

March 5, 2021

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

### Committee Action

#### ***LB 408 – Adopt the Property Tax Request Act. Briese.***

The Revenue Committee reported LB 408 to General File on March 2<sup>nd</sup> with AM 371 following a 7-1 committee vote. The Committee Amendment (AM 371) becomes the bill to adopt the Property Tax Request Act. Other changes originally proposed in LB 408 are included in the Committee Amendment. The changes from LB 408 with the amendment are outlined below.

- A political subdivision's property tax request in any year shall not exceed its request authority. Request authority shall be equal to the political subdivision's tax request from the prior year multiplied by 103%.
- By a majority vote of a political subdivision's governing board, the political subdivision may exceed the 3% limit for no more than 2 consecutive years. If this situation occurs, the property tax request of the political subdivision shall be reduced to ensure the increase in the property tax request does not exceed 9% over a 3-year period.
- The 3-year period will be measured using the year when the political subdivision exceeds the 3% limit as the first year. If the vote to exceed the 3% limit is for 2 consecutive years, the 3-year period shall be measured twice using each of the 2 consecutive years as the first year of the applicable 3-year period.
- The 3% limit shall not apply to a political subdivision's property tax request that will be derived from the real growth value of the political subdivision.
- A political subdivision that chooses not to increase its property tax request by the full 3% may carry forward one-half of its unused request authority to future years as carryover request authority. Carryover request authority may be used in future years to increase the political subdivision's tax request above the 3% limit.
- The 3% limit shall apply to property tax requests set in 2022 through 2027. The 3% limit shall no longer apply to property tax request set in 2028 and thereafter.
- The presentation required at a budget hearing shall also include information showing the political subdivision is in compliance with the Property Tax Request Act.

- 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 27<sup>th</sup>.

In his opening remarks, Sen. Briese noted that Nebraskans are angry and that high taxes are choking off growth in rural communities. It is difficult to recruit people to the state and keep them to grow the state because of high taxes. There needs to be an all of the above approach and limiting the growth of taxes is one way to 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. 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. 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 mentioned that the state's ability to control spending was a benefit in the pandemic and it's important to have that same budget control on the local level, too. 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 said that the county is open to discussion but worries this legislation is a quick and easy fix without looking at the whole process. 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 mentioned that the five colleges biggest expense is personnel – collective bargaining and health insurance is about 80 percent of the budget. Additionally, over the last few years the community colleges have faced huge increases in property/liability insurances. 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 said that Northeast Community College has a new president that is reducing administrative staff and trying to bring things more in line with fiscal conservatism. 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 highlighted that the public could make their wishes known during county board meetings and every two years during elections if money wasn't spent properly. 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 said 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, pointing out 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 49<sup>th</sup> in the nation for state school support and is the 2<sup>nd</sup> 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 mentioned this was an intrusion on the local control that schools have with their board. 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 local control and we shouldn't punish all local subdivisions because some have had a high increase. 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. 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 indicated this could cause major problems with budget evaluation for schools because they can't offset the loss from TEEOSA. 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 said 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, noting 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.

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

The Transportation Committee reported LB 166 to General File on March 2<sup>nd</sup> with AM 389 following an 8-0 vote. The amendment (AM 389) specifies that if specified criteria is met the DMV may cease to issue the plate after the license plate issuance cycle beginning in 2023. The amendment also adds language to allow the DMV to charge a postage and handling fee for delivery of plates.

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

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

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

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

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

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

*The Transportation Committee accepted testimony on LB 166 on February 23<sup>rd</sup>.*

Senator Geist opened by noting that drowning is the leading cause of accidental death for children ages 1-4 and that the bill would raise awareness to that issue. She noted the fees raised would go to NGPC to create grant opportunities for non-profits to teach water safety.

*Proponents*

Blake Collingsworth testified in support of the bill. Collingsworth founded the Josh the Otter program following the accidental drowning death of his son Joshua in 2008. He noted that drowning is the second leading cause of accidental death in children through age 14. This effort is focused on creating awareness and educating children, parents, and caregivers about water safety. He highlighted that the Josh the Otter program introduces the topic in a fun and non-scary way.

Kathy Collingsworth, also a founder of the Josh the Otter Foundation, said they are trying to target and educate children. She told the committee that 18 lives were lost last year to drowning in the state of Nebraska. She provided several examples of the projects funded by the foundation.

There were no opponents and no neutral testifiers.

Written testimony in support of the bill was submitted by NGPC and Nebraska Children's Hospital. The Nebraska DMV submitted a letter in a neutral capacity.

During closing, Sen. Geist addressed the letter from DMV and told the committee it recommends a minor change to harmonize language in the bill. She expressed that there are close to 250 people already interested in the license plate.

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

The Revenue Committee reported LB 178 to General File on March 2<sup>nd</sup> with AM 387 following a 6-1-1 vote. The amendment (AM 387) reduces the percentage of the turnback from 36.36%, 54.54%, 72.72% over the first three years to 36.36% the first year and 50% every year thereafter.

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

Under the committee amendment, sales tax proceeds returned would be on the following schedules:

- For sales taxes imposed from July 1, 2021, through June 30, 2022: 36.36 percent;
- For sales taxes imposed from on or after July 1, 2022: 50.00 percent.

The original provision to return up to 72% after July 1, 2024 was eliminated.

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

It is the intent that funds received under the section be used to defer increases in sewer and water rates. Each political subdivision receiving funds under this section shall include, in its budget statement, the amount of

funds received under this section and the percentage by which its sewer and water rates would have increased if not for the receipt of such funds.

*The Revenue Committee accepted testimony on LB 178 on February 19<sup>th</sup>.*

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

*Proponents*

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

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

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

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

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

NARD submitted a letter in support of the bill. In addition to protecting water quality and quantity, Nebraska's NRDs operate and provide safe drinking water for 15 rural water systems in Nebraska. This includes more than 2,300 miles of buried water lines, serving over 19,300 people across the state. Primarily, these serve smaller communities that cannot afford to operate systems independently. They also serve many rural customers in between the communities that do not have access to drinking water.

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

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

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

**Committee Action Last Week**

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

Provisions of LB 190 were incorporated into LB 507 with AM 256. LB 507, was advanced to General File with the amendment AM 256 on February 23<sup>rd</sup>. LB 507 is a bill introduced by Natural Resources Committee Chair Bostelman that addresses contamination concerns at the AltEN Ethanol plant near Mead by prohibiting

the use of treated seed corn in the production of agricultural ethyl alcohol if the byproduct generated is deemed unsafe for livestock consumption or land application.

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

The Natural Resources Committee accepted testimony on LB 190 on January 27<sup>th</sup>.

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

Proponents

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

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

Opponents

There was no opponent testimony.

Neutral

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

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

**The Following Bills Had Hearings This Week**

***LB 29 - Replace Arbor Day with Juneteenth as a state holiday. Wayne.***

The bill eliminates Arbor Day, the last Friday in April as a state holiday and replaces it with a new state holiday called "Juneteenth" which is also known as Freedom Day, Jubilee Day, Liberation Day, and Emancipation Day, on June 19<sup>th</sup>.

The Government Committee accepted testimony on LB 29 on March 3<sup>rd</sup>.

Sen. Wayne opened on the bill by expressing the need for the state to honor the sacrifices that were made to this country. He noted it was June 19th where slavery and the Confederacy ended. He expressed that replacing Arbor Day would avoid the expense of adding a state holiday.

Proponents

Karen Bell-Dancy, executive director of the YWCA of Lincoln, testified in support of the bill. She noted establishing Juneteenth as a state holiday would signal its importance to all people, further highlighting that

the holiday would not only demonstrate recognition of the past but would also be an affirmation that Black lives matter.

Annette Harris of Omaha also testified in support. She reiterated that making Juneteenth a holiday would open doors to make everyone aware of why the day is celebrated.

There was no opposition or neutral testimony. The committee reported no action on the bill.

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

The bill clarifies that Roth IRA contribution amounts, as part of a deferred compensation package, are to be included in the computation of federal or state taxes withheld on behalf of public employees.

The Retirement Committee accepted testimony on LB 209 on March 3<sup>rd</sup>. The committee reported no action on the bill.

**Hearings Conclude Next Week**

**Thursday, March 11<sup>th</sup>**

**Judiciary Committee – Room 1113 – 1:30 PM**

***LB 370 - Adopt the Personal Privacy Protection Act. Sanders.***

The bill would prohibit any state or local government unit from: (a) Requiring any individual to provide personal information or otherwise compelling the release of personal information; (b) Requiring any nonprofit organization holding a certificate of exemption under section 501(c) of the Internal Revenue Code to provide such public agency with personal information or otherwise compelling the release of personal information; (c) If in the possession of personal information, releasing, publicizing, or otherwise publicly disclosing such personal information; or (d) Requesting or requiring a current or prospective contractor or grantee to provide such public agency with a list of nonprofit organizations holding certificates of exemption under section 501(c) of the Internal Revenue Code to which such contractor or grantee has provided financial or nonfinancial support.

Under the bill, personal information means any list, record, register, registry, roll, roster, or other compilation of data that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any nonprofit organization holding a certificate of exemption under section 501(c) of the Internal Revenue Code;

This bill does not prohibit: (a) Any report or disclosure required by the Nebraska Political Accountability and Disclosure Act; (b) Any report or disclosure by a public agency regarding testimony received at a public hearing conducted by such public agency; (c) Any lawful warrant, subpoena, or order issued by a court of competent jurisdiction for the production of personal information; (d) Any lawful request for discovery of personal information in litigation if both of the following conditions are met: (i) The requestor demonstrates a compelling need for such personal information by clear and convincing evidence; and (ii) The requestor obtains an order barring disclosure of such personal information to any person not named in the litigation; and (e) Admission of personal information as relevant evidence before a court of competent jurisdiction.

A person alleging a violation under the bill may be entitled to appropriate injunctive relief and damages, including a reasonable attorney's fee.