

January 29, 2021

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 29 NARD Update

NARD 2021 Legislative Conference - The 2021 NARD Legislative Conference was held at the Embassy Suites in Lincoln this week. While the ongoing pandemic led to a significantly abbreviated event, the association was able to utilize technology and directed health measures to safely conduct the business meeting with both virtual and in-person attendance.

The NARD Voting Delegates adopted an official NARD position on 49 bills and resolutions impacting the natural resources districts. Final NARD positions can be found on the attached summary.

Senator Bruce Bostelman, Chairman of the Natural Resources Committee, was the featured Tuesday luncheon speaker. Senator Bostelman addressed the issues that are before the Natural Resources Committee.

The Following Bills Had Hearings This Week

LR 22CA - Constitutional amendment to limit the total amount of property tax revenue that may be raised by political subdivisions. Linehan, at the request of the Governor.

A proposed Constitutional Amendment to limit the amount of total amount of property tax revenue raised by a political subdivision in any fiscal year to not exceed three percent greater than the amount raised in the prior fiscal year.

The total amount of property tax revenue raised by a political subdivision in a fiscal year may exceed the limitation in an amount approved by a majority of legal voters. All costs of the election shall be paid by the political subdivision seeking to exceed such limitation.

The limitation would not apply to the amount of property tax revenue needed to pay the principal and interest on bonded indebtedness.

Further, it would not apply to the amount of property tax revenue raised by a political subdivision in any fiscal year on any real growth value within the political subdivision. Real growth value is defined in the proposal as the increase in real property valuation due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, and (iii) annexation of property by the political subdivision.

(See LB 408 for the companion legislation)

The Revenue Committee accepted testimony on LR 22CA on January 27th.

In her opening, Senator Lou Ann Linehan expressed concerns about ever-increasing property taxes and that property tax is the No. 1 issue on Nebraskans' minds. She believes this is the next step in the process to get control of escalating property taxes, because the only limit that will work is a limit to a tax taken.

Proponents

Gov. Pete Ricketts testified in support. He said Nebraskans are angry because property taxes continue to rise, and we need to control property taxes before the citizens take this in their own hands and start a different petition that is unworkable. Gov. Ricketts stressed that some school districts do a fantastic job, but others are not. He noted some community colleges have increased their taxes by up to 80 percent, but Metro Community College has kept it at about 3 percent. He noted that during the last 10 years in general the Legislature has kept the growth rate at about 3 percent.

Tony Fullton, Nebraska's Tax Commissioner, testified in support. Fulton provided charts about tax growth, specifically comparing what it is currently vs. what it would have been with a 3 percent cap.

Doug Kagen, Nebraska Taxpayers for Freedom, testified in support. Noted that Nebraska has the 9th highest property tax in the nation and citizens are leaving because of taxes. Nebraska property taxes per capita are \$340 higher than the national average and that on average, Nebraska farmers pay \$16,200 in property tax.

Shane Greckel, farmer, testified in support. He believes that farmers need some property tax stability because of all the volatility they face in the market. Farmers experience a 7.45 percent increase in property taxes in some years while income is going down. He believes that 3 percent is more than enough to keep up with inflation and offers stability for farmers. He noted that property taxes are one of the top line items for farms/ranches and in the last several years, taxes exceed profit/per acre.

Dennis Schleis, from Omaha and a member of Nebraska Taxpayers for Freedom, testified in support. He noted that his property taxes have decreased his family's living standard and that they can't achieve the American dream because of high taxes.

Sarah Curry, Platte Institute, testified in support. She noted that this is only one option to slow the growth of property taxes especially if paired with other tax cuts, but it should not be the only option.

Mark McHargue, Nebraska Farm Bureau President, testified in support on behalf of the ag groups including corn growers association, soybean association, Nebraska cattlemen, dairy and pork associations. He believes it is necessary to reduce taxes if we want to compete on national and international levels and attract growth. He said that agriculture wants to help raise the tide for all ships, but that depends on a balanced tax. He noted that limiting the tax growth is a start but lowering taxes should be the goal. He noted the need to grow Nebraska to increase the tax base with more manufacturers and value-added agriculture without having to significantly cut services. He noted that property tax from an anger/angst level impacts everyone differently – for an ag producer it's a No. 1 input so balancing the income, property and sales tax is important.

Doug Oertwich, farmer, testified in support. He noted that there is no way to see property tax savings unless there are limits and controlled spending. He said we need to slow down local spending, and that he is in favor of supporting schools, but Nebraska spends more per/student than surrounding states.

Jessica Shelburn, Americans for Prosperity, testified in support. We have many political subdivisions that can levy taxes, and this is a step we can take. It's not a solution, but a step. She noted when voters are given the question, they'll approve it if they feel it is necessary. She claimed that some political subdivisions will say this will hamstring them, but they need to budget and prioritize like the rest of Nebraskans. This is just asking them to do the same thing Nebraska citizens are doing.

Trent Loos, Sherman County rancher, testified in support. He told the committee this is his fifth year testifying about over burdening property tax. He noted his property taxes went from \$4,800 in 2010 to \$9,800 in 2020. He noted that the first \$115 every cattleman puts into a calf is for property tax. He testified

that he has looked at how the school is spending the money and believes that the teachers are not adequately paid to inspire students, and that the administration is top heavy and that needs to be fixed.

Bud Synhorst, Lincoln Independent Business Association (LIBA), testified in support. He noted that businesses are frustrated over all the government tax payments and the state is turning away from a business-friendly place. He said taxes hurt small business owners, who struggle to make ends meet. He believes limiting the growth could give businesses a sense of stability in these uncertain times. He noted that LIBA has been advocating a similar growth plus inflation proposal for more than a decade.

Kent Thompson, Commercial Real Estate Investor, testified in support. He noted that the rents they get are the same rents as 20 years ago because taxes have gone up 125 percent. He noted they are investing in other states, because the tax burdens are slamming them in Nebraska. He said real wages are only going up 1.45 percent while taxes are going up 4+ percent and that's not sustainable.

Matt Schulte, former Lincoln Public Schools board member, testified in support. He encourages boards to act responsibly and invite taxpayers to participate in the process.

Opponents

Joey Adler, Holland Children's Movement, testified in opposition. He noted concerns with taking away control from local schools to decide what they need is irresponsible, and that voters can express how they feel about taxes with their local boards.

Dennis Meyer, Budget and Fiscal Office for Lancaster County, testified in opposition. He noted that the county already works with a lot of limits on the ability to raise funds. Lancaster County tries to make decisions on an annual basis, but what drives the budget annually are one-time projects like building a new jail or infrastructure improvements. He noted it is tough to stay within 3 percent on payroll because of health insurance, which has increased up to 15-20% annually.

Lynn Rex, League of Nebraska Municipalities, testified in opposition. She noted since this would be in the constitution, there would be no flexibility. She said it is not uncommon for inflation to grow more than 3 percent in some years and that gives no flexibility.

Don Wesley, Greater Nebraska Cities, testified in opposition. He noted the pressure on the local level is tremendous and everyone is trying to figure out how to best accomplish the goal without raising levies. He noted that cities shouldn't be hamstrung so they can address community needs. He noted the constitutional amendment is too restrictive, and if there is a mistake it's very difficult to correct once it's in the constitution. Wesley stressed that local control has worked in Nebraska and we need to continue local control.

Neutral

There was no neutral testimony.

Several position letters in support and opposition were submitted. The committee reported no action on the measure.

LB 408 – Adopt the Property Tax Request Act. Bries.

The bill adopts the Property Tax Request Act which limits the total amount of property tax revenue raised by a political subdivision in any fiscal year to not exceed three percent greater than the amount raised in the prior fiscal year.

Political subdivision is defined under the proposal as any county, city, village, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college.

The total amount of property tax revenue raised by a political subdivision in a fiscal year may exceed the limitation in an amount approved by a majority of legal voters. All costs of the election shall be paid by the political subdivision seeking to exceed such limitation.

The governing body of the political subdivision shall call for the submission of the issue to the voters by passing a resolution, by majority vote of the governing body, calling for exceeding the limit and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the political subdivision. The resolution shall include the amount which would be requested in excess of the limit.

The limitation would not apply to the amount of property tax revenue needed to pay the principal and interest on bonded indebtedness.

Further, it would not apply to the amount of property tax revenue raised by a political subdivision in any fiscal year on any real growth value within the political subdivision. Real growth value is defined in the proposal as the increase in real property valuation due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, and (iii) annexation of property by the political subdivision.

(Companion legislation to LR 22 CA)

The Revenue Committee accepted testimony on LB 408 on January 27th.

In his opening remarks, Sen. Briese noted that Nebraskans are angry and that high taxes are choking off growth in rural communities. He said it is difficult to recruit people to the state and keep them to grow the state because of high taxes. He said there needs to be an all of the above approach and limiting the growth of taxes is one way start that. Pertaining to LR22CA, he trusts Nebraskans to do the right thing and make the right decision, but this statutory version allows adjustments for ups and downs in budgets and accommodates concerns.

Proponents

Bud Synhorst, LIBA, testified in support. He noted this bill makes political subdivisions work within their means, which is what businesses have to do. He said that political subdivisions are building up war chests to pad their budgets and claiming it as theirs, but really, it's the taxpayer's money. He said that political subdivisions claim that the taxes haven't gone up, but it isn't true because property values have increased, and political subdivisions are getting more if the levy is the same. He said political subdivisions aren't dropping their ask even though they get more money because land values have increased.

Robert Holstrom, National Federation of Independent Businesses, testified in support. He noted that the state's ability to control spending was a benefit in the pandemic and it's important to do that same budget control on the local level, too. He said he felt the statutory version of this idea is better due to flexibility, but feels the constitutional version (LR22CA) would get passed by voters, because citizens are upset and would make their own change.

Sarah Curry, Platte Institute, testified in support. She noted that the statutory version would advance quicker so Nebraskans can have immediate relief and the constitutional version (LR22CA) would require more time. She suggested waiting for a larger election year to get more participation.

Opponents

Dennis Meyer, Lancaster Co Budget/Fiscal Officer, testified in opposition. He noted that the county is open to discussion but worries this legislation is a quick and easy fix without looking at the whole process. He said there were years the county took less to drive the levies down and not all political subdivisions are raising

taxes for no reason. He noted that infrastructure issues are huge, and 3 percent would make projects slower or even nonexistent.

Greg Adams, Nebraska Community College Association, testified in opposition. He noted that the five colleges biggest expense is personnel – collective bargaining and health insurance is about 80 percent of the budget. He also noted that the community colleges have faced huge increases in property/liability insurances over the last few years. He noted that there are times when the colleges can be within 3 percent, but they lose flexibility.

Sen. Flood during questioning asked why within 10 years, community colleges went from \$22 million to \$49 million in property taxes. He said that is unconscionable and willful, reckless driving at community colleges.

Adams said he wouldn't go so far as to say it was unconscionable, because it was within the law, but agreed that it was a big increase. He noted that Northeast Community College has a new president that is reducing administrative staff and trying to bring things more in line with fiscal conservatism. He noted that Southeast Community College prided themselves for years on having a low levy but to do that they neglected things and now they are playing catch up to meet requirements. He said SCC is now increasing their tax request to catch up on deferred expenses.

Robert Post, Banner County Commissioner, NACO, and on National County Board, testified in opposition. He noted that the public can make their wishes known during county board meetings and every two years during elections if money wasn't spent properly. He noted that if the county's other costs go up, they need flexibility to cover those expenses. He noted Banner County keeps inheritance tax money as a reserve and works hard to maintain a reserve to cover costs.

John Spatz, Nebraska Association of School Boards, testified in opposition. He noted this legislation takes away a local board's ability to manage their own budget, and local board members already have a vested interest to keep the budget in check. He noted that 75 percent of Nebraska school board members have some dependency on the ag industry. Since 2011, on average collectively the schools have spent slightly less than the state. Nebraska ranks 49th in the nation for state school support and is the 2nd highest in the nation for the resources being invested in the classroom, where you see the highest rate of return.

Spencer Head, Omaha Public Schools Board Member, testified in opposition. He noted this was an intrusion on the local control that schools have with their board. He said the board should be determining whether they increase or decrease the budget, and there are already caps in place for these budgets.

Renee Fry, Open Sky Policy Institute, testified in opposition. She noted this legislation limits the local control and we shouldn't punish all local subdivisions because some have had a high increase. She noted that not all political subdivisions are the same and they take care of different needs for our communities, so we shouldn't treat them all the same. She said political subdivisions have a spending limit, there are limits on levies and this bill could lead to unintended consequences. She gave the example of responding to natural disasters if political subdivisions can't adjust their own local budgets.

Kyle Fairbairn, Greater Nebraska Schools Association, testified in opposition. He noted this could cause major problems with budget evaluation for schools because they can't offset the loss from TEEOSA. He said if the school has a special education student move into a rural school district and that student costs \$100,000 to educate then that school is over the 3 percent because of this one student.

Christy Abraham, League of Nebraska Municipalities, testified in opposition. She noted cities need the flexibility to deal with emergencies – sewer break, natural disaster, etc.

Don Wesley, Greater Nebraska Cities, testified in opposition. Wesley noted that direct borrowing is not the same as a voter-approved bond issue. Direct borrowing can be quicker and less expensive than voter-

approved bond issue. For local control using direct borrowing might be advantageous to the budget for that local subdivision.

John Cannon, NACO, testified in opposition. He noted that counties don't spend money on anything that is not approved, and they don't spend lavishly getting the most expensive snowplows. People are not complaining about the services the county offers, but rather they want more and better services from the county.

Several organizations and individuals submitted written testimony in opposition. Six position letters in opposition were submitted.

Neutral

There was no neutral testimony.

Senator Briese noted in his closing that this is an incremental step that can be made to try and make a difference on property taxes. He said they can make adjustments as problems arise with the local areas.

The committee reported no action on the bill.

LB 90 - Change fee provisions under the Pesticide Act and the Nebraska Commercial Fertilizer and Soil Conditioner Act. Halloran.

The bill makes changes to the pesticide registration fee. Current law sets a minimum base of \$160 per product with a maximum of \$210 per product, which does not change.

The fees are distributed as follows:

- (a) \$30 to the Noxious Weed Cash Fund.
- (b) \$60 to the Buffer Strip Incentive Fund
- (c) \$55 to the Natural Resources Water Quality Fund; and
- (d) The remainder of such fee to the Pesticide Administrative Cash Fund.

The bill proposes to lower the amount going to the Buffer Strip Incentive fund from \$60 to \$50.

The Agriculture Committee accepted testimony on LB 90 on January 26th.

In his opening, Senator Steve Halloran, noted this was a request of the Nebraska Department of Agriculture to help them manage their agency.

Steve Wellman, Nebraska Department of Agriculture testified in support. He noted there is needs in the Pesticide administration fund for more funds and less demand on the buffer strip program. The change would help manage the programs internally.

There is also a provision to include flexibility to manage the Fertilizer Inspection Fee internally, by allowing them to go up to a maximum 15 cents/ per ton, so they could increase the amount when needed, and reduce it when they do not.

Proponents

Scott Merritt, Executive Director of the Nebraska Agribusiness Association, testified in support. He noted that under the current Commercial Fertilizer and Soil Conditioner Act, the Nebraska Department of Agriculture (NDA) collects an inspection fee of \$0.10 a ton to administer the Department's fertilizer inspection program. Funds collected from ag retailers are used to test quality and nutrient levels of the fertilizer being sold in the state.

Their organization supports the flexibility on the annual fertilizer inspection fee to meet the program's budget, not to exceed \$0.15 per ton. The revenue generated could not be more than 107% of the cash fund's annual appropriation. Additionally, language would limit the allowable rate when year-end cash funds are greater than 107% of annual program expenditures.

Opponents

The Nebraska Wildlife Federation submitted a letter of opposition.

The committee has not reported any action on the measure.

LB 91 - Change germination seed testing provisions under the Nebraska Seed Law. Brandt.

The bill makes several technical changes to regulation of native and nonnative plant species.

It proposed two new definitions to the statutes for regulation of plant species as follows:

- Native plant species means any of the grasses, sedges, rushes, or forbs indigenous to North America.
- Non-native plant species means any of the grasses, sedges, rushes, or forbs not indigenous to North America.

It also adds the term “habitat restoration or maintenance” to the list of agriculture seeds to be regulated.

The Agriculture Committee accepted testimony on LB 91 on January 26th.

In his opening, Senator Brandt noted he brought the bill to assist some wild native seed dealers with some issues that affect their business.

Dr. Kay Kottas, representing Prairielegacy, Inc, Wittsend Homestead LLC and the Nebraska Native Seed & Plant Producers, testified in support of the bill. She noted that current law limits some of their native wildflower seeds to nine-month limit after testing before they can be planted. She believes this should be expanded to fifteen months as the seed is still fine.

Scott Merritt, executive Director of the Nebraska Agribusiness Association Testified in opposition. He noted the bill creates an opportunity for inconsistency in product quality for Nebraska consumers. Under current statute, commercial seed must have a germination test performed, and be labeled with a germination rate, every nine months. He noted a limited number of grasses are allowed to be tested every twelve months. The bill changes this to allows for a new category, titled, “native plant species,” to be stored and sold without retesting for 15 months.

Merritt noted their first concern is the difficulty in determining what plant species are categorized as native and non-native. This change has the potential to create confusion as classification may be open to interpretation for some plant species.

He noted their second concern is with the length of time seed may go without verifying the germination rate. Consumers rely on the accurate labeling to make growing decisions. There are multiple factors that affect seed viability rate, including processing, handling and storage conditions. Guaranteeing an accurate or consistent germination rate beyond the current 12 months could be difficult. The result would be a loss of consumer confidence in the stated seed label germination rates.

The committee reported no action on the bill.

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

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.

Daniel 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 Grenta 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. The committee reported no action on the bill.

LB 112 - Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act. Albrecht.

The bill would require, except for closed sessions, a public body to allow members of the public an opportunity to speak at each meeting.

The Government Committee accepted testimony on LB 112 on January 27th.

In her opening Senator Albrecht noted she brought this bill after hearing numerous times from individuals that they're not being allowed the opportunity to be heard at public meetings. She told the committee that the change is simple, and the goal is clear, when government is spending the people's money, they deserve to be heard. She told the committee that it's not too much to ask that 10 minutes be carved out at the beginning of a meeting to allow people to be heard, rather if it's for 1 minute or 2 minutes, further noting that it doesn't even have to be about what's on the agenda.

Proponents

Proponents of the bill included Lance Molina, an individual from Gretna. He testified that he has not been allowed the opportunity to speak in front of the Gretna city council and the Gretna Public school board meetings regarding masks.

Doug Kagan testifying in support on behalf of the Nebraska taxpayers for freedom noted members frequently speak at local meetings. However, they hear from some members that there are burdensome obstacles that prevent public comments at some meetings across the state.

Daniel Conrad testifying on behalf of ALCU of Nebraska told the committee this is a good low-cost opportunity to allow expansion for public participation and transparency in open meetings.

No written testimony in support was submitted. Six position letters in support were submitted.

Opponents

Opponents of the bill included Lynn Rex, testifying on behalf of the League of Municipalities. She told the committee open mic at meetings is unproductive. She provided many examples of how political subdivisions successfully allow for public input on all matters brought before the public bodies. She utilized the example of how testimony is handled and kept germane at the legislature.

Beth Bazyn Ferrell testifying on behalf of the Nebraska Association of County Officials (NACO), echoed the same concerns raised by Lynn Rex.

Written testimony in opposition was submitted by the Lancaster County Board of Commissioners. Two position letters in opposition were submitted.

Neutral

There was no neutral testimony. One position letter in the neutral capacity was submitted.

In her closing Senator Albrecht noted the bill is not about allowing the public to speak on any subject, it's just about opening it up for 10 minutes to hear from the public. She told the committee she doesn't think there are that many people that are going to be rude and ugly, noting if they are, maybe there's a reason. She asked the committee not to over complicate it, reiterating it's just about letting the public come and speak their mind for 10 minutes.

The committee reported no action on the bill.

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

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 committee reported no action on the bill.

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

The bill would prohibit the Legislature from appropriating or transferring money from the Water Sustainability Fund for any purpose other than to further the goals of the Water Sustainability Fund except upon a finding that the goals of the fund are not being accomplished by the fund.

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

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

Proponents

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

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

Opponents

There was no opponent testimony.

Neutral

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

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

The committee reported no action on the bill.

LB 213 - Provide for an efficiency review of state agencies. Breise.

The bill proposes a review of 191 state agencies, boards, commissions and advisory councils including, but not limited to, the following: Department of Natural Resources; Department of Environment and Energy; Department of Agriculture; Game and Parks Commission; Environmental Quality Council; Nebraska Environmental Trust Board; Geographic Information Systems Council; Nebraska Community Forestry Council; Nebraska Natural Resources Commission; Board of Geologists; Climate Assessment Response Committee; Nebraska Invasive Species Council; Missouri Basin Natural Resources Council; and the Niobrara Council.

The bill requires the Department of Administrative Services to contract for an efficiency review of state agencies by an independent source to provide an outside study of such state agencies to make the delivery of services more cost effective, identify outdated delivery practices that can be eliminated, identify increased efficiencies in service delivery, identify potential new sources of funding for services other than taxation, and make government more accountable to residents of the state.

A final report would be required no later than January 1, 2023.

The Government Committee accepted testimony on LB 213 on January 28th.

In his opening Senator Briese Briese said Nebraska currently has the 14th highest state spending rate in the country. He told the committee the goal isn't to cut costs by eliminating programs or reducing the services that government in Nebraska is providing but the core goal of the legislation is to make sure programs and services are offering taxpayers the most bang for their buck.

Proponents

David Nabity an individual from Elkhorn testified in support. Written testimony in support was submitted by the Nebraska Federation of Independent Business and the Platte Institute.

Opponents

Justin Hubly testified in opposition on behalf of the Nebraska Association of Public Employees. He told the committee that cutting costs often doesn't translate to efficiency and in fact often results in significantly higher costs

Jason Jackson testified in opposition on behalf of the Department of Administrative Services. He testified that state government efficiency has greatly improved under the current administration and that the bill would be redundant and unlikely to find significant savings. He outlined ongoing efforts of improving training of state employees. He said existing efforts have been effective noting Nebraska is recognized as a national leader in six sigma training and operational excellence.

Neutral

Russ Karpisek testified in neutral capacity on behalf of the auditor of public accounts. He noted the auditor's office likes the idea, but with additional funds, the auditor could greatly expand their current scope of services and effectively do the same thing.

Written testimony in the neutral capacity was submitted by the Nebraska Bar Association.

In his closing Senator Briese noted that the auditor's job is to ensure that laws are followed, but one of the points of this is to bring in an outside agency and expand beyond what the auditor office does. He stressed that this is not just about cutting, but also about trying to free up revenue and find better use of taxpayers' dollars if they're available. He discussed that it has cost \$1.5-\$4 million to do similar studies in other states and while acknowledging you get what you pay for, based on his conversations he estimates it would cost Nebraska closer to \$1.5 million.

No position letters were noted, and the committee reported no action on the bill.

LB 368 - Provide the Auditor of Public Accounts enforcement powers for failure of political subdivisions to file reports. Sanders.

The bill proposes when a political subdivision fails to file a required report with the Auditor of Public Accounts by the applicable due date, the Auditor may assess the political subdivision a late fee of twenty dollars per day for each calendar day the required report remains not filed. The late fee would begin on the day following the date the report is due. The total late fee assessed shall not exceed two thousand dollars per filing.

The bill also outlines that at the auditor's discretion, the expense of the audit of the political subdivision shall be paid by the political subdivision.

The Government Committee accepted testimony on LB 368 on January 29th.

In her opening, Senator Sanders said the bill was brought to her office by the Auditors office. She told the committee the auditor's office receives reports from 2800 political subdivisions, of which 309 were filed late, and 19 still have not filed FY2019 audit reports. She noted that chasing reports is expensive and frustrating for the auditor's office. She stressed that the bill says may assess a penalty, so they have discretion. She also outlined a committee amendment (AM 66) which strikes the portion of the bill outlining that the auditor can audit the political subdivision, noting that under existing law they already have the ability to audit any given subdivision at any time, and that section of the bill is repetitive and unnecessary.

Proponents

Russ Karpisek testified on behalf of the Auditor of Public Accounts. He outlined the need for the bill and told the committee the main issue is the requirement is already in statute, but there is no teeth to make people get things in on time. He reiterated that trying to chase down people to submit the reports is time consuming and expensive, but there is nothing they can do right now.

Opponents

There was no opposition or neutral testimony.

In closing Senator Sanders thanked the committee and chairman Brewer noted that they will have an executive session next Wednesday and this bill will be given a vote then.

A position letter in support was submitted by the Platte Institute. The committee reported no action on the bill.

LB 369 - Provide the Auditor of Public Accounts access to working papers and audit files. Sanders.

The bill outlines that the Auditor of Public Accounts shall have unrestricted access to the working papers and audit files for any audit report required to be filed with the office of the Auditor of Public Accounts.

Under the bill, working papers and audit files are defined to mean those documents containing evidence to support the auditor's findings, opinions, conclusions, and judgments and includes the collection of evidence prepared or obtained by the auditor during the audit.

The bill also incorporates provisions proposed under LB 368. This includes when a political subdivision fails to file a required report with the Auditor of Public Accounts by the applicable due date, the Auditor may assess the political subdivision a late fee of twenty dollars per day for each calendar day the required report remains not filed. The late fee would begin on the day following the date the report is due. The total late fee assessed shall not exceed two thousand dollars per filing.

The bill also outlines that at the auditor's discretion, the expense of the audit of the political subdivision shall be paid by the political subdivision.

The Government Committee accepted testimony on LB 369 on January 29th.

In her opening Senator Sanders mentioned the bill was brought to her by the State Auditors office. Provisions of the bill were outlined and she offered a Committee Amendment (AM67) which strikes the portion of the bill outlining that the auditor can audit the political subdivision, noting that under existing law they already have the ability to audit any given subdivision at any time, and that section of the bill is repetitive and unnecessary.

Proponents

Russ Karpisek testified on behalf of the auditor of public accounts. He told the committee the intent of the bill is essentially the same as LB 368, and just about improving compliance with existing law. He expressed that the auditor's office has had challenges with a specific CPA firm. He told the committee their office has not heard of any opposition.

Opponents

There was no opposition or neutral testimony. A position letter in support was submitted by the Platte Institute.

During closing Committee Chair Brewer noted this could be added to next Wednesday's committee executive session.

LB 399 - Change provisions relating to rural water districts. Bostelman.

The bill proposes to spell out the “Nebraska Safe Drinking Water Act” rather than cite the same section of statute for compliance of plans and specifications of public water systems. This is a placeholder bill.

The Natural Resources Committee accepted testimony on LB 399 on January 28th.

Cyndi Lamm, Natural Resources Legal Counsel, introduced the bill noting it is simply a shell bill. There was no testimony provided and the committee reported no action on the bill.

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

The bill proposes to create the Lower Platte River Infrastructure Task Force to study three to five potential flood-control infrastructure projects along the river basin of the lower Platte River.

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

The task force would be housed in the Department of Natural Resources for administrative purposes. The task force shall select a chairperson and may hire consultants. Task force members shall receive no compensation for their services on the task force other than reimbursement for expenses incurred in carrying out their duties.

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

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

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

Factors for task force consideration include:

- (i) Location. The proximity to urban areas and centers of economic development;
- (ii) Size. Identify opportunities to serve regional or sub-regional populations;
- (iii) Water supply and land availability. Identify minimum water supplies required to sustain and support a water-based project in addition to sediment storage for reservoir sustainability and identify contiguous land areas for a project;

- (iv) Infrastructure considerations. Assess public and private infrastructure that presents opportunities or may pose constraints, and to what degree;
- (v) Socioeconomic considerations. Assess socioeconomic factors that are opportunities or constraints;
- (vi) Environmental considerations. Assess environmental resources that may be augmented, or possibly impacted, and that may influence siting; and
- (vii) Public acceptance. Assess the general likelihood of public acceptance of a project in a proposed area.

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

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

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

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

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

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

The date for completing the report to the legislature is left blank in the proposed bill.

Funding for the task force would come from a \$900,000 transfer from the Water Sustainability Fund to the Critical Infrastructure Facilities Cash Fund to carry out the purposes of the Lower Platte River Infrastructure. Funds could only be expended on a dollar-per-dollar basis with matching funds from private sources in support of the study.

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

Opening on the bill Tim Pendrell, legislative staff for Senator McDonnell, provided the committee with an overview of the need for the bill. He noted this bill is a follow up to LR 138 from last year. It was

discussed that the tools outlined to be studied in the bill would have assisted in mitigating an estimated \$3 billion worth of damages from flooding in 2019 alone. He mentioned that while Governor Ricketts has joined a coalition to advocate for USACE to address flooding, we need to understand that the 2019 flooding was not just from Missouri River flooding, rather it was from the Platte and its uncontrolled tributaries.

Proponents

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

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

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

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

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

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

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

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

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

Senator Cavanaugh asked if the same objectives can be accomplished by smaller reservoirs? Winkler discussed that it's possible, but until you do this study you don't know. It was also asked who pays for the

reservoirs? Winkler noted that it would be multiple funding sources, providing examples of how PMRNRD has utilized several private and public partnerships to fund past projects.

Opponents

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

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

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

Neutral

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

Written neutral testimony was provided by the Nebraska Airboat Association.

No position letters were provided, and 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 1-5, 2021

Monday, February 1st

Banking, Commerce and Insurance Committee - Room 1507 - 9:30 AM

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.

Tuesday, February 2nd

Agriculture Committee – Room 1524 – 9:30 AM

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.

Wednesday, February 3rd

Revenue Committee – Room 1524, 1:30 PM

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

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.

Thursday, February 4th

Government Committee – Room 1507, 9:30 AM

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

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.

Judiciary Committee – Room 1113, 9:30 AM

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.

Natural Resources Committee – Room 1525, 1:30 PM

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.

Revenue Committee – Room 1524, 1:30 PM

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.

Friday, February 5th

Appropriations Committee – Room 1525, 9:30 AM

Budget bills LB's 379, 380, 383, and 384 are scheduled at this time for official record purposes. Testimony on the overall budget is appropriate, however testimony on specific issues and/or agencies should be presented at the date scheduled for the relevant agency.