee they wanted to be on the record as supporting parity for behavioral health services.

Several physician and provider associations including the Nebraska Association of Regional Administrators, Nebraska Academy of Physicians, and the Nebraska Pharmacists Association submitted written testimony in support.

Opponents

Jay McLaren, Medica Insurance, testified in opposition. He told the committee that Medica insures approximately 100,000 lives in Nebraska. He outlined expansion of covered services and parity the company has provided during the pandemic and noted they will continue to provide that parity through the pandemic. He outlined that telehealth services have a lower cost associated with them, and if the bill requires to pay a higher cost, it will be the insured that will have to pay more for those services. He stressed that the market has not had an opportunity to respond. Noting that telehealth is here to stay, but we should not just enact a bill that automatically requires more be paid for those services. He again reiterated that telehealth is not the same level of care as in person and the private sector should be able to negotiate a lower cost for that service.

Robert Bell testified on behalf of the Nebraska Insurance Federation. He requested that the committee allow the market time to adjust once the pandemic passes. He provided an example of the different levels of service during appointments for a similar medical need, noting the virtual appointment lasted 15 minutes, vs 2 hours for the in-person visit.

Eric Dunning testified in opposition on behalf of Blue Cross Blue Shield of Nebraska. He noted that the company has worked to advance telehealth options and that it is an important component of health care delivery. He noted that during the pandemic telehealth claims are up as much as 1,900% and much of that is here to stay, noting that is driven by patient demand, not by parity pay.

Position letters were submitted by 30 proponents and 1 opponent.

In a brief closing, Senator Pahls said that he was encouraged by the testifier's willingness to negotiate on the bill and would encourage meetings with them to alleviate concerns.

The committee reported no action on the bill.

LR 5 - Accept the findings and recommendations of the Healthy Soils Task Force submitted to the Governor and the Agriculture Committee. Gragert.

A legislative resolution that accepts the report, findings, and recommendations that the Healthy Soils Task Force submitted to the Governor and the Agriculture Committee of the Legislature. It further resolves that the Legislature supports and encourages a voluntary grassroots effort to accelerate means to protect and enhance Nebraska's soil and receive the benefits described in the report from the Healthy Soils Task Force.

Finally, it resolves that the Legislature encourages the Department of Agriculture, the Department of Natural Resources, and other state agencies to assist in the voluntary grassroots effort.

The Agriculture Committee accepted testimony on LR 5 on February 2nd.

Senator Gragert opened the hearing by outlining the requirements of LB 243 and actions taken by the task force. He told the committee he introduced the resolution so the legislature can send a message that they support soil health and continued action. He said the legislature supporting the report sends a message to

state agencies to assist with the voluntary effort. He noted that the task force held 25 meetings, listening sessions with 31 groups, and received 28 letters of support. He told the committee the report lays out a blueprint to enhance existing efforts and that findings and recommendations don't take away from existing programs but builds on them and pulls them together.

Proponents

Keith Burns, Farmer and Agribusiness, testified on behalf of the task force. He distributed copies of the report and noted that 31 different organizations had input into the idea of Soil Health for Nebraska Wealth. He reviewed the process followed by the task force and outlined the action plan created. He told the committee 35-40 other states they explored have varying levels of similar soil health programs. He noted that Nebraska has many soil health programs underway by UNL, NRCS and the NRDs, but stressed what kept coming up over and over again is that even though there is a lot of work going on, everyone agrees that more needs to be done, and there is a need for further collaboration. He gave the example that an NRD may be holding a meeting, but someone down the road may not even know about it, saying there is a need for better communication. Economics was a constant theme and economic data is included in the report.

Burns outlined the task force's proposed five action steps: noting that it first calls for the creation of a Nebraska state soil health hub. He noted that would be the center of everything, made up of all groups currently doing soil health work. He also outlined how the report recommends six additional regional grounds within the hub to split up varying landscapes across the state. He said the second action item is to setup a producer learning network. Third he spoke about developing and training soil practitioners. He testified that the fourth item is to bring in \$50 million in additional funding, noting they're not looking for tax money, but looking for outside corporate money, providing The Nature Conservancy working with NRDs as an example. He told the committee the fifth action item is to get a handle on where we are in the state by developing a standard of soil health benchmarks.

During questioning, Senator Cavanaugh asked who would undertake these objectives? Burns responded that it would have to be a grassroots effort and that they really don't know, noting that if LR 5 passes they'd have to bring 31 entities back together and identify the leadership.

Senator Brandt, raised questions over the benefits of carbon sequestration. Burns noted that there is a lot of money being put into carbon, and probably even more now with the new administration. He noted he feels we need a hub to help evaluate some of the information about carbon programs.

Senator Groene raised questions about why additional programs are needed if producers are already doing no-till and soil health practices for economic reasons? Senator Groene also noted that Extension service is already providing these services.

Tim Kalkowski, past chairman of Nebraska Grazing Lands Coalition, agriculture banker, member of NRCS state technical committee, and ranch owner, testified in support of the bill. He spoke about the importance of protecting the environment and economy for future generations.

Tom Hoegemeyer testified in support, noting that soils are exceedingly important. He noted that previously everyone always thought about soils from a physical standpoint but we're learning that biology is key to a lot of properties. He testified that according to Dr. Ray Ward approximately 90% of soils in Nebraska are degraded. He told the committee it's key as leaders to understand that there is serious demand-driven changes coming from Millennials and Gen Z, noting that they expect healthy foods that are traceable back to farms and ranches that have sustainable soils. He also reiterated that companies are making promises to be carbon neutral and sequestration in soil is a mechanism they will use to achieve it.

During questioning Senator Brewer brought up the constant struggle in the Sandhills to address blowouts and the inability to recapture the land.

John Hansen testified in support on behalf of the Nebraska Farmers Union. He noted they strongly encourage the committee to accept the report and allow the groups to continue focusing on improving soil.

Greg Licktig, Iowa landowner and land manager, testified in support. He noted that there are organic practices that are applicable to production ag. He noted that financial success in the current subsidized market is the biggest impediment to change.

Mike McDonald testified in support of the bill. He requested the committee consider the idea of the Nebraska Ag business consumer act. He noted that 3 out of 17 members on the task force were from NRDs. He reiterated that the task force purposely did not ask for money or submit a bill this year. He told the committee they do not want mandates, instead they want this to be a grassroots effort.

Opponents

There was no opposition testimony.

Neutral

Steve Ebke, farmer from Daykin, testified in a neutral capacity on behalf of the Ag Leaders Working Group (including Nebraska Cattlemen, Corn Growers Association, Farm Bureau, Soybean Association, Dairy Association and Wheat Association). He noted that Nebraska producers will continue to work to support and enhance soil health. He noted there is no need for a new layer of salaries and overhead to achieve the goals, and noted instead it would be better to ask Nebraska Extension to work with assistance from partners. He also addressed a lingering concern that developing and working to meet metrics could result in mandates and regulations. He testified that they take the report at its intent, but there are examples from other states of similar efforts leading to mandates. He noted that the groups he was representing at the hearing endorse voluntary incentives and look forward to improving soil health.

Written testimony was submitted by nine supporters. No written opposition letters were submitted. One neutral letter was submitted by Nebraska Department of Agriculture.

During closing, Senator Gragert noted the report isn't perfect, but it contains excellent recommendations. He said it's understood that a lot is already being done, but the suggested hub becomes a one stop shop and will help individuals know what's going on and how to get involved. He noted there is no silver bullet to fix these issues, but this resolution shows a commitment for moving us in the right direction.

LB 133 - Adopt the Nebraska EPIC Consumption Tax Act and eliminate certain other taxes. Erdman. Co-sponsored by Albrecht, Brewer, Briese, Clements, Halloran, Lowe, McDonnell and Murman.

The bill eliminates all state income, sales and use taxes, property taxes and inheritance taxes. Refer to LR 11 CA for the related Constitutional Amendment.

Beginning January 1, 2024, there is hereby imposed a tax on the use or consumption in the State of Nebraska of taxable property or services. The rate of the consumption tax shall be ten and sixty-four hundredths percent (10.64%). The person purchasing taxable property or services in the State of Nebraska shall be liable for the tax.

The bill creates numerous exemptions for purchases such as fuel, used property, property or service purchased for a business purpose in a trade or business, property or service used for educational purposes, etc.

Funding for schools would be through a collective request through the Department of Education.

Funding for other political subdivision would go through the local county. All local political subdivisions would have to work with the county within their jurisdiction to have the county submit a total budget request to the Legislature.

State agencies and other state-funded entities would have to go to the Legislature for funding.

The Revenue Committee accepted testimony on LB 133 on February 3rd.

During his opening, Senator Erdman provided the committee with an overview of Nebraska tax history. He claimed that property tax is too high, income tax is too high, and that corporate tax is a sham, noting he feels the whole system needs fixed and that this bill should be viewed at the taxpayer's bill of rights. He discussed that he feels the fiscal note has major issues. He told the committee that if nothing is done, voters will take it into their own hands and produce something that the committee is not going to like.

It was requested by Chair Linehan that testifiers limit their testimony to 3 minutes, and when possible combine testimony for LB 133 and LR 11CA.

Proponents

There were several individuals that provided testimony in support. Common themes were that taxes are too high and that a consumption tax would lower their taxes and improve their quality of life.

Opponents

Roma Amundson testified in opposition on behalf of the Lancaster County Board of Commissioners. She testified that losing the inheritance tax revenue would result in a loss of services provided by the county.

John Hansen testified in opposition on behalf of the Nebraska Farmers Union. He noted that the fair tax has been modeled and evaluated by Farmers Union in the past, and that there's never been a model or analysis completed that doesn't negatively impact ag.

Robert Bell testified in opposition on behalf of the Nebraska Insurance Federation. He expressed concern over the bill and noted that all Nebraska insurance products would be taxed at 10%, meanwhile the next highest state is only at a 4% tax rate. He stressed that this would drive all Nebraska based insurance companies out of the state. He provided an example of how consumption tax on insurance premiums alone could rival that of the total property tax bill for a typical household. He told the committee our current tax code is competitive for insurance businesses and provides an opportunity for growth.

Jon Cannon testified on behalf of the Nebraska Association of County Officials. He said the tax issue boils down to what services constituents need and how they want to pay for them. He provided examples of how election equipment, asphalt, bridge repair and other provided services are not always tied to CPI. He suggested the committee not advance the measure and instead look at recommendations from the tax modernization study.

Written testimony in opposition was provided by the Nebraska Bankers Association, Nebraska Chamber of Commerce, Open Sky Institute, and the Association of Beverage Distributors.

Neutral

Troy Uhr, a Madison County Commissioner and Norfolk Business owner, testified in a neutral capacity. He noted that it's schools that are primarily driving concern over property tax. He outlined some positives he sees with the consumption tax, including that tourists pay as they travel through the state, the tax rate would be controlled by revenue committee, and that there would be potential for retirees to influx to the state due to stability in taxes. He also outlined several cons and obstacles that the consumption tax would create.

Eric Miller, an individual from Omaha, testified in a neutral capacity, commenting that sales tax would be a more consistent and more recession proof revenue source.

Sarah Curry, testified in a neutral capacity on behalf of The Platte Institute. She commented that Nebraska's economic competitiveness would improve if the state relied more on consumption tax. She commented that states funded by sales taxes fair better than those relying on income tax. She provided an example from SD where there is no income tax and higher sales tax, noting that SD state revenues are ranked as some of the most stable. She noted that where they differ on the measure is on relying on what would be the highest consumption rate tax rate in the nation. She suggested that GDP be used as an alternative to CPI.

In closing, Senator Erdman stressed that not one opponent contacted him and commented about how he's amazed how the educated people paid to testify can't understand the bill.

Position letters were submitted by 56 proponents and 14 opponents. The committee reported no action on the bill.

LR 11CA - A Constitutional amendment to require enactment of a consumption tax and prohibit certain other forms of taxation. Erdman. Co-sponsored by Albrecht, Brewer, Briese, Clements, Halloran, Lowe, McDonnell and Murman.

A proposed constitutional amendment, effective January 1, 2024, that prohibits the State of Nebraska and all political subdivisions of the state from imposing a tax on personal income, a tax on corporate income, a tax on personal property, a tax on real property, a tax on an inheritance from a deceased person, a tax on the estate of a deceased person, and a tax on the retail sale of goods and services.

It replaces such taxes with a consumption tax which shall apply to purchases of services and new goods, except for fuel. Such consumption tax shall begin no later than January 1, 2024 (See LB 133).

The proposal does include language to allow the Legislature to authorize political subdivisions of the state to enact their own consumption taxes upon such terms and conditions as the Legislature may provide. This portion is not included in LB 133.

The Revenue Committee accepted testimony on LR 11CA on February 3rd.

Prior to Senator Erdman opening on the bill, the committee raised the question of if comments from the previous hearing could simply be referenced, it was acknowledged by the Chair that could occur, however Erdman proceeded with opening on the CA.

During opening Senator Erdman commented that the problem is not just property tax, and that income tax and inheritance tax are also problems. He commented that legislation just continues to be a band-aid, only decreasing the increase. He stressed that consumption tax is catching fire and that there is a lot of support and that everyone would want to move to Nebraska because of all the tax savings.

There was no testimony provided as individuals/organizations had provided testimony on LB 133 and were allowed to address both measures at that time. There were 47 position letters submitted in support and 18 letters in opposition.

The Committee reported no action on the measure.

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

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 bill also creates the County Bridge Incentive Program to be administered by the Department of Transportation. The department would administer the program using funds from the Transportation Infrastructure Bank Fund designated for the existing County Bridge Match Program.

The bill outlines that no more than ten million dollars shall be expended for the County Bridge Incentive Program.

The purpose of the program is to incentivize innovative solutions and provide funding to accelerate the repair and replacement of deficient bridges on the county road system. The department would be required to develop the program, including participation criteria and matching fund requirements for counties, in consultation with a statewide association representing county officials.

Participation by counties in the program would be voluntary.

Under current law, the County Bridge Match Program terminates on June 30, 2023. Under the bill, any designated County Bridge Match Program funds remaining on June 30, 2023, shall be designated for the County Bridge Incentive Program

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 Committee reported no action on the bill.

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

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 us 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.

The Committee reported no action on the bill.

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

The bill proposes a process to modify easement relocation.

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

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

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

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

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

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

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

Proponents

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

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

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

Opposition

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

The Committee reported no action on the bill.

LB 589 - Change requirements for integrated management plans by natural resources districts. Groene.

The bill proposes to separate the right to use water from the overlying land for augmentation projects for depletion offset water.

The bill outlines that a public augmentation project that is not attempting to guarantee that a certain quantity of water is used for a beneficial use or reaches a certain point downstream for a particular use, but rather, the purpose of the augmentation project is simply to add water to a natural stream in order to offset water depletion, shall be without regard to beneficial use on the overlying land or dependent on the amount of land owned, rented, or leased by the natural resources district or districts involved in operating the augmentation project.

The Natural Resources Committee accepted testimony on LB 589 on February 4th.

In his opening, Senator Groene told the Committee he is here to fix an injustice. He distributed a packet with past court cases, and noted he had a dissertation on water law prepared but that he would spare the committee, though much of his testimony included multiple loose references to past court cases, including multiple references to the difference between common law and statutory law. He also made claims (later disputed) that NCORPE is exempt from common law and the inaccurate claim that the supreme court has ruled when for a public purpose the right to use water isn't tied to the overlying land. He referenced other augmentation projects, such as Tri-Basin NRD and noted they don't own the overlying land, though it was noted they do lease the land.

His testimony was similar to previous hearings on the subject and several inaccurate comments were made about the management of NCORPE, claiming they're seeking to purchase additional land and the repeated claim it's a mining operation burdening Lincoln County. He commented that the bill does not force any NRD to sell land, rather it provides clarity that they can sell the land. He ended his opening comments by saying this is about the people of Lincoln county that have land off of tax rolls for the benefit of others and that the legislature needs to make clarity for the people so farmers and housewives on the NRD can say no we don't need to own this land. They don't have the backing to say no, and this statute would give them a backbone.

During questioning Senator Cavanaugh asked if it's accurate that the NRDs don't want to sell it, but you think the citizens of Lincoln county want to sell it? Groene responded by saying in the past there was a majority of the board members that would try to get to the point of where they could sell the land.

Cavanaugh followed up with the question of if we were to pass this it wouldn't force the sell, it would just give them the opportunity, but they wouldn't want to? Groene commented that 2 of them would, and through process of elections we could get something done. Cavanaugh responded with the question of couldn't an election remedy this now if existing law allows it? Groene responded with, no they can't, because it's not clear and they can't read lawsuits like I do, further commenting that the average citizen can't ascertain case law like he can.

Senator Bostleman asked if NCORPE is paying in lieu of taxes and how that would change. Groene commented that taxes started out over \$1 million, and now he claimed it's \$180k for wasted grassland. Senator Moser commented that it can't be watered anymore so it can't be on the tax rolls for more.

Proponents

There were no proponents. A position letter in support was submitted by Lincoln County Assessor.

Opponents

Don Blankenau testified in opposition on behalf of the Nebraska Association of Resources Districts. He noted Nebraska's NRDs oppose LB 589 for a variety of reasons but fundamentally, its language and context create confusion that may result in needless litigation. The content of his testimony follows:

"Obviously, the language of any legislation is at the heart of what this body does. The Nebraska Supreme Court has repeatedly noted that to interpret the meaning of a statute created by the Unicameral, requires that the words of the statute be given their plain and ordinary meaning within the context of where that law is found. So, let's start with context.

The operative language of LB 589, which is only one sentence long, is placed in Neb. Rev. Stat. § 46-715(3) which concerns the process within integrated management plans ("IMP"s) to track depletions and gains to streamflow. To refresh the Committee, IMPs are management planning documents that are jointly developed between NRDs and the Nebraska Department of Natural Resources with the assistance and input from surface water users, municipal users, industrial users, environmental interests and other stakeholders. These take years to develop.

Under the existing statute, the depletions and gains to stream flows created by augmentation projects of all kinds are already addressed. And keep in mind that augmentation projects are not limited to use of groundwater as the source nor are they limited to offsets to depletions. They take many other forms, including, but not limited to, surface water storage that can be released when it is needed, diverting off-season excess stream flows to irrigation canals to provide recharge to groundwater that works its way back to the stream at a later time.

Because augmentation impacts are already addressed by the existing law, the additional language of LB 589 doesn't address any deficiency in the law. To the extent the intent is to do more than deal with tracking within the integrated management process, the language confuses the existing meaning of the statute and causes uncertainty for all Nebraska water users. Simply put, the added sentence just doesn't make sense. As veteran members of this Committee know, confusion opens the door to litigation when it comes to water.

This is particularly concerning when future augmentation projects may be needed to provide flow support for municipal users like Omaha, Lincoln, Kearney, and Grand Island. The State of Nebraska is working with NRDs, municipal users in the Lower Platte basin to look at options. The water users in Nebraska need to have certainty to protect the economic viability of the local river basins, not uncertainty and confusion.

The State and its natural resources districts have waged many legal battles in recent years – battles at taxpayer expense – both state and property taxpayers. The augmentation projects in the Republican Basin

have already been litigated to the Nebraska Supreme Court multiple times. The Court has ruled on these cases and the law is settled, which provides that important certainty to all water users.

For reasons outlined above, Nebraska's NRDs think it unwise to advance any legislation unless it has been developed with all stakeholders in agreement that there is a problem that needs fixing, and what that fix should be. That has not happened with this bill and that problem is apparent to the many people who manage water to protect the economic viability and availability for all users in Nebraska".

Senator Gragert asked with exemptions out there due to public purpose, would this project be considered public purpose and if so why can't it be considered the same? Blankenau responded by respectfully noting that Sen. Groene is wrong on the law and that the use of water is tied to how much land you own or lease. This is in fact public purpose, but to use and have access to the water you must have the land. Senator Gragert followed up by asking why in the Sorenson case they don't own the land? Blankenau noted that municipalities are exempt because the legislature changed common law, but only for municipalities.

Senator Hughes asked for clarification of court cases that got us to this point. Blankenau provided an extensive overview of history of Republican River Compact, the litigation, supreme court rulings and the steps that led to the creation of the NCORPE project which has successfully addressed Nebraska's requirements and kept Nebraska in compliance. Hughes noted that Kansas could bring litigation.

Senator Bostleman asked about the impact if there was no project. Blankenau noted that the management options become draconian and that the State of Nebraska and perhaps the NRDs would be in a position they would need to condemn water rights to stay in compliance. He stressed that NCORPE provides the flexibility for everyone to maintain status quo.

Dr. Jasper Fanning testified in opposition on behalf of Upper Republican NRD. He noted the need to correct an injustice of misinformation – no districts have ever voted on selling the land. He also noted NCORPE is not in the market for new land, noting they sold more land than what has been acquired, and that both the bonds and Twin Platte NRDs management required a couple of parcels be acquired to consolidate the project.

Dr. Fanning noted that Kansas' consent is dicey and any changes in law would jeopardize current agreements. He provided the committee with an example of Colorado's augmentation project, which cost the state nearly the same in management costs as NCORPE, is half the size and cost Colorado 50% more per acre foot of water. He also noted that the land is horribly mismanaged and a disaster under corporate private ownership.

Dr. Fanning noted that land rental income at NCORPE is now more than offsetting management costs which only continue to decrease. He also noted that NCORPE is paying equivalent in lieu of taxes. He provided the committee with an overview of the financing for NCORPE, noting it is paid for by the occupation tax from irrigators in the 4 NRDs, and also revenue received from rental and leases, it was noted that the per acre assessment for occupation tax can and has gone down.

It was asked by the committee if NCORPE doesn't exist who pays? Dr. Fanning noted that it would be irrigators who would be cut back by 60%, destroying the local economy and having statewide impacts. Further, even with those measures the state would still likely be out of compliance which could result in a financial penalty the State of Nebraska would have to pay.

Following committee questions, Dr. Fanning provided additional overview of the current agreement between Nebraska and Kansas. Noting that Nebraska is currently getting 1:1 credit for water pumped, and also as part of the agreement Kansas is getting added flexibility. He noted that Kansas has had some changes in leadership and have indicated that they would maybe want to renegotiate the way we're operating now, and anything jeopardizing the augmentation projects adds further uncertainty.

Written testimony in opposition was provided by the Nebraska Farm Bureau and Lower Platte South NRD.

Neutral

Tom Riley, Director of the Department of Natural Resources testified in a neutral capacity. He reiterated the importance of the NCORPE project and that the water use is tied to ownership of overlying land. He noted that the implications of changes and unintended consequences will continue to be evaluated.

During closing Senator Groene called the testifiers liars. He told the committee that the truth is the irrigators in Nebraska have abused and over-used groundwater.

LB 176 - Provide an income tax credit for certain agricultural producers. Lindstrom.

The bill proposes a \$2,500 non-refundable state income tax credit for agricultural producers who qualify for the Conservation Stewardship Program or the Environmental Quality Incentives Program of the United States Department of Agriculture during the taxable year.

If the agricultural producer cannot fully utilize the credit for such taxable year, the credit may be carried forward to subsequent taxable years until fully utilized.

Agricultural producer is defined under the bill as any individual, corporation, partnership, limited liability company, trust, estate, or other entity that (i) is subject to the Nebraska income tax and (ii) is an owner of agricultural land and horticultural land in this state.

The Revenue Committee accepted testimony on LB 176 on February 4th.

In his opening, Sen. Lindstrom said that the bill would encourage data-driven, sustainable practices for farmers already using CSP and EQIP. He noted this would help maximize yields through sustainable practices using precision ag. He mentioned the state is already a leader in groundwater sustainability thanks to the NRDs specifically mentioning Twin Platte's water data program (GiSC).

Proponents

Julie Bushell, President of Page Wireless, testified in support. She noted that Page provides wiring for Lindsey and Valmont irrigation and they provide a low-cost network option to take advantage of the connectivity for irrigation, water quality and soil health data. She noted the producers own the data and can leverage the data in the market. She gave the example of a rancher using data to show his emissions and make deals based on his efficiencies and carbon score.

Lukas Fricke, ag producer from Butler County, testified in support. He noted this is an opportunity for a new generation to make a difference. He said data that is producer-created and producer-owned is imperative and farmers can be paid a premium for transparent products domestically and globally. He noted this rewards producers for being environmentally conscience and brings in new producers to use these sustainable practices. He mentioned specifically using lagoon technology on his farm and water quality data to control runoff on livestock yards.

Roric Paulman, ag producer in southwest Nebraska, testified in support. He noted that as his son and grandson are actively involved in the farm, it's important for them to connect and run the farm with data to share what they're doing. He noted that there are many young farmers taking over that can adopt and use the data if the connectivity is available, and this tax credit could help them get started.

There was no opposition and no neutral testimony.

Submitted letters included two proponents, one opponent and one neutral.

In closing, Sen. Lindstrom noted that the credits are about innovation and as Nebraska moves forward in this very global, competitive agriculture market. He noted the bill would allow producers the data to show their carbon footprint to prove carbon neutrality. He noted these are the things we can do in Nebraska to put us on the map. He said he was open to other funding mechanisms and would be willing to tweak the bill.

The Committee reported no action 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 8-12, 2021

Tuesday, February 9th

Urban Affairs Committee – Room 1510 – 9:30 AM

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

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.

Wednesday, February 10th

Government Committee – Room 1507, 9:30 AM

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

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”.

Revenue Committee – Room 1524, 9:30 AM

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

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.

LB 644 - Adopt the Property Tax Request Act. Hansen, B.

The bill proposes to eliminate and replace the resolution/ordinance process for budgeting that was adopted in 2019 for political subdivisions that have a property tax request greater than the previous year.

A political subdivision may set its property tax request at an amount that exceeds its property tax request in the prior year if: (a) A public hearing is held and notice of such hearing is provided in compliance with all notice and other requirements for a hearing; and (b) The governing body of such political subdivision passes a resolution or an ordinance that contains all of the necessary information in the resolution. The new process would be as follows:

Hearing Process:

Each political subdivision within a county that seeks to set its property tax request at an amount that exceeds its property tax request in the prior year shall participate in a joint public hearing. At such hearing, there shall be no items on the agenda other than discussion and action on each political subdivision's intent to approve a property tax request that exceeds the political subdivision's property tax request in the prior year.

The joint hearing shall be held on or after August 20 and prior to September 20 and before any of the participating political subdivisions file their adopted budget statement. The joint public hearing shall be held after 6 p.m. on the relevant date.

At the joint public hearing, each political subdivision shall give a brief presentation on the political subdivision's intent to approve a property tax request that exceeds the political subdivision's property tax request in the prior year and the effect of such request on the political subdivision's budget.

The presentation shall include: (i) The name of the political subdivision; (ii) The amount of the property tax request; and (iii) The following statements: (A) The total assessed value of property differs from last year's total assessed value by the specified percent; (B) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, in dollars per \$100 of assessed value; (C) The new rate of property tax, in dollars per \$100 of assessed value; (D) Based on the proposed property tax request and changes in other revenue, the total operating budget of the political subdivision outlining the percentage change that the budget would exceed last year's budget;

At the joint public hearing, interested parties desiring to be heard shall be given an opportunity to present oral testimony: (i) Within reasonable time limits, which shall be no less than three minutes; and (ii) Without unreasonable restriction on the number of individuals allowed to make public comment.

Public Notice Requirements:

Public notice of the joint public hearing shall be provided: (i) By 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 (ii) By posting notice of the hearing on the main page of the relevant county's web site.

The county shall mail the postcards and the cost of mailing the postcards shall be divided among the political subdivisions participating in the joint public hearing. The postcard sent by the county under this subsection and the notice posted on the county's web site shall include the date, time, and location for the public hearing, a listing of and contact information for each political subdivision that will be participating in the public hearing, and the amount of each participating political subdivision's property tax request.

The notice shall also contain the following information with respect to each participating political subdivision: 1) In all uppercase letters, the name of the political subdivision requesting a tax increase; 2) The total assessed value of property differs from last year's total assessed value by the specified percent; 3) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, in dollars per \$100 of assessed value; 4) The new rate of property tax, in dollars per \$100 of assessed value; 5) Based on the proposed property tax request and changes in other revenue, the total operating budget of the political subdivision outlining the percentage change that the budget would exceed last year's budget

Resolution or Ordinance:

The political subdivision increasing the tax would be required to have a record vote of the governing body in passing such resolution or ordinance. The resolution or ordinance setting a property tax request shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

Any levy which is not in compliance with the Property Tax Request Act shall be construed as an unauthorized levy.

Natural Resources Committee – Room 1525, 9:30 AM

LB 591 - Require a permit for any natural resources district water augmentation project. Groene.

The bill would require permits for augmentation projects operated by natural resources districts.

Under the proposal, before any natural resources district may create an augmentation project to add water to a natural stream or channel of the state to offset water depletion, the natural resources district shall first obtain a permit from the department. Application for the permit shall be made on a form provided by the department.

The application shall include plans and specifications detailing the intended times, amounts, stream-entry locations, stream-reach locations, and such other information as required by the department. The water subject to such permit shall be deemed appropriated for streamflow enhancement. Permitholders shall be liable for any damages resulting from the overflow of such stream or channel when water so conducted contributed to such overflow.

Thursday, February 11th

Natural Resources Committee – Room 1525, 9:30 AM

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

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

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

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

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

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

Before issuing a permit, the commission shall find:

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

Natural Resources Committee – Room 1525, 1:30 PM

LB 483 – Require the University of Nebraska to develop a Climate Action Plan. Cavanaugh, J.

The bill proposes that the University of Nebraska shall develop an evidence based, data-driven, strategic action plan to provide methods for adapting to and mitigating the impacts of extreme weather events or climate change. The action plan would include the following:

- (a) A baseline measurement of greenhouse gas emissions, also called a carbon footprint, of the state;
- (b) Measurable benchmarks and goals, including actions needed to meet the goals and benchmarks;
- (c) Assessment of risks and vulnerabilities from negative impacts of climate change;
- (d) Opportunities presented by strategies for adaptation and mitigation of the impacts of climate change;
- (e) Opportunities to improve and increase resilience to the impacts of climate change;
- (f) Potential economic impacts of climate change, both positive and negative;
- (g) Examination of impacts of climate change upon the following sectors:
 - Agriculture;
 - Water resources;
 - Health care and public health;
 - Transportation; and
 - Commerce and industry;
- (h) Recommendations for new policies and changes to policies and programs that support the goals based on the information and data collected and generated, including funding needs and recommendations for legislation.

The process for developing the action plan shall include:

- (a) Extensive opportunities for public comment and engagement, including, but not limited to, online input, public hearings, and public and private sector engagement;
- (b) Input from entomological, climate, water, agricultural, and natural resource experts in Nebraska;
- (c) Examination of comparable strategic action plans from other states; and
- (d) Such other activities as may be deemed necessary.

The cost for developing the action plan would come from a transfer of \$250,000 from the Petroleum Release Remedial Action Collection Fund to the University of Nebraska.

The action plan would have to be submitted to the Governor and the Executive Board of the Legislature on or before December 15, 2022.