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TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: March 26 NARD Update

NARD Welcomes New Board Members

The Nebraska Association of Resources Districts (NARD) has welcomed the following four new directors.

Joel Hansen, Lower Elkhorn NRD (Wayne, Nebraska)

Hansen brings a unique perspective to the board as the Street & Planning Director for the City of Wayne for more than 25 years. Hansen has served on the Lower Elkhorn NRD board for 14 years and represents the board on the Wau-Col Rural Water System Advisory Committee. He also manages his family's farm, which includes row crops, a restored prairie, and several tree plantings.

Mason Hoffman, Little Blue NRD (Roseland, Nebraska)

Hoffman has served on the Little Blue NRD Board since January 2016 and has been on the executive committee since 2019. During the last five years, he has been involved on the Water and Projects committees. He has an associate degree in ag business and farms in south-central Nebraska. Hoffman and his wife of 11 years, Michelle, have three children, Mara, Natalie and Theodore.

Gene Kelly, Upper Elkhorn NRD (O'Neill, Nebraska)

Kelly has served on the Upper Elkhorn NRD Board eight years and is currently on the Water Resources Committee. Prior to joining the NARD board, he served as the alternate delegate for several years. Mostly retired from the insurance and investment industries, Kelly volunteers his time on the Holt County 4-H Foundation Board, Holt County Planning and Zoning Board, Summerfest Rodeo Committee and is a member of the Lion's Club. Kelly and his wife, Wendy, have three children, Justin, Quinn and Quana.

Luke Peterson, Lower Platte South NRD (Lincoln, Nebraska)

Peterson is currently on his first term with the Lower Platte South NRD Board after being elected in 2018. In his short time on the board, he has served on the Urban, Finance & Planning, and Recreation, Forestry & Wildlife subcommittees, and is currently on the Executive Committee. Peterson also serves on the board for the Nebraska Red Ribbon Coalition, a statewide advisory group for the Nebraska Department of Health and Human Services for HIV/AIDS-related services that also combats HIV/AIDS societal stigma.

The NARD Board consists of representation from each of the Nebraska's 23 Natural Resources Districts (NRDs). The board meets five times throughout the year and helps guide the association and NRDs in decision making that protects lives, property and the future of Nebraska's natural resources. The NARD Risk Pool Board governs the health insurance program for NRD employees. Since its inception in 2007, the program has held the average annual cost increases for health premium rates below 4.5 percent.

Final Reading

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

Senators gave final round approval to LB 148e on Thursday, March 25th by a 47-0-2 vote. The bill now awaits action by Governor Ricketts. The bill includes the emergency clause and would become law immediately following approval by Governor Ricketts.

The Legislature advanced LB 148 to Final Reading on March 10th by voice vote after adopting AM 332 on a 36-0 vote. The amendment (AM 332) replaces references to Department of Health and Human Services with Department of Environment and Energy.

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

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

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

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

- No board member shall take any action or make any decision in the discharge of the duties of a member of the board that may constitute a conflict of interest. As soon as a member is aware of a potential conflict or should reasonably be aware of such potential conflict, whichever is sooner, the member shall submit a written statement to the Director of Environment and Energy describing the matter requiring action or decision and the nature of the potential conflict.
- The member shall take such action as the director shall advise or prescribe to remove the member from influence over the action or decision on the matter.
- Conflict of interest includes financial, professional, or personal obligations that may compromise or present the appearance of compromising the judgment of a member in the performance of the duties of a member of the board. The director may establish a definition of conflicts of interest for members of the board and may establish procedures in case such a conflict arises.
- Each member of the board shall, in addition to necessary traveling and lodging expenses, receive a per diem for each day actually engaged in the discharge of the duties of a member of the board, including compensation for the time spent in traveling to and from the place of conducting business.
- The compensation per day shall not exceed fifty dollars and shall be determined by the board with the approval of the department. The department shall be responsible for the general administration of the activities of the board. The cost of operation and administration of the board shall be paid from the General Fund and the Water Well Standards and Contractors' Licensing Fund.

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

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

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

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

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

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

During his opening, Senator Bostelman mentioned he would be providing AM 28, which simply makes 3 clarifying changes and no technical changes to the bill. He mentioned that since 2005 NDEE and DHHS have been operating under a series of MOAs 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 Wennekamp, Wastewater Supervisor, representing 476 communities across Nebraska and provides assistance in regulatory compliance testified in the neutral capacity. Larry mentioned many communities lack resources needed to run a water system. His concern with the transfer of these programs from DHHS to NDEE is that there will be a lack of training and technical assistance needed by smaller communities. His other concern is the programs are public health programs and not environmental programs. He said NDEE needs to make a commitment that the environmental side of things does not overshadow public health.

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

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

Senators gave final round approval to LB 368 on Thursday, March 25th, by a 46-0-3 vote. The bill now awaits action by Governor Ricketts.

On March 9th, the Legislature advanced LB 368 to Select File by a 37-0 vote after adopting AM 66 on a 36-0 vote.

Previously, the Government Committee reported LB 368 to General File with AM 66 on February 8th by an 8-0 vote. The amendment (AM 66) deletes a redundant grant of authority to the Auditor of Public Accounts.

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.

A position letter in support was submitted by the Platte Institute.

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

Senators gave final round approval to LB 369 on Thursday, March 25th, by a 46-0-3 vote. The bill now awaits action by Governor Ricketts.

On March 10th, the Legislature advanced LB 369 to Select File by a 37-0 vote after adopting AM 67 on a 39-0 vote.

Previously, the Government Committee reported LB 369 to General File with AM 67 on February 8th by an 8-0 vote. The amendment (AM 67) deletes a redundant grant of authority to the Auditor of Public Accounts.

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 in support. 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.

General File

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

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

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

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

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

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

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

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

Proponents

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

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

Opponents

There was no opponent testimony.

Neutral

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

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

Committee Action

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

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

The amendment (AM 755) proposes the following changes to the bill:

- Limits the political subdivisions subject to the act as follows: counties, cities, school districts, or community colleges. Other political subdivisions would not be subject to the act.
- Outlines that if a political subdivision as defined under the act includes area in more than one county, the county in which the principal headquarters are located will be the location of the joint public hearing.
- Requires each postcard mailed under the act to include: 1) Date, time and location for the joint public hearing; 2) A listing of each political subdivision that will be participating in the joint public hearing; 3) A telephone number for each political subdivision and the amount of each participating political subdivision's property tax request; 4) The name of the county that will be holding the joint public hearing; 5) The parcel number and the name and address of the property owner; 6) The prior year and the current year assessed valuation; 7) The amount of property taxes due in the prior year and the amount of property taxes due for the current year and the change in the amount of property taxes due.
- The due date for filing the budget with the Auditor of Public Accounts for all political subdivisions is moved to September 27.

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 27 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.

The Revenue Committee accepted testimony on LB 644 on February 10th

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

Proponents

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

Sarah Curry testified in support on behalf of The Platte Institute. She commented that this is an extension of LB 103 and puts teeth in current law. She provided results from an institute poll that said 77% of

respondents supported mailed notification of property tax hearing. She commented that there is no mechanism to check if all tax entities are complying with law and holding hearings. She noted that other states including IL, MN, TX and AZ have implemented measures similar to the Utah model.

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

Opponents

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

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

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

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

Neutral

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

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