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TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: August 14 Sine Die NARD Update

The 106th Legislature, 2nd Session, ends Sine Die -- The Nebraska Legislature adjourned Sine Die August 13, 2020 on day 60 of a 60-day session. The next regular session is scheduled to begin January 6, 2021. Regular sessions generally last 90 legislative days in odd-numbered years and 60 legislative days in even-numbered years. This document contains a summary of the outcome of all Legislative Bills of interest to natural resources districts that were pending in 2020.

A total of 150 bills were passed this session. In addition, several other bills were incorporated by amendments to the bills that passed, bringing the total to 285. No bills are carried forward to the 2021 session, so all bills that did not receive final approval by the Legislature were indefinitely postponed on the last day of the session.

The first section lists bills that were passed by the Legislature and approved by Governor Ricketts (Pages 5-24). The second section includes bills that have been indefinitely postponed (Pages 24-75). The third section lists Interim Study Resolutions that were introduced in 2020 (Pages 75-77). An index of the bills and corresponding page number in the report can be found on Pages 2-5. A spreadsheet is included in the back of the document for a quick reference to all bills of interest to natural resources districts.

Compromise Reached on Property Tax relief, Business Incentive and UNMC

On August 5th, the Legislature amended and advanced LB 1107 to Select File on a 43-2-4 vote to create a new property tax relief program. The amendment provides a compromise of three main issues for the session – property tax relief, business tax incentives and funding for the University of Nebraska Medical Center. Senators gave Final Approval to the bill on August 13th on a 41-4-4 vote.

The new program would create a refundable income tax credit based on the amount an eligible taxpayer paid in property taxes to their school district during the previous year, not including those amounts levied for bonded indebtedness or a levy override.

The credit, which would be allowed to each individual, business or other entity that pays school district taxes, would be equal to a percentage set by the state Department of Revenue multiplied by the amount of school district taxes paid by the taxpayer during the taxable year.

For calendar year 2020, the department would set the percentage so that the total amount of credits is \$125 million. For 2024, the credit cap would be \$375 million. For each year after that, the department would set the percentage so that the total amount of credits would be \$375 million plus an amount equal to the growth in total assessed value for all real property from the prior year to the current year.

Under the business tax incentive program, a cap on authority for business incentives would be created. The base authority would be \$25 million in calendar years 2021 and 2022, \$100 million for 2023 and 2024 and \$150 million for 2025. Beginning in 2026, the director would adjust the base authority every three years to an amount equal to three percent of the state's general fund net receipts for the most recent fiscal year. Unused base authority would carry forward to the following year, but base authority prior to 2026 could not exceed \$400 million.

The third portion of the compromise package is a pledge of \$300 million in future state funding support for a \$2.6 billion project at the University of Nebraska Medical Center (UNMC). The UNMC proposal is dependent on federal designation of a new national disaster response center at the campus in Omaha and \$2 billion in federal funding.

Term Limited Senators – Six state senators are term limited out after this session. This is the second time that Ernie Chambers has been term limited. Chambers represented District 11 from 1971-2009. He was ineligible to run for re-election in 2008 after serving two four-year terms following the introduction of term limits in 2000. After waiting the requisite four years, was elected to represent District 11 again in 2012 and 2016. The term limited senators are:

- District 9: Sara Howard
- District 11: Ernie Chambers
- District 19: Jim Scheer
- District 29: Kate Bolz
- District 31: Rick Kolowski
- District 45: Sue Crawford

Thank you for your public service!

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LR 300 CA	Constitutional amendment to prohibit all forms of taxation other than a consumption tax.	Erdman	26-27
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Section 1 – Budget and other bills passed

On Friday, July 31st Senators gave final round approval to the budget bills LB 1008 and 1009 by votes of 43-3-3 and 46-2-1. Both bills included the emergency clause and were signed into law by Governor Ricketts on August 6th.

Previously, the Appropriations Committee advanced two budget bills, LB 1008 and 1009, to Final Reading on July 28th after making some adjustments to the budget as recommended by the Appropriations Committee. Senators had to invoke cloture (33 votes minimum) to end debate and other amendments offered on both bills before advancing them by voice vote.

When the Legislature suspended the session in March, the committee's proposal would have left \$133.8 million to fund bills passed this year. After the state's Economic Forecasting Advisory Board met July 23 that number has dropped to approximately \$89 million.

Senator Stinner offered an amendment during Select File debate that would require any unallocated and unexpended coronavirus relief funds as of Nov. 15, 2020, to be reoffered through a grant process to meet remaining unmet needs, including rental and food assistance, small business and livestock stabilization, broadband, workforce retraining and childcare.

In addition—if allowed by federal law—any unallocated or unexpended funds received pursuant to the federal 2020 Coronavirus Aid, Relief and Economic Security (CARES) Act, would be transferred to the Cash Reserve Fund on or before Dec. 26, 2020. The \$1.25 billion of COVID relief funds that Nebraska received in April must be expended by Dec. 31, 2020 or be returned to the federal government. The amendment was adopted 33-0.

The committee advanced both LB 1008 and 1009 to General File on March 9th with Committee Amendments. The third budget bill, LB 1010 which makes transfers from the cash reserve, was not advanced. The Appropriations Committee proposal does not use any Cash Reserve Fund monies. The committee provided funding for the same projects as the Governor but utilized General Funds rather than Cash Reserve Fund transfers. Thus, LB 1010 was not advanced to General File.

The three bills, introduced by Speaker Jim Scheer of Norfolk at the request of Gov. Pete Ricketts, comprise the governor's mid-biennium budget recommendations. The state budget is structured on a two-year basis, with the budget passed in odd-numbered years and adjustments made during legislative sessions held in even-numbered years.

LB 1008 - Provide, change, and eliminate provisions relating to appropriations. Speaker Scheer, at the request of the Governor.

The bill proposes changes to appropriations for FY 2019-20 and FY 2020-21 that were adopted last year. The bill was advanced to Final Reading by voice vote after the vote to invoke cloture prevailed on a 40-7-2 vote. The bill was given final approval on Final Reading by a 43-3-3 vote and signed into law by Governor Ricketts on August 6th.

In addition to the Governors mainline budget bills, 35 bills were referred to the Appropriations Committee, most simply appropriating monies for a specific purpose. Many of these were requests for funding that had been considered in the 2019 session but unfunded due to lack of available funds. Of those bills, 19 have been incorporated into the committee proposed budget in some manner. One of those bills is LB 1026 which originally proposed a \$2.5 million General Fund appropriation to the Daugherty Water for Food Institute.

The amended version of LB 1026 is incorporated into LB 1008 and includes \$500,000 General Fund appropriation in FY2020-21 to the university for the Daugherty Water for Food Institute. This appropriation will be financed by a \$500,000 transfer from the Water Sustainability Fund to the General Fund.

Senator Slama has filed an amendment, AM 2737, to add \$125,000 in General Funds to DNR to provide a grant to a city with a population of less than one thousand residents to carry out an engineering study to develop cost estimates for repair of a breached levee system that resulted in the flooding of drinking water and wastewater treatment facilities. This amendment, as well as eight others were not considered.

Related to natural resources, the following changes are proposed:

DEPARTMENT OF NATURAL RESOURCES -- An increase of \$175,000 in FY 2019-20 and \$425,000 in FY 2020-21 for Program No. 334 - Soil and Water Conservation. These increases are for two studies. First, the Missouri River Basin Flood Management Studies request is \$125,000 for each fiscal year. The agency will participate in a series of Missouri River basin studies to improve the flood control system of the lower Missouri River basin, including tributaries, therefore protecting water supplies, important infrastructure, and agriculture. The State of Nebraska will collaborate with the states of Iowa, Kansas, and Missouri, and the U.S. Army Corps of Engineers to complete the studies.

Second is the South Platte and Platte River Basins Studies. The recommendation includes a cash fund appropriation increase of \$50,000 in FY 2019-20 and \$300,000 in FY 2020-21 in the Soil and Water Conservation Program for technical studies involving hydrologic, conjunctive management and modeling tool evaluations, and other environmental and economic investigations along the South Platte and Platte River Basins. These studies will consider planned upstream water development projects and the possible affects upon Nebraska water uses.

The increased funding would come from a transfer from the Water Sustainability Cash Fund to the Department of Natural Resources Cash Fund.

The proposal also adds \$3.8 million to Program No. 314 - Critical Infrastructure Facilities -- to assist with the repairing the underground tunnel on the Fort Laramie Canal which collapsed in July of 2019. The Fort Laramie Canal provides irrigation water to 104,000 acres in Wyoming and Nebraska served by the Goshen and Gering-Fort Laramie Irrigation Districts and the Wright and Murphey Ditch Company.

The increased funding for this program would come from a transfer from the general fund.

Regarding Programs No. 303 (Small Watersheds Flood Control Fund) and No. 307 (Resources Development Fund), while no new appropriations are currently being requested, both programs will continue to remain operational.

The RDF (Program 307) has six projects that are at various stages of being completed. While no new appropriation has been requested, there is \$2,693,133.62 re-appropriated for completion of the six projects. DNR's contract with each sponsor terminates fifty years from project close-out, therefore this fund will likely remain operational for some time.

The legislature swept the funding from the SWFCF (Program 303), but the fund has not been discontinued and remains operational pending any future needs. There are several identified several watershed studies currently being funded by NRCS which will likely result in future SWFCF funding requests by Districts. DNR is currently anticipating those funding needs will be no sooner than the FY24-25 biennium.

GAME AND PARKS COMMISSION --

In the original committee amendment, there was a proposal for a \$558,026 increase in FY 2019-20 and \$572,429 in FY 2020-21 for additional conservation officers. The increased request was for five additional officers and related equipment at Lake McConaughy and other recreation areas. However, the amendment adopted on Select File did not include this language.

The second increase is \$187,000 in FY 2019-20 for repairs on the Cowboy Trail from the floods in 2019. This is estimated to be the state's share of the \$7.7 million in damage to the trail, of which FEMA is expected to pick up \$5.8 million.

Robert B. Daugherty Water for Food Global Institute

For FY 2020-21, the bill included \$500,000 General Funds for the Robert B. Daugherty Water for Food Global Institute to support water and agricultural research and existing collaborative initiatives to implement best practices in water conservation.

LB 1009 - Provide for transfers of funds, repeal a fund, and change use of a fund. Speaker Scheer, at the request of the Governor.

This is the proposed changes to transfer of funds. The bill was advanced to General File with Committee Amendment AM 2738 on March 10th. Senator advanced the bill to Final Reading on July 28th after adopting an amendment offered by Senator Stinner to direct transfers from the Governor's Emergency Cash Fund to the Cash Reserve Fund. The bill was advanced to Final Reading by voice vote after the vote to invoke cloture prevailed on a 43-4-2 vote. The bill was given final approval on Final Reading by a 46-2-1 vote.

The amendment adopted on Select File (AM 3120) allows transfers from the Governor's Emergency Cash Fund to the Cash Reserve Fund at the direction of the Legislature through June 30, 2021. It also requires the State Treasurer to transfer sixty million dollars from the Governor's Emergency Cash Fund to the Cash Reserve Fund between the effective date of this act and June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

On March 12th, senators debated the bill and were faced with multiple filibuster motions and amendments, all of which were defeated. Senators voted to invoke cloture on a 38-2-9 vote, adopted the Committee Amendment (AM 2738) on a 38-2-9 vote and advanced LB 1009 to Select File on a 40-1-8 vote.

Related to natural resources, these are the proposed changes:

A transfer of \$175,000 from the Water Sustainability Fund to the Department of Natural Resources Cash Fund for the studies outlined in LB 1008 for FY 2019-20. There is an additional transfer of \$425,000 from the Water Sustainability Fund to the Department of Natural Resources Cash Fund for the studies outlined in LB 1008 for FY 2020-21.

A transfer of \$500,000 from the Water Sustainability Fund to the General Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The bill also modifies the Critical Infrastructure Facilities Cash Fund to allow the fund to be used for costs related to temporary repairs to the main canal and tunnels of an interstate irrigation system which experienced a failure. The change in LB 1008 provides \$3.8 million to assist with repairing the underground tunnel on the Fort Laramie Canal which collapsed in July of 2019.

The spreadsheet with the budget adjustments related to natural resources can be found on the following page.

Agency	2019 Adopted LB's 294 & 298			2020 Proposed LB's 1008 & 1009		Proposed FY19-20 & 20-21 Budget	
		FY 19-20	FY 20-21	FY 19-20	FY 20-21	FY 19-20	FY 20-21
Agency 84 - Department Environment & Energy							
Program 513- Administration, 586-Water Quality, 587 - Land Quality and 588 -Air Quality	General Fund	\$3,680,094	\$3,716,744	\$0	\$0	\$3,680,094	\$3,716,744
	Cash Fund	\$36,527,132	\$36,751,107	\$0	\$0	\$36,527,132	\$36,751,107
	Federal Fund est.	\$16,990,274	\$17,136,874	\$0	\$0	\$16,990,274	\$17,136,874
	Program Total	\$57,197,500	\$57,604,725	\$0	\$0	\$57,197,500	\$57,604,725
	Salary Limit	\$13,203,051	\$13,507,537	\$0	\$0	\$13,203,051	\$13,507,537
Program 523 - Wastewater Loan Fund	Cash Fund	\$600,000	\$600,000	\$0	\$0	\$600,000	\$600,000
	Federal Fund est.	\$6,940,000	\$6,940,000	\$0	\$0	\$6,940,000	\$6,940,000
<i>*Agency requested the cash fund be reduced</i>	Program Total	\$7,540,000	\$7,540,000	\$0	\$0	\$7,540,000	\$7,540,000
Program 528 - Drinking Water Facilities Loan Fund	Cash Fund	\$0	\$0	\$0	\$0	\$0	\$0
	Federal Fund est.	\$8,500,000	\$8,500,000	\$0	\$0	\$8,500,000	\$8,500,000
<i>*Agency requested the cash fund be discontinued</i>	Program Total	\$8,500,000	\$8,500,000	\$0	\$0	\$8,500,000	\$8,500,000
Agency Wide - Volkswagen Settlement Cash Fund	Cash Fund	\$2,500,000	\$2,500,000	\$0	\$0	\$2,500,000	\$2,500,000
Agency 33 - Game & Parks Commission							
Program 162 - Environmental Trust	Cash Fund	\$20,659,430	\$20,667,587	\$0	\$0	\$20,659,430	\$20,667,587
	Program Total	\$20,659,430	\$20,667,587	\$0	\$0	\$20,659,430	\$20,667,587
	Salary Limit	\$280,552	\$286,424	\$0	\$0	\$280,552	\$286,424
Program 330 - Habitat Development	Cash Fund	\$7,475,655	\$7,544,645	\$0	\$0	\$7,475,655	\$7,544,645
	Federal Fund est.	\$3,900,673	\$3,900,673	\$0	\$0	\$3,900,673	\$3,900,673
	Program Total	\$11,376,328	\$11,445,318	\$0	\$0	\$11,376,328	\$11,445,318
	Salary Limit	\$1,542,472	\$1,574,657	\$0	\$0	\$1,542,472	\$1,574,657
Program 336 - Wildlife Conservation	General Fund	\$1,412,966	\$1,446,598	\$135,560	\$340,102	\$1,548,526	\$1,786,700
	Cash Fund	\$25,904,521	\$26,392,693	\$422,466	\$232,327	\$26,326,987	\$26,625,020
	Federal Fund est.	\$3,761,602	\$3,783,728	\$0	\$0	\$3,761,602	\$3,783,728
	Program Total	\$31,079,089	\$31,623,019	\$558,026	\$572,429	\$31,637,115	\$32,195,448
	Salary Limit	\$14,929,501	\$15,299,856	\$58,060	\$246,180	\$14,987,561	\$15,546,036
	<i>*somewhat offset by a \$300,000 reduction for each fiscal year for Engineering and Area Maintenance</i>						
Program 338 - Niobrara Council	General Fund	\$42,011	\$42,011	\$0	\$0	\$42,011	\$42,011
	Cash Fund	\$1,000	\$1,000	\$0	\$0	\$1,000	\$1,000
	Federal Fund est.	\$125,000	\$125,000	\$0	\$0	\$125,000	\$125,000
	Program Total	\$168,011	\$168,011	\$0	\$0	\$168,011	\$168,011
*Program 550 - Planning & Trails Coordination	General Fund	\$474,808	\$485,409	\$0	\$0	\$474,808	\$485,409
	Cash Fund	\$1,158,501	\$1,148,457	\$0	\$0	\$1,158,501	\$1,148,457
	Federal Fund est.	\$106,841	\$107,905	\$0	\$0	\$106,841	\$107,905
<i>*Amount for development and maintenance of boundary fences along Cowboy Trail limited \$64,000 each FY.</i>	Salary Limit	\$933,669	\$952,586	\$0	\$0	\$933,669	\$952,586
Agency 29 - Department of Natural Resources							
*Program 303 - Small Watersheds	Cash Fund	\$0	\$0	\$0	\$0	\$0	\$0
<i>*Agency requested the cash fund be discontinued</i>	Program Total	\$0	\$0	\$0	\$0	\$0	\$0
Program 304 - Nebraska Soil & Water Conservation Fund	General Fund	\$1,806,112	\$1,806,112	\$0	\$0	\$1,806,112	\$1,806,112
	Cash Fund	\$50,000	\$50,000	\$0	\$0	\$50,000	\$50,000
	Program Total	\$1,856,112	\$1,856,112	\$0	\$0	\$1,856,112	\$1,856,112
*Program 306 - Water Well Decommissioning	Cash Fund	\$70,000	\$70,000	\$0	\$0	\$70,000	\$70,000
	Program Total	\$70,000	\$70,000	\$0	\$0	\$70,000	\$70,000
*Program 307 - Nebraska Resources Development Fund	General Fund	\$0	\$0	\$0	\$0	\$0	\$0
	Cash Fund	\$0	\$0	\$0	\$0	\$0	\$0
<i>*Agency Requested the fund be discontinued</i>	Program Total	\$0	\$0	\$0	\$0	\$0	\$0
Program 309 - Natural Resources Water Quality Fund	Cash Fund	\$1,187,500	\$1,187,500	\$0	\$0	\$1,187,500	\$1,187,500
	Program Total	\$1,187,500	\$1,187,500	\$0	\$0	\$1,187,500	\$1,187,500
Program 313 - Water Sustainability Fund	Cash Fund	\$10,865,033	\$10,865,033	\$0	\$0	\$10,865,033	\$10,865,033
	LB 298 Transfer in	\$11,000,000	\$11,000,000	\$0	\$0	\$11,000,000	\$11,000,000
	*LB 1009 Transfer out	\$0	\$0	-\$175,000	-\$425,000	-\$175,000	-\$425,000
	<i>*Transfer to NeDNR Program No. 334 - Soil & Water Conservation Missouri & South Platte River basin studies</i>						
	**LB 1009 AM 2738 Transfer d	\$0	\$0	\$0	-\$500,000	\$0	-\$500,000
	<i>**Transfer from WSF to General Fund for Daugherty Water for Food Global Institute</i>						
Program 314 - Critical Infrastructure Facilities	Program Total	\$0	\$0	\$3,800,000	\$0	\$3,800,000	\$0
	<i>*One time Cash Fund Transfer to assist with repairing the underground tunnel on the Fort Laramie Canal.</i>						
Water Resources Cash Fund	LB 298 Transfer in	\$3,300,000	\$3,300,000	\$0	\$0	\$3,300,000	\$3,300,000
*Program 334 - Soil & Water Conservation (General Operations)	General Fund	\$10,388,164	\$10,577,369	\$0	\$0	\$10,388,164	\$10,577,369
	*Cash Fund	\$11,423,002	\$7,428,919	\$175,000	\$425,000	\$11,598,002	\$7,853,919
<i>*NOTE: Includes \$4 million in FY 2019-20 for Colorado Republican River Settlement</i>	Federal Fund est.	\$815,984	\$833,429	\$0	\$0	\$815,984	\$833,429
	Program Total	\$22,627,150	\$18,839,717	\$175,000	\$425,000	\$22,802,150	\$19,264,717
	Salary Limit	\$6,776,643	\$6,931,898	\$0	\$0	\$6,776,643	\$6,931,898

Other Bills Passed

LR 288 – Legislative resolution regarding Missouri River Management. Slama and others.

The Legislature approved LR 288 on Thursday, February 27th on a 43-1-5 vote.

The proposal is a non-binding legislative resolution outlining that the Nebraska Legislature respectfully urges Congress and the United States Army Corps of Engineers (USACE) to prioritize flood control as a top priority for the management of water systems under their authority in the Missouri River Mainstem Reservoir System Master Water Control Manual for the Missouri River Basin.

The Natural Resources Committee advanced the resolution to General File on February 10th by an 8-0 vote.

Hearing Notes

On February 5th, the Natural Resources Committee accepted testimony on LR 288.

At the hearing Senator Slama outlined the severe impacts Missouri River flooding has caused across southeast Nebraska, with flooding stretching from March through December and over 420,000 acres of farmland not planted. She also outlined concerns over the Peru Levee failure and the USACE refusal to fund the estimated \$325 million in necessary repairs. She told the committee the USACE message is to be prepared for more flooding but noted they haven't acted on their own message about preparing for flooding.

She mentioned the USACE has failed to manage runoff trends and is only half-heartily addressing flood control. She told the committee a study partnership by the states should not have to be necessary, and a 3-year study will likely be unsuccessful, or at best, take decades to implement. She noted there are only 3 groups that can trigger a rewrite of the master manual, the head of USACE, the President, and Congress, and none have shown interest in triggering a rewrite. She told the committee this resolution will signal to USACE and Congress that lives of those along the river should matter and be prioritized in the master manual.

Proponents

Bob Hilske, General Manager Nemaha NRD (NNRD), testified in support on behalf of the NNRD and NARD. Hilske thanked Senator Slama for her leadership in working to address concerns with the Corps. He highlighted that 10 of 15 highest crests on the Missouri River have occurred in the last 25 years. He provided a historic overview of the use and management of the river. He noted that in 2004 when the master manual was last revised, the endangered species act, recreation in mainstem reservoirs and flows in the river for navigation were of greater concern. He stressed the need to reprioritize management for flood control and the need to look at every option to reduce impacts to land and people working and living along river.

John Winkler, General Manager, Papio-Missouri River NRD, testified in support of the measure. Telling the committee the district fully supports reinforcing to USACE, and more importantly Congress, that flood control should be top priority.

Jesse Bradley testified in support on behalf of the Department of Natural Resources. He testified that the department supports reinforcing that protecting communities and people should be the most important priority. He suggested that paragraph 3 of the drafted resolution be updated to reflect the \$550 million in 2019 damages.

Dan Hanson, President of Peru State College testified in support on behalf of the college and the North East Nemaha Long Term Recovery Group. He outlined the significant costs flooding has caused. He noted the town and college's water supply has been flooded since March and they had to truck in water for the community, he said there is now a temporary solution that is barely covering the community, but only will last for the next 3 years, and at a cost of \$750K. He told the committee it will cost \$6 million for a new water plant. He also mentioned the importance the NRD trail had to the area and noted it will remain unusable until the Peru levees are repaired.

Amber Holle, testified in support on behalf of the Falls City area chamber of commerce. She outlined the economic impact the flood had. Noting every business and service in the area was severely impacted, with some businesses seeing sale declines as high as 70%.

John Hansen, Nebraska Farmers Union, testified in support of the bill. Noting the system of management has been overcomplicated by serving too many purposes with contrasting interests.

Brett Adams, a farmer near Peru, testified on behalf of himself and the Peru Levee District. He outlined how the flooding has severely impacted his operation. He stressed the need to repair the levee and noted the USACE was rejecting repairs simply because the levee district used their small budget to do levee work instead of expensive paperwork required by the USACE.

Proponent testimony was also provided by Paul Turman on behalf of the Nebraska State College System. He spoke to changes in operation of mainstream reservoirs and stressed his support for the resolution.

Scott Olson, Tekamah, testified in support on behalf of Responsible River Management Group. He spoke about changes in the management of the river and how the slower flows and sedimentation are resulting in increased lateral flooding.

There was no opposition or neutral testimony.

In her closing Senator Slama noted that while much of the testimony focused on Peru, flooding was widespread and had impacts on the whole region.

Letters of support were submitted for the record by Nebraska Corn Growers Association, Nebraska Soybean Association, Nebraska Cattlemen, and the Nebraska Farm Bureau.

LB 148 - Change requirements for public hearings on proposed budget statements and notices of meetings of public bodies. Groene.

Governor Ricketts signed LB 148 into law on February 12, 2020. Senators gave final approval to LB 148 February 6th by a 45-0-4 vote.

On Select File, senators advanced LB 148 to Final Reading on January 31st after adopting AM 2176 offered by Senator Groene on a 31-0-18 vote. The amendment eliminated the confusing language that would have required the purchase of a digital advertisement in a local paper for public notice. Some papers have advertising banners and other ads on their on-line versions. This clarifies that the public body does not have to buy an ad but can put the notice in the on-line public notice section if one exists.

Previously, on January 15th, Senators advanced LB 148 to Select File on a 35-0 vote after adopting the Committee Amendment (AM 421) on a 31-0 vote. Most of the opposition to the original bill sent letters to Senator Groene outlining how the committee amendment addresses their concerns with the bill.

The Government Committee advanced LB 148 to General File on a 5-0-2 vote with Committee Amendment AM 421 on March 5, 2019. Although the amendment strikes the original bill, the amendment does not really change the original bill much. The amendment adds a joint entity created pursuant to the Interlocal Cooperation Act that receives funds from an occupation tax on irrigated acres be subject to the Nebraska Budget Act. This was the same as the original bill.

The bill, as amended by AM 421 and AM 2176, adds the following requirements on all local governmental entities: 1) It requires that the public hearing on a proposed budget statement be held separately from any regularly scheduled meeting of the governing body and not be limited by time. 2) The bill adds that the governing body be required to make a presentation outlining key provisions of the proposed budget statement, including, but not limited to, a comparison to the prior year's budget statement. 3) There shall be at least three copies of the proposed budget statement available to the public. 4) Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the governing body and must be given a reasonable amount of time to speak.

The bill also changes the public notice requirements for all governmental entities.

- For cities of the second class and villages, the amendment requires that public notice be: 1) Published in a newspaper of general circulation within the public body's jurisdiction and, if available, in a digital advertisement on such newspaper website. 2) Posted in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting. 3) Any additional method the public body designates.

- For all other local government subdivisions or such body's advisory committee, the amendment requires notice of the budget hearing to be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website. The amendment also allows for any additional method the public body designates. • Public bodies not specifically described, shall provide notice of meetings by a method designated by the public body. The bill also requires that all public bodies shall be required to record the methods and dates of notices in their minutes.

LB 632 – Clarify a statutory reference to rural water districts. Hughes. Natural Resources Committee Priority Bill.

Senators gave final approval to LB 632 on Thursday, August 13th on a 46-0-3 vote. The bill included provisions of LB 769, 861, 933, and 1201, was advanced to Select File on July 22nd by a 39-0 vote. Senators adjourned Sine Die before any action was reported by the Governor.

On General File Senator Hunt successfully filed a motion to divide AM 2766 and consider the amended provisions of LB 861 separately. The bill prohibits a county, municipality, or agency from adopting, enforcing, or otherwise administering an ordinance or resolution that prohibits the use of or that sets standards, fees, or requirements regarding the sale, use, or marketing of containers.

During debate Senator Hunt expressed opposition to the provisions of LB 861 that limit the ability of local governments to enact a ban on single-use plastic bags. Ultimately AM 2866 containing provisions of LB 861 was approved by a 28-10 vote. AM 2865 containing provisions of LB 769, 933, and 1201 was approved by a 41-0 vote.

On Select File, Senator Hunt filed an amendment (AM 3153) to remove provisions of LB 861. That amendment lost on a 15-28-6 vote.

Previously, the Natural Resources Committee advanced LB 632 on March 6th with Committee Amendment, AM 2766.

The original bill proposed a non-substantive technical change to a rural water districts statute, which is no longer included in the bill.

Following are the summaries of LB's 769, 861, 933 and 1201 which are all now part of the bill.

- **LB 769 – Change provisions relating to the Nebraska Natural Resources Commission. Gragert.**

The Natural Resources Committee advanced LB 769 to General File on a 7-0-1 vote on February 25th. The bill as proposed is included in AM 2865 to LB 632.

The bill requires that members of the Natural Resources Commission be residents of the State of Nebraska.

Hearing Notes

The Natural Resources Committee accepted testimony on LB 769 on January 29th.

Senator Gragert opened by saying the bill will require that each member of the Natural Resources Commission be a resident of the State of Nebraska, in order to protect the integrity of the Commission. He noted that largest among the duties of the Natural Resources Commission is to administer the Water Sustainability Fund, a role best served by Nebraskans.

Proponents

Pat O'Brien, General Manager of the Upper Niobrara White NRD, testified in support of the bill on behalf of the Upper Niobrara White and the Nebraska Association of Resource Districts. He noted the intent of this bill is straightforward – require that the Nebraska Natural Resources Commission members – who are responsible for the delegation of millions of dollars – be residents of the state of Nebraska.

O'Brien noted the Natural Resources Commission was developed with the formation of the NRDs back in the 1970s and has multiple responsibilities including oversight of several funding programs. Most notably, the Commission allocates funds from the Water Sustainability Fund which the Legislature has established to protect Nebraska's surface and ground water resources. The Commission also oversees other programs such as the Soil and Water Conservation Program, Natural Resources Water Quality Fund and the Water Well Decommissioning Fund, however these are much smaller in terms of the amount of money available.

O'Brien outlined the current structure of the twenty-seven members of the commission. Thirteen of the commission members represent unique river basins throughout the state and are elected by a caucus of the NRD directors who reside in the river basins. He noted that any person who lives in a river basin can be elected and there is no requirement that individual must be an NRD Director. The remaining fourteen members are appointed by the Governor to represent various water related interests such as; recreation, public power districts, irrigation districts, wildlife conservation and others. All the commissioners serve four-year terms and the elections or appointments are off-set to allow for some continuity.

He noted that while the statutes do require residency requirements within a river basin, neither the elected or appointed members currently are required to be residents of the State of Nebraska. There are several river basins that do extend beyond the state borders – such as the Niobrara basin which starts in Wyoming and also extends into South Dakota – and thus, there is an opportunity for a non-resident to get elected or appointed.

A letter of support came from Kathy Wilmot from Beaver City, Nebraska.

There were no opponents or neutral testifiers.

- **LB 861 - Change provisions of the Integrated Solid Waste Management Act with respect to consumer merchandise and containers. Hughes.**

The Natural Resources Committee advanced LB 861 to General File on February 27th with Committee Amendment AM 2672. This amendment is included in AM 2866 to LB 632.

The bill prohibits a county, municipality, or agency from adopting, enforcing, or otherwise administering an ordinance or resolution that prohibits the use of or that sets standards, fees, or requirements regarding the sale, use, or marketing of containers. The proposal would not apply to county, municipality, or agency recycling or solid waste collection programs.

Under the bill, consumer merchandise is defined as merchandise offered for sale or lease, or provided with a sale or lease, primarily but not exclusively for personal, family, or household purposes, and includes any container used for consuming, carrying, or transporting such merchandise.

Container is defined as a bag, cup, package, container, bottle, or other packaging that is (1) designed to be either reusable or single-use, (2) made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, or postconsumer recycled or similar material or substrates,

including coated, laminated, or multilayer substrates, and (3) designed for consuming, protecting, or transporting merchandise, food, or beverages from or at a food service or retail facility.

The Committee Amendment, AM 2672, eliminated all references in the bill to "consumer merchandise" to clarify the bill is only meant to apply to regulations involving the sale, use, or marketing containers, not to regulations involving the merchandise contained within the containers. It would also clarify that counties, municipalities, and agencies cannot use any provision of the bill to independently ban the sale, use, or marketing of containers. Finally, it explicitly adds cans and pouches to the definition of "container" and clarifies other language in the bill.

Hearing Notes

The Natural Resources Committee accepted testimony on LB 861 on February 12th.

During the hearing Senator Hughes told the committee the bill amends the Integrated Solid Waste Management Act to change provisions related to state policy and to the regulation of the sale or marketing of consumer merchandise and containers by a county, municipality, or agency. The intent of this bill is to encourage uniform regulation of consumer merchandise and containers in order to avoid the burden on retailers or having to comply with varying regulatory policies in multiple jurisdictions. The bill will continue to allow local government to regulate solid waste.

The bill was brought to Senator Hughes by the Nebraska Retailers Federation and the Nebraska Grocery Association.

Proponents

Jim Otto, President of Nebraska Retail Federation, testified in favor on behalf of the Nebraska Restaurant Association. The bill does not prohibit a ban on plastic bags or bag fees, plastic straws, Styrofoam containers etc. The bill encourages uniform regulation of consumer merchandise and containers across multiple jurisdictions. Otto also mentioned he met with Nebraska Recycling Council and they did not come to agreement on the bill but had good discussion. He emphasized that LB 861 will encourage the development of a comprehensive and well thought out state recycling policy.

Dale Gubbles, FirstStar Fiber, testified in support of LB 861 because this bill supports Nebraska's goal to reduce waste and achieve valuable products. Gubbles explained what pyrolysis is and how it is the start of what we could be doing with plastics in Nebraska that are currently going to the landfill. It should be a major concern with ag producers who are relying more and more on plastics to store their grain. Pyrolysis decomposes plastic at a high heat and makes it into other usable products. He mentioned pyrolysis could produce 8 million barrels of diesel for Nebraska every year. Gubbles mentioned we don't need this bill to

recycle in Nebraska, but we need more markets for plastic. This bill supports the concept of having uniformity in recycling across the state.

Kathy Siefken, Nebraska Grocery Industry Association testified in support of LB 861 and said merchandise containers in general are being discussed nationwide. She focused on 2 things in her testimony: 1) Pyrolysis is a solution to a statewide plastic problem. It can take all plastics and recycle them into products that we can continue to use. That is the solution to a problem in Nebraska; 2) Single-use plastic bags (based on science) are environmentally friendly and should not be banned. 78% of plastic bags are either reused or recycled. This is an issue that should be addressed at the state level not the local level.

She also talked about the ordinance that banned plastic bags from grocery stores that was recently passed in Omaha. She stated the plastics issue in Nebraska is much bigger than a single use plastic bag. The issue is too many plastics across the state of Nebraska. Currently there is not enough paper bags available to replace plastic bags. In addition, paper bags have a higher environmental footprint to produce when compared to plastic.

Ron Sedlacek, Nebraska Chamber of Commerce Industry, National Federation of Independent Business, and the Lincoln & Omaha Chamber of Commerce testified in support of LB 861. He provided a map of 21 states that have enacted state uniformity laws for plastic containers including neighboring states of Iowa, Missouri and Colorado. When you have a patchwork of ordinances, it gets difficult for the retailers to comply and is hard for manufactures and distributors to produce goods. Sedlacek noted the bill does not tell a landfill operator that they can't have particular rules. A landfill operator still has control of what goes in and what goes out of their operation.

Dustin Antonello, Lincoln Independent Business Association, testified in support and reiterated that this bill prevents a piecemeal approach to waste management in Nebraska. He highlighted that pulp and paper products are the 3rd largest pollutant and that plastic bag bans cause 80 million pounds of paper trash per year. Paper bags are more environmentally harmful to produce than plastic bags. A paper bag needs to be used at least 5 times compared to 1 time of a plastic bag when looking at environmental impact. He also noted current ordinances make it complicated for businesses that have locations across different cities.

Blair MacDonald, Nebraska Beverage Association testified in support and highlighted that LB 367 was passed to help fund recycling programs in Nebraska and LB 861 goes hand in hand with that bill to work together on recycling efforts in Nebraska.

Tim Keigher, NE Petroleum Marketers and Convenience Store Association reiterated what previous testimonies had said.

Opponents

Michael O'Hara, Sierra Club, testified in opposition and noted the bill does nothing for reducing waste and takes away local control to address local needs. If a local community wants to do a better job of being clean, they could not do it under this bill.

Lash Chaffin, League of Municipalities, testified in opposition. He noted that in 1992, the Legislature mandated that the cities and counties start addressing landfill and solid waste issues. Since then, the cities and counties have developed many new recycling efforts which has reduced the solid wastes in landfills. The cities need to have the flexibility to address local concerns and reduce solid waste.

Megan Jackson, Nebraska Recycling Council, argued the bill takes power away from local government to address local problems, including waste reduction goals, mitigate litter, etc. Legislation should not take away local community choices to address issues.

In his closing, Senator Hughes mentioned the other bill to raise fees for plastic was just a bill used as an educational tool for grade schoolers in Omaha. They came up with the idea and had a bill introduced so they could come to Lincoln and see how the process worked.

He stressed that Nebraska needs to find a way to create uniformity to streamline the process to eliminate waste. This would allow for more product research to get products recycled. The rural areas do not have recycling centers close and it costs more to take the plastics to a recycler than they are worth.

Letters in opposition were submitted by the City of Lincoln, City of Omaha and the American Cancer Society.

- **LB 933 - Change provisions relating to discontinuance of utility service. Crawford**

The bill amends two sections of statute that relate to utility disconnections and reconnections by putting a limit on fees utilities may charge for disconnection or reconnection, expanding disconnection postponement options for households containing an individual with an illness or handicap that would be worsened by disconnection, and requiring utilities to post certain information about disconnection and reconnection online. The bill, with some minor amendments, is included in AM 2865 to LB 632.

- **LB 1201 -- Create the Flood Mitigation and Planning Task Force. Bostelman.**

The Natural Resources Committee advanced LB 1201 to General File on March 4th with Committee Amendment AM 2753, which replaces the original proposal. This amendment is included in AM 2865 to LB 632.

The original bill proposed to create the Flood Mitigation and Planning Task Force within the Nebraska Emergency Management Agency. Task force members would have included the Director of Natural Resources; Director of Environment and Energy; Director-State Engineer for the Department of Transportation; Adjutant General as director of the Nebraska Emergency Management Agency; Director of Agriculture; one representative from a natural resources district, appointed by the Governor; the chairperson of the Natural Resources Committee; and one at-large member of the Legislature. Among other duties, the task force shall determine how Nebraska compares in flood mitigation planning and identify opportunities to implement flood hazard mitigation strategies.

The Committee Amendment, AM 2753, strikes all original language and replaces the bill. The amendment would require DNR to develop a state flood mitigation plan as a stand-alone document to be annexed into the state hazard mitigation plan maintained by NEMA. The plan shall accord with FEMA guidelines and be comprehensive, collaborative, and statewide in scope with opportunities for input from diverse stakeholders.

The amendment would require DNR to convene a plan development group which shall be housed and staffed within DNR. The Department would be required to engage with federal, state, and local agencies and community stakeholders in the development of the plan, including, but not limited to, DOT, DEE, DED, the Dept. of Ag, NEMA, NRDs, USDA, Corps, U.S. Geological Survey, FEMA, the University of Nebraska, representatives of counties, municipalities, and other political subdivisions, and the Legislature's Natural Resources Committee. The Department may engage other sources to provide technical expertise as needed.

The amendment would require DNR to: (1) Evaluate the flood issues that occurred in 2019, and identify cost-effective flood mitigation strategies that should be adopted; (2) Identify opportunities to implement flood hazard mitigation strategies with the intent to reduce the impact of flood events; (3) Work to improve knowledge of available recovery resources while identifying potential gaps in current disaster program delivery; (4) Identify potential available funding sources to improve the resilience of the state through flood mitigation and post-flood disaster recovery; (5) Compile a centralized list of critical infrastructure and state owned facilities and identify those with the highest risk of flooding; (6) Include an evaluation of state policies and programs related to flood hazard mitigation and development in flood hazard-prone areas to support the state's administration of FEMA programs; (7) Examine existing law and, if necessary, recommend changes to help ensure collaboration in statewide flood mitigation planning; and (8) Hold two public hearings.

The plan shall be completed and reported to the Governor and the Legislature on or before July 1, 2022.

Hearing Notes

On February 5th, the Natural Resources Committee accepted testimony on LB 1201.

Senator Bostelman opened testimony on LB 1201 by stating the intent of the bill is to create a task force to review and make recommendations in a statewide flood mitigation plan. It was stressed that the state doesn't have a coordinated strategy to mitigate flood risks. He reviewed historic floods throughout Nebraska's history and highlighted the large mitigation efforts that followed. He noted this bill is a result of work senators did for LR 241, an effort he said took them across the state reviewing the more than \$2 billion in damage estimates from the 2019 Flood. He believes the biggest takeaway from LR 241 is that Nebraska doesn't have a coordinated strategy to address flooding, and this bill is the first step in working to identify needs.

During his testimony he noted that counties can't afford to do this on their own and NEMA doesn't proactively address risk. In stressing the importance of projects that manage risk, he noted the plan needs to address scoring and prioritizing of projects to ensure everyone is on the same page and that efforts are not duplicated. He told the committee he understands that in many cases active planning is already in place, but a statewide coordination plan is necessary. Local flood plans need to be developed in partnership with the state to identify projects that manage risk. He noted that with all resources on the table, the chances of finding private or federal funding are stronger.

When asked by Senator Gragert how broad this planning would be with the 23 NRDs, Senator Bostelman noted the plan is simply to identify what the risks are and what plans exist to address those risks. He noted the intent isn't to overhaul NRDs, and that he understands some existing NRD plans may be more advanced. The effort would be just to look at all those existing plans to ensure we're doing the right thing. He told the committee we're already ahead of other states because NRDs have a lot of this in place, we just need to look at it all and put a plan in place.

Proponents

Jeff Henson testified in support of the bill on behalf of JEO Consulting Group and the American Council of Engineering Companies (ACEC). His testimony highlighted that local agencies have already developed hazard mitigation plans, but more can be done to address flooding, noting that flooding is just one of 16-18 hazards addressed. It was discussed that currently 24 Hazard Mitigation Plans in the state cover 92 of the 93 counties, of which 14 have been led or directly sponsored by NRDs.

He provided examples of prior mitigation efforts, highlighting both the City of Beatrice and Central Platte NRD projects that protected local communities during 2019 flooding. He told the committee that we're seeing losses at increased occurrence and that recovery is not enough, we need to assess risk and provide actual mitigation. During questioning he was asked if there have been funding opportunities Nebraska has missed out on, he responded by noting that in 2017 there was \$300K in Flood Mitigation Assistance that went unrewarded in Nebraska. He noted that pre-disaster mitigation has been utilized to fund development of Hazard mitigation plans and that fund will be transitioning to a new fund titled BRIC over the next year.

John Winkler, General Manager, Papio-Missouri River NRD also testified in support on behalf of PMRND and NARD. He told the committee that the NRDs support a plan to address flood preparedness as it is the greatest risk management. He told the committee that for every \$1 spent in mitigation, there is a \$6 return, and on some PMRNRD projects they've seen a 44:1 return on investment.

Winkler outlined work the NRD has done to spearhead a Flood Mitigation Plan for all communities in their district. It was highlighted that while the district did receive flooding during 2019, much of the Omaha metro was protected. He highlighted the holistic approach the district has taken to address flood plain mitigation. During questioning Winkler was asked about the status of infrastructure in the district following last year's flooding, he told the committee that most public infrastructure has been repaired, but private infrastructure is a different story, with many repairs not completed.

Michael O'Hara also testified in support on behalf of the Nebraska Sierra Club. He noted that they're pleased to see a proactive approach to addressing the prospect of future extreme weather events. He asked that the committee emphasis natural infrastructure.

Katie Torpy testified in support on behalf of the Nature Conservancy. She told the committee that climate change is multiplying hazards and that models by UNL experts show that future flooding events will be worse.

John Hansen, Nebraska Farmers Union, also testified in support of the bill. He highlighted that flooding caused nearly \$1 billion in damage to agriculture alone last year. He stressed that mitigation efforts work and that an ounce of prevention is worth many pounds of cure. He discussed that failure to plan leaves money on the table and that NRDs can help work with counties.

No one testified in opposition to the bill.

Neutral

Beth Bazyn Ferrell, testified in a neutral position on behalf of the Nebraska Association of County Officials (NACO). She noted that future planning is a great idea and that counties have been involved in past efforts. She requested that if the committee moves forward with the bill counties be represented with a seat on the actual task force.

Larry Mach, Saunders County, testified on behalf of himself and the Saunders County Supervisors. He spoke about concerns over blow outs on Skull creek, telling the committee he's been fighting with the county, townships, NRD, and USACE over repairs, telling the committee each is passing the dollar sign, stating that it's private property. He also spoke about concerns over a dike near North Bend, telling the committee that if one-half of the water we had last year comes, the dike will push water south into Saunders County where there is no dike.

In his closing Senator Bostelman stated that flooding has occurred and will occur again. Telling the committee, we need to maximize funding, and to do so, we need an updated and detailed plan done by the two entities that manage water, the DNR and the NRDs. He told the committee he's visited with consulting firms who will volunteer their time to work with the task force.

Letters of support were submitted to the record by Butler Public Power District and the Nebraska Wildlife Federation.

LB 858e - Change provisions of the Municipal Cooperative Financing Act. Hughes. Natural Resources Committee Priority.

Senators gave final round approval to LB 858e on Friday, July 31st by a 47-0-2 vote. The bill included provisions of three other bills outlined below. The bill included the emergency clause and was approved by Governor Ricketts on August 6th.

on February 20th, the Legislature advanced LB 858e to Select File by a 41-0-8 vote after adopting the Committee Amendment (AM 2346) on a 33-0-16 vote. The bill was the Natural Resources Committee Priority Bill for the session.

On February 13th, the Natural Resources Committee advanced LB 858e to General File and added three bills to it. Committee Amendment (AM 2346) substitutes for the bill and contains the provisions of LB 858, as introduced, and in addition adds the provisions of LB 367, LB 855, and LB 856, as introduced.

The purpose of LB 858e is to reorganize, update and simplify the basic governance of MEAN, the Municipal Energy Agency of Nebraska. It changes provisions relating to the qualification removal, terms, and votes by the Board of Directors. It authorizes another Joint Action Agency comprised of municipalities to join MEAN, so long as the agency is comprised of municipalities similar to MEAN.

This bill also addresses several items that are already authorized for other power districts in Nebraska, such as capping of bonds at two hundred million dollars (\$200,000,000), submitting expenditure reports to the Board, and harmonizing financial dates. It streamlines authority and permits MEAN to sell assets from time to time to other public agencies such as power districts, power plants, municipalities, and electric generation plants. It also provides for due process to a municipality facing expulsion or suspension.

Following are the three other bills incorporated into LB 858e:

- **LB 367 - Eliminate provisions relating to fund transfers and change a termination date under the Nebraska Litter Reduction and Recycling Act. Hughes.**

On February 13th provisions of LB 367 were included in an amendment (AM 2346) to LB 858. The Committee advanced LB 858 with AM 2346 to General File on an 8-0 vote.

The bill extends the sunset of the Nebraska Litter Reduction and Recycling Act from October 30, 2020 to September 30, 2025. The bill also strikes language that allows the legislature to transfer from the fund to the General Fund.

Hearing Notes:

The Natural Resources Committee accepted testimony on LB 367 on March 7, 2019.

Senator Hughes was unable to attend the hearing, so his Legislative Aid, Jenny Bohlmeier, introduced the bill on his behalf.

John Lindsay, Nebraska Beverage Association, testified in support. He noted the association worked with environmental groups to develop the program almost 40 years ago and it has been very successful. The sunset has been extended every 5 years so the program can be reviewed. Lindsay also noted removing the language about transfers would keep the program whole as in the past \$1.2 million was swept into the General fund, which harmed the program. The beverage industry is willing to support the program with the fees, but do not want to see the proceeds put into the general fund.

Meagan Deichert, Assistant Director of Keep Nebraska Beautiful, testified in support of the bill. She noted that \$1.2 million was transferred to the general fund a few years ago, which caused many programs to be cut. Deichert noted her organization works with communities and political subdivisions across Nebraska to reduce litter and promote recycling. She estimated there has been a 51% reduction in litter since the program started.

Julie Diegel, Executive Director of the Nebraska Recycling Council, testified in support of the bill. The organization works with communities across the state to promote recycling. Diegel noted it is important to serve rural areas as they do not have as much resources available to get programs started and maintained as the distance to recycling markets increases costs. The grant program helps defray additional cost. She noted more work needs to be done to create regional drop points to help small rural communities. Many of the recycled commodities were shipped to China, but they have recently dropped out of the US market. Thus, new markets need to be developed.

Lash Chaffin, League of Municipalities, testified in support of the bill. He noted the communities tap into the program to help with recycling, litter reduction, and extending the life of local landfills. Recycling markets have changed a lot in the past few years. They used to be small, but now are becoming a larger part of the community's budget. The program helps the smaller communities more as they do not have close access to recycling markets.

There was no opposition to the bill. Three letters of support were submitted.

- **LB 855 - Eliminate legislative confirmation for certain members of the Niobrara Council. Moser.**

On February 13th provisions of LB 855 were included in an amendment (AM 2346) to LB 858. The Committee advanced LB 858 with AM 2346 to General File on an 8-0 vote.

The bill removes the current requirement for Legislative confirmation of individuals on the Niobrara Council. These currently exist for the following Governor appointments: 1) The individuals from each of Brown, Cherry, Keya Paha, and Rock counties; 2) the representative from a recreational business operating within the Niobrara scenic river corridor; 3) the timber industry representative operating within the Niobrara scenic river corridor; and 4) the representative of a recognized, nonprofit environmental, conservation, or wildlife organization.

Hearing Notes:

The Natural Resources Committee accepted testimony on LB 855 on January 29th.

Senator Moser introduced Legislative bill 855 to eliminate legislative confirmation for members of the Niobrara Council.

Tanya Storer testified in support of the bill. She mentioned the appointment to the Niobrara Council did not require Legislative confirmation prior to 2016. Since that time, this extra step in the appointment process is a use of resources that is not beneficial. From the Council's perspective, Legislative approval has not been a very useful process.

Mike Murphy testified in support of the bill, explaining to the Natural Resources Committee that the Middle Niobrara Natural Resources District is one of the members of the Council.

Jim Johnson, from the Nebraska Wildlife Federation, opposed the bill calling it a reduction in oversight of the Niobrara Council.

There was no neutral testimony.

- **LB 856 - Extend sunset of the Petroleum Release Remedial Action Cash Fund. Moser.**

On February 13th provisions of LB 856 were included in an amendment (AM 2346) to LB 858. The Committee advanced LB 858 with AM 2346 to General File on an 8-0 vote.

The bill proposes to extend the sunset date for the Petroleum Remedial Action Cash fund from June 30, 2020 to June 30, 2024.

Hearing Notes:

The Natural Resources Committee accepted testimony on LB 856 on January 23, 2020.

In his opening Senator Moser provided the committee with an overview of the purpose and operation of the program. A data sheet was distributed to the committee outlining fund usage, highlighting that there are 917 known leaking sites, with 217 sites estimated to need future remediation. He noted that the fund has assisted in cleaning up over 6,000 sites.

Proponents of the bill included Mark Whitehead, Whitehead Oil Company, who testified on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. In his testimony he spoke to the success of the fund and provided a history of the need for remedial action at petroleum leak sites. He highlighted that the industry funds this to take care of its own problem. The positive working relationship between NDEE and the industry was emphasized, and he noted that a risk-based assessment is used by NDEE to determine the most severe priority sites.

Responding to questions from the committee, Whitehead noted that we are closer to a point where old problem tanks have been remediated. He noted that new standards and new issues continue to arise, creating unknowns for future needs of the fund.

A letter of support was submitted for the record by Rocky Weber on behalf of the Nebraska Coop Council.

There was no neutral or opposition testimony.

In his closing Senator Moser noted maybe at some point the fund won't be necessary, but clearly there is an ongoing need now for the fund, with \$6.5 million already spent this year. To improve efficiency, he again expressed interest in offering an amendment that would extend the expiration an additional 4 years, to 2028. **LB 1003e - Provide annexation powers to cities of the second class and villages for relocation due to catastrophic flooding. Walz. Urban Affairs Committee Priority.**

Senators gave final round approval to LB 1003e on Friday, July 31st by a 42-1-6 vote. The bill includes provisions of eight other bills outlined below. The bill includes the emergency clause and was approved by Governor Ricketts on August 6th.

Previously, senators advanced LB 1003 to Final Reading on July 22nd by voice vote.

On March 11th, the Senators adopted the Committee Amendment (AM 2651) on a 36-0-13 vote and advanced the bill to Select File on a 35-0-14 vote.

The Urban Affairs Committee advanced LB 1003 to General File with Committee Amendment AM 2651. The amendment makes two changes to the underlying bill and incorporates the provisions of eight other municipal-related bills into the bill: LB 795, LB 799, LB 801 (as amended by AM 2142), LB 821, LB 885, LB 957, LB 984, and LB 993 (as amended by AM 2138).

The bill proposes to allow any city of the second class (greater than 800 and less than 5,000 population) or a village (less than 800) to annex any lands, lots, tracts, streets, or highways when such annexation is for the purpose of relocating part or all of such city or village due to catastrophic flooding. The Urban Affairs Committee declared the bill a Priority.

The process would be started by the mayor and two-thirds of the city council of any city of the second class or the chairperson and two-thirds of the members of the village board of trustees by approving an ordinance, notwithstanding that such lands, lots, tracts, streets, or highways are not contiguous or adjacent or are not urban or suburban in character.

Related to the original underlying bill only, the amendment adds a definition of "catastrophic flooding" and adds the emergency clause.

The bill is Senator Walz priority bill for the 2020 session.

Hearing Notes:

The Urban Affairs committee accepted testimony on LB 1003 on February 18th.

In her opening, Senator Walz noted her district had flooding again this past weekend. She reminded the committee about the 2019 bomb cyclone that caused damages throughout Nebraska. This legislation is aimed to help the village of Winslow. There is no mechanism in statute for an entire town to relocate to another location.

The Winslow residents were able to get FEMA assistance for 2019, but if it happens again, they will be unable to do so. If only part of the town moves, FEMA funds would not be available for future flood damages. For the entire town to get out of the floodplain and be eligible for disaster assistance in the future from FEMA, the entire town would need to move to a new location. She offered an amendment to provide a definition of "catastrophic damage" to clarify what happened with the flood event of 2019, so the language would not be wide open to allow other villages to annex land and move for other reasons.

Zach Klein, Trustee of the Village of Winslow, testified in support. The village wants to rebuild and maintain its history. Federal and state benefits are tied to the community, so to move the entire town a process must be set up to do so. He stressed community identity is important to all communities, not just Winslow. The residents of Winslow want to maintain their identity and the residents don't want to abandon Winslow and scatter to other communities. Winslow is requesting a pathway for relocation for a damaged community to maintain our community identity.

In questioning, senators asked about the feasibility to rebuild the entire infrastructure. Mr. Klein responded that it is not going to be cheap to rebuild or relocate but relocating seems to be the best option. The site being considered is near the school across the river which is out of the floodplain.

Lynn Rex, League of Municipalities, testified in support and noted there are 380 villages in the State of Nebraska. This does not guarantee they will relocate but gives them the opportunity to do so. If the entire village would move, the FEMA money would then follow.

Mary Baker, Resiliency Strategist, testified in support. She works with communities to improve rural life and opportunities. The 2019 bomb cyclone storm caused \$2 billion in damages. It is flooding again in Fremont in 2020. She outlined there are 336 communities in the national flood hazard areas, and we need to help villages and communities by providing an option to move out of harm's way.

There were no opponents.

John Cannon, Deputy Director for NACO, testified in the neutral capacity. He specifically thanked Senator Walz for including counties in the discussion of relocating communities. Cannon stressed that NACO wants to make sure there are enough guidance for villages such as Winslow to be relocated. However, he wanted to make sure other villages that are not in a floodplain would not take advantage of annexation authorized in the bill. He mentioned the amendment offered by Senator Walz to provide a definition of "catastrophic damage" addresses those concerns.

In her closing, Senator Walz commended Mr. Klein for leadership and response to the community to rebuild. He has attended countless meetings and returned phone calls to keep the community together. Senator Walz wants to help Winslow keep their community together which is the purpose behind LB 1003. She also requested the emergency clause be added to the bill.

Other bills included in LB 1003 via AM 2651:

- LB 795 would amend the Enterprise Zone Act to provide that unemployment criteria to determine eligibility for designation as an enterprise zone is based on an average rate of unemployment as determined by either the most recent federal decennial census or American Community Survey 5-year Estimate. The bill was previously advanced to General File by the committee on a 7-0 vote.
- LB 799 is a clean-up bill for statutes governing cities of the primary class and was previously advanced to General File by the committee on a 7-0 vote.
- LB 801 would make a series of clean-up changes to the Community Development Law related to tax-increment financing (TIF), as amended by AM 2142.
- LB 821 would allow the planning commission for a city of the first class, city of the second class, or village to cancel a quarterly meeting if there is no business pending before the committee and was previously advanced to General File by the committee on a 7-0 vote.
- LB 885 would amend the Civic and Community Center Financing Act to change requirements for grants under the Act for the preservation, restoration, conversion, rehabilitation, or reuse of a historic building or district. The bill was previously advanced to General File by the committee on a 7-0 vote.
- LB 957 would allow the mayor of a city of the first class or city of the second class to be deemed a member of the city council for purposes of establishing a quorum when the mayor's presence is necessary to establish a quorum. The bill was previously advanced to General File by the committee on a 7-0 vote.

- LB 984 would require that vacancies on certain municipally-appointed boards, authorities, and agencies be filled no later than six months after the date of the vacancy. The bill was previously advanced to General File by the committee on a 4-0 vote with three members present not voting.
- LB 993 (as amended by AM 2138) would allow cities with a population between 10,000 and 25,000 under the City Manager Plan of Government Act to expand the size of their city council from five members to seven members and transfer relevant provisions to the City Manager Plan of Government Act. The bill was previously advanced to General File by the committee on a 7-0 vote

LB 1054e -- Define the required beginning date and change deferral of payment provisions under certain retirement plans. Kolterman.

Governor Ricketts signed LB 1054e on July 24th. Previously, the Legislature gave final round approval to LB 1054 on a 48-0-1 vote, the bill includes the emergency clause.

The Legislature advanced LB 1054 to Final Reading by voice vote on February 21st. Previously, senators advanced the bill to Select File by a 35-0-14 vote on February 10th.

The bill mirrors change in federal law for retirement plans. Primarily the bill increases the mandatory withdraw from 70.5 years of age to 72 years of age for those turning 70.5 after January 1, 2020.

Hearing Notes:

The Retirement Systems Committee accepted testimony on LB 1054 on February 6th.

Orron Hill, representing the Nebraska Public Employees Retirement Board, presented testimony in support of the bill noting the bill just mirrors change in federal law.

There were no other proponents, opponents or neutral testimony. The committee made the bill a committee priority and advanced the bill to General File after the hearing.

Section 2 -- Indefinitely Postponed Bills

As customary, toward the end of the session, legislative committees began indefinitely postponing bills that will not advance this year. Further, one of the last actions on Day 60 (the last working day) was a motion adopted to indefinitely postpone all bills not advanced.

LR8CA - Constitutional amendment to limit the total amount of property tax revenue that may be raised by political subdivisions. Senator Linehan, at the request of the Governor.

The Revenue Committee accepted testimony on LR8CA on February 27th. The Constitutional amendment proposes to limit the increase in property tax revenue raised by a political subdivision to no more than three percent of the amount raised in the prior fiscal year.

If the political subdivision would need to exceed three percent, it would require a vote of the people in the subdivision. All costs of the election would be paid by the political subdivision seeking to exceed the limitation.

The limitation would not apply to the amount of property tax revenue needed to pay the principal and interest on bonded indebtedness that has been approved according to law.

Hearing Notes

During her opening Senator Linehan told the committee this measure would assist in addressing the property tax problem by imposing limits that reflect normal inflation.

Proponents included Governor Ricketts. The Governor told the committee that property tax relief isn't possible without the state placing limits and keeping control of government spending. He noted that there are other solutions to address property taxes, but they aren't sustainable if spending of local governments isn't controlled. He told the committee this measure would still allow for local control via the ability for a voter approved override.

Tony Fulton, Nebraska State Tax Commissioner, also testified in support of the measure. Fulton presented the committee with charts that portrayed the growth in property taxes collected by cities, counties and schools.

Coby Mach, Lincoln Independent Business Association, also testified in support. He told the committee LIBA recognizes the need for growth and noted that that this measure only restricts property tax revenue and would not restrict local governments from increasing revenue from other sources.

Other testimonies in support of the measure was provided by Americans For Prosperity, the Platte Institute, and several individuals. Their testimonies echoed previous proponents and expressed the need for property tax relief.

During testimony, several senators on the Revenue Committee asked proponents if this would create problems if inflation were to ever exceed 3% again and suggested an alternative method of allowing CPI plus some growth to address the issue. Others suggested to proponents this could force local governments to automatically implement an annual 3% adjustment.

There were several opponents to the measure.

Bob Hilske, Manager of the Nemaha NRD, submitted a letter in opposition on behalf of the Nemaha NRD. Hilske pointed out the measure would encourage political subdivisions to take the maximum amount every year to provide for future needs rather than using the “pay-as-you-go” process that is used now. Hilkse also pointed out that inflation has been more than 3 percent in the past and could exceed that again in the future. In the 70s and early 80s, inflation was double digits.

Hilske also pointed out that once this is in the Nebraska Constitution, the Legislature will lose the flexibility to react to future financial needs of the state and local government. It is difficult to predict that 3% annual growth will fit every situation into the future.

Michelle Weber testified on behalf of the Nebraska Association of Resources Districts. Her testimony noted that NRDs utilize a pay as you go system and budgets vary year-to-year based on the project needs as determined by locally elected boards. She also noted that NRDs work hard to seek outside revenue sources and that on average property taxes make up only 34% of district budgets.

La Vista Mayor Doug Kindig testified on behalf of United Cities of Sarpy County. He told the committee that the Sarpy county area is one of the fastest growing in the state and that a 3 percent cap would limit their ability to keep up with growth. He stressed the importance of protecting their ability to continue to attract business and economic activity.

Other opponents included Nebraska Rural Community Schools Association, City of Omaha, NACO, League of Municipalities, Community Colleges, representatives from SID’s, and other Nebraska School Organizations. They all reiterated the fact that local governments already operate under strict levy and budget limitations, despite a decrease in state funding and an increase in mandates. Many also stressed that this eliminates local control and limits the ability of local governments to keep up with growth and encourage economic activity.

LR 300CA - Constitutional amendment to prohibit all forms of taxation other than a consumption tax. Erdman.

The Revenue Committee accepted testimony on LR 300 CA on February 12, 2020.

The proposed constitutional amendment would eliminate all property, sales, income and other taxes authorized under the constitution and replace it with a single-rate consumption tax. The consumption tax would apply to the consumption of new goods and services. The Legislature would be prohibited from granting any exemptions from such consumption tax. It would be required of the Legislature to enact a single-rate consumption tax no later than January 1, 2022.

In his opening Senator Erdman stressed we need to fix the tax system, and this is the answer. This would replace all taxes, except fuel taxes, and places a progressive tax on consumption of new goods and services. Designated to be revenue neutral. To replace \$9 billion from 1.9 million people, the rate would be about 10.7% on new goods and services. There would be no tax on used goods. All business-to-business transactions would be exempt such as ag machinery purchases.

For low income people, we could give “pre-bate” for them to use on food or other necessities. The credits would be deposited in their checking accounts to use in advance. With this tax, we won’t need tax incentive packages or Tax Increment Financing as there would be no business taxes. Nebraska won’t have to recruit people or business, as they will come in droves. Alabama is considering it, so we can just copy theirs and not have to recreate the wheel.

Proponents Multiple individuals testified on the proposal. A common theme was to get rid of all property taxes so people would own their property not rent it from government via property taxes. Further, there would be no income or sales taxes. People could avoid the consumption tax by buying used houses and cars.

Below are other similar comments:

- Everybody would get tax breaks.
- Political subdivisions would have to come to Lincoln to justify their existence.
- Local government would get their checkbook taken away.
- Ag taxes are too high and have more than tripled in the past 10 years.
- People are tired of promises to make major reforms and something needs to be done.
- Some farmers have sold their land and moved their operations to other states.
- School property taxes are unfair to agriculture as the farmers pay more than urban.
- States with low property taxes have the best economies.
- Farmers and business will have money to invest.

Opponents

Tiffany Friesen Milone, Open Sky Institute, mentioned the consumption taxes are not opposed in any other state. She noted several national tax reports that show they are regressive. Further, the consumption tax would fall disproportionately on the lower and middle class.

Robert Bell, Nebraska Insurance Federation, outlined how currently insurance premium taxes are paid proportionately in each state at one percent. If Nebraska drops the premium tax and goes to a 5-10% consumption tax, Nebraska companies would pay a five to ten percent tax to do business in other states rather than one percent.

John Hansen, Farmers Union, mentioned this proposal is a recycled idea of a “transaction Tax” that was being proposed around the country back in the 1980’s. He also noted several socialist countries are the ones that impose a consumption tax and most of the ag production does not fair very well. This proposal has the taxes collected at the state level and then puts every school district in a position of begging the legislature for money. He raised the question if everyone’s taxes go down, who pays?

David Welch, a local school board member testified this proposal only address’ the revenue side but not the spending side or how to fund schools or all the other needed government needs. The problem touted by politicians is that school districts are too high. The reason the property taxes are high is that the Legislature has taken the state aid away over time and forced the schools to levy at a higher rate to get aid.

Neutral

Platte Institute – Discussed allowing local government to impose their own consumption tax. A better approach might be to remove sales tax exemptions and cut property/income taxes. This could force people to shop for new goods and services in neighboring states.

Fred George – York County Farmer. He stressed education is important. His father grew up in the depression and could not go to school. He always stressed the importance of having an educated population. Every child is entitled to an education not matter where they are from. Multiple letters of support and opposition were submitted from individuals.

In his closing, Senator Erdman reminded the committee the state property taxes went away after a successful initiative petition was approved in 1966 to eliminate state property taxes. It was argued back then that the “sky would fall” if approved, but that did not happen. This is the same issue, and it will work. Senator Erdman claimed this would cut \$1.5 billion out of the cost of government by getting rid of county assessors, Tax Equalization Commission, tax incentives programs and tax increment financing.

He also mentioned the possibility of an amendment to the proposal to allow local government to impose a local consumption tax to raise their own funds rather than coming to Lincoln to seek an appropriation. He also noted the local option would have to be approved by the registered voters of that political subdivision. Very few questions were asked by Senators. One asked if everybody gets a tax break -- who pays more to make it up? The answer generally given was someone other than property owners.

LB 53 - Change and provide duties for landowners or their tenants relating to removal of a blockage or obstruction in a watercourse and provide for court costs and attorney's fees. Scheer.

The Natural Resources Committee accepted testimony on LB 53 on Thursday, February 14, 2020.

The bill proposes to change requirements for landowners or their tenants relating to removal of a blockage or an obstruction in a watercourse, slough, or drainage ditch or drainage course.

Current law requires landowners or tenants of such landowners to keep a watercourse, slough, drainage ditch or drainage clear. The bill would add that any blockage or obstruction caused by the landowner or tenant would require such individual to remove such so the watercourse is restored to its natural depth and width.

Hearing Notes

Louis Pofahl from Madison County spoke in favor and was the only testifier on the bill. The problem he is trying to address is the land and creek owned by the local SID that is upstream from him has four large beaver dams on it. He claims the landowners upstream of the dam are getting flooded out and he is not getting the water on the downstream side to fill his lake. He wants the SID to take out the beaver dams but the SID refuses to do such as the local residents like the beavers.

LB 128 - Provide for Wildlife Conservation Plates. Hughes.

The Transportation Committee accepted testimony on LB 128 on Tuesday, February 5, 2019.

The bill proposes to allow for the creation of a Wildlife Conservation license plate to fund the Game and Parks Commission Education Fund. There would be an additional \$40 fee for the plate with 25% going to the Department of Motor Vehicles and 75% going to the Game and Parks Commission Educational Fund.

Hearing Notes

Tim McCoy, Nebraska Game and Park Commission, presented testimony in support of the measure. McCoy explained the funds can be used to leverage other funds to provide conservation education in school age children. Some of the programs supported are Project Wild, Trout in the Classroom, and the Outdoor Educators.

McCoy explained that three plates are proposed – Sandhill Cranes, Big Horn Sheep and Cut-Throat Trout

Jim Johnson, Nebraska Wildlife Federation, supported the bill but offered two suggestions. First, the proceeds should be put in the Wildlife Conservation Fund rather than education. Second, he suggested the plates use different species such as pronghorn and sunfish.

Marjorie Kennedy, Wachiska Chapter of the National Audubon Society, supported the bill and suggested directing the funds toward the Wildlife Conservation Fund rather than education.

Other letters of support were filed at the hearing from other individuals.

LB 134 - Provide levy authority and duties for natural resources districts. Stinner.

On January 30, 2019 the Revenue Committee accepted testimony on LB 134. The bill proposes to reinstate the previously expired maximum 3-cent levy authority for fully or over-appropriated districts from FY 2020-21 to FY 2027-28. This would allow current successes to continue assisting Districts in complying with state law and the three-state agreement and allow for future programs to be developed to return water to the river and protect existing water supplies. The levy could only be used to implement groundwater management activities and integrated management activities under the Nebraska Groundwater Management and Protection Act.

The bill would require each district to keep separate records on the funds raised and document how such funds are expended to administer and implement groundwater management activities and integrated management activities.

Sen. Stinner opened the hearing by expressing the need to authorize NRDs to use this tool if they think it is right for their district, especially in the face of the increase requirements under the Platte River Recovery Implementation Program (PRRIP). He discussed that NRDs did not cause the problems but are being asked to solve them.

Sen. Stinner stressed that grants aren't reliable enough, and that you can't do long term projects on short term grants. He explained that the coming years will bring more stringent streamflow requirements if the NRDs can't fund the necessary water management projects, noting without funding projects, they will only be able to respond by reducing irrigation allocations for farmers, which would devastate agricultural production and hurt the economy.

Sen. Stinner stressed that this is an authorization of a tool that the NRDs have had access to for the last twelve years and it is not a tax increase. During questioning, Sen. McCollister noted that the Platte Institute has done a paper on the effectiveness of the NRD system, and he agrees we have a system that is the envy of other states and we need to make sure they can be funded.

John Berge, General Manager of the North Platte NRD testified in support of the bill on behalf of NPNRD and the NARD. Berge provided the committee with an overview of the requirements his elected directors face to offset depletions from groundwater pumping to comply with overappropriated mandates, as well as under the terms of the Platte River Recovery Implementation Program (PRRIP).

Berge expressed that this levy authority has been an important budgetary planning tool, and historically has been an important source of revenue as his board has sought to maintain their progress and to meet future obligations that are likely on the horizon. This tool will give his board solace in the face of other funding uncertainty.

He provided the committee with an overview of the variety of management tools and projects the NPNRD uses to address their overappropriated status, noting these programs are funded through property tax as the match source to obtain state and federal grants. Berge outlined ways their district has reduced their budget when the levy authority expired last year but stressed once they run out of money to do the incentives and cost-share, they are will be forced to impose draconian regulations.

During questioning, Sen. Groene suggested the district should use the occupation tax on irrigated farmers to pay for programs rather than property tax. Berge replied that the board believes the whole district benefits from management actions and ag productivity, so the whole district is a better source of payment than just the farmers.

Dr. Jasper Fanning, General Manager of the Upper Republican NRD also testified in support of the bill on behalf of URNRD and the Nebraska Water Resources Association. Dr. Fanning shared examples of how the Upper Republican has used the 3-cent levy for augmentation projects and irrigated acre retirements. These projects funded by the levy authority and are what has allowed Nebraska to achieve compliance with the Republican River Compact.

Letters of support were submitted by Tri-Basin NRD, Twin Platte NRD, Central Platte NRD, and Nebraska Central Public Power and Irrigation District.

There was no neutral testimony.

No one testified in opposition. However, a letter of opposition was submitted by Director Jeff Fassett, Department of Natural Resources. Fassett's letter suggested the tax burden should be shifted to irrigated farmers through the occupation tax on irrigated land.

LB 150 - Change provisions relating to access to public records and provide for fees. Brewer.

The Government Committee accepted testimony on LB 150 on Friday, February 8, 2019.

The bill proposes to change provisions relating to access to and fees for public records requests for non-residents. The bill would allow a charge to non-residents for the existing salary or pay obligation to the public officers or employees, including a charge for the services of an attorney to review the requested public records.

The bill defines resident as a person domiciled in this state and includes news media without regard to domicile.

Hearing Notes

In his opening, Senator Brewer noted this bill was brought forth by the League of Municipalities after several years of public request by several out-of-state companies on many cities and villages requesting information on vendors and suppliers. The company then sells the data to the private sector. This has become a big burden on many cities and villages across the state.

Bob Hilske, Manager of the Nemaha NRD, testified in support on behalf of the Nemaha NRD and the Nebraska Association of Resources Districts.

Hilske pointed out that over the past three years, the Nemaha and several other NRDs have been getting time consuming requests from out-of-state companies asking for public records that are not used for tracking or participating in the NRD process. Instead they are obtained to benefit their business operation. The requests are for vendor records associated with the materials and supplies districts purchase.

They also request that the information be provided in a specific electronic format, so it can easily be downloaded into their computer system. The districts did provide the records as requested. However, it takes the staff about four hours to format the information and eliminate records outside of the request which included personal and Social Security information associated with payments made to private individuals.

Ervin Portis, Plattsmouth City Administrator, testified in support pointing out the out-of-state companies are requesting the information technology vendors, contracts and service records. The data is then sold to the private sector.

Christy Abraham testified in support for the League of Municipalities. She noted they have been working with Media of Nebraska to draft the bill which addressed many of their concerns. She also pointed out that the State of Virginia passed a law to prohibit public records requests from out-of-state entities and the law has been upheld by the courts. The proposal in LB 150, does not go that far as it still allows for the request, but allow the political subdivisions to recover some of the cost of providing the information.

John Cannon, testified in support on behalf of the Nebraska Association of County Officials. He noted the existing Nebraska Attorney General Opinion outlines reasonable cost.

Other testifying in support included: Trevor Jones, Nebraska Historical Society; Joe Kohut, Sarpy County; Jack Cheloha, the City of Omaha; and an individual.

Letters of support were submitted by the Metropolitan Utilities District and the Nebraska School Boards Association.

Opponent testimony was provided by Jack Gould, representing Common Cause. Gould stressed that there is no cap on the fees and no appeal process is provided. He also mentioned the out-of-state companies will find a way around the law.

Ken Schilz, Lobbyist for the Consumer Data Network, testified against the bill. The network assembles data for credit bureaus and companies that provide background checks. Schilz expressed that only a couple of companies are causing problems and a law should not be established based on a few issues. He also expressed the four-hour limit for free service provides a balance.

A letter of opposition was submitted by the American Civil Liberties Association.

LB 158 - Change provisions relating to the assessed value of real property. Brewer.

The bill would limit the growth in valuation for tax purposes to the same value as the previous year plus the cost of any improvements made to the real property during the year, minus the assessed of any improvements to the real property that have been destroyed or removed. The bill would require this valuation procedure to be in place for years 2019 through 2023.

Hearing Notes

Senator Brewer mentioned in his opening that this might be the last resort for tax relief. It would be preferred if some other meaningful property tax relief measure was passed instead. The fiscal note shows a \$34 million increase in school aid due to the freeze in values.

Proponents included the Lincoln Independent Business Association, arguing that something needs to be done about the increased valuation for residential property in Lincoln.

Bruce Rieker, Nebraska Farm Bureau Federation, testified on behalf of Farm Bureau and eight other ag organizations in support of the bill. Rieker mentioned this does not solve the property tax problem but it should be part of a larger solution to the issue.

Opponents included Open Sky, a tax research organization. They argued this would freeze ag land values at a time when they are decreasing. Other opponents included the City of Omaha, League of Municipalities, County Official and other political subdivisions.

LB 163 - Permit counties to conduct elections by mail. Hunt.

The Government Committee accepted testimony on LB 163 on Wednesday, March 6, 2019.

The bill would allow any election commissioner or county clerk to apply to the Secretary of State to use mail ballots for all elections held after approval of the application to registered voters of any or all of the precincts in the county in lieu of establishing polling places for such precincts. Current law limits mail in ballots to any county with less than ten thousand inhabitants.

In her opening, Senator Hunt noted only 27 of the 93 Nebraska counties have populations greater than 10,000. She noted 127 Nebraska precincts used vote-by-mail ballots in 2018 and most saw an increase in voter turnout. She also noted that in-person turnout can be decreased by bad weather or a voter's lack of time or transportation but voting by mail alleviates those concerns.

Westin Miller of Civic Nebraska testified in favor of the bill. He said the change would enhance local control of elections, reduce costs and increase turnout.

Beth Ferrell of the Nebraska Association of County Officials also testified in support. She said some election commissioners in larger counties have expressed support for voting by mail. Even in larger counties, she said, some precincts may struggle to find poll workers or disability-accessible polling locations.

Caryl Guisinger testified in support of the bill. She said overall voter turnout in the 2014 midterm election was 55 percent in Nebraska. Garden County, which switched to vote by mail in 2018, saw a 76 percent turnout in last year's midterm, she said, while Morrill and Merrick counties each reported 70 percent turnout. She also noted the population cap at 10,000 is an arbitrary number.

No one testified against the bill.

LB 204 - Require approval of voters for bonds under the Interlocal Cooperation Act. Briese.

The bill would require that bonds issued by any joint entity on or after the effective date would have to be approved by the majority of the qualified electors of each public agency which is part of the joint entity.

At the hearing, Senator Briese asked the committee to indefinitely postpone the bill. He mentioned his intention was to withdraw the bill but did not get it done in time. There was no testimony on the bill.

LB 261 - Require use of redistricting maps drawn using state-issued computer software. DeBoer.

The Executive Committee accepted testimony on LB 261 on February 14, 2019.

The bill requires using state-issued computer software for mapping all district boundaries.

At the hearing, Senator DeBoer, pointed out this is one piece out of other proposed legislation for redistricting after the 2020 Census. These include:

- LB 466 introduced by Omaha Sen. Sara Howard, would adopt the Redistricting Act. She said the bill would codify in state law the legislative resolution that guided the last redistricting process in 2011 and provide consistency going forward.
- LB 467, sponsored by Omaha Sen. Tony Vargas, would prohibit consideration of the political affiliation of registered voters, demographic information other than population figures and results of previous elections when drawing boundaries for legislative districts. Information required by federal law or the U.S. Constitution would be exempted under the bill.
- LB 253, sponsored by Omaha Sen. John McCollister, which would establish an Independent Redistricting Citizen's Advisory Commission, to be established by Jan. 30 of each redistricting year.

Testifying in support of all four measures was Danielle Conrad, executive director of the ACLU of Nebraska. Taken together, she said the bills would increase citizen input, reduce partisanship and demonstrate respect for minority voting rights.

Westin Miller of Civic Nebraska testified in support of LB 261 and LB 467, saying they would improve the public trust in the redistricting process.

No one spoke in opposition or in the neutral capacity.

LB 283 - Provide for a climate change study. Pansing Brooks, McCollister Priority Bill.

The Executive Committee advanced LB 283 to General File on February 19th on a 6-2-1 vote with a Committee Amendment (AM 2481). The bill was declared a Priority by Senator McCollister. The bill never advanced further.

The Committee Amendment strikes the original language outlining several findings regarding climate change and replaces it with language that focuses on the opportunities that exist for Nebraskans to plan for and respond to extreme weather risks, including taking advantage of economic opportunities, as well as reducing potential negative impacts. The amendment also changes the funding source from the Waste Reduction and Recycling Incentive Fund to the Petroleum Release Remedial Action Collection Fund.

The original bill requires the University of Nebraska to develop a strategic action plan to provide methods for adapting to and mitigating the impacts of climate change. The plan would include:

- (a) A baseline measurement of greenhouse gas emissions, also called a carbon footprint, of the state;
- (b) Measurable benchmarks and goals, including actions needed to meet the goals and benchmarks;
- (c) Assessment of risks and vulnerabilities from negative impacts of climate change;
- (d) Opportunities presented by strategies for adaptation and mitigation of the impacts of climate change;
- (e) Opportunities to improve and increase resilience to the impacts of climate change;
- (f) Potential economic impacts of climate change, both positive and negative;
- (g) Examination of impacts of climate change upon the following sectors:
 - (i) Agriculture; (ii) Water resources; (iii) Health care and public health; (iv) Energy generation and use; (v) Ecosystems and forestry; (vi) Rural and urban communities; (vii) Transportation; and (viii) Commerce and industry.

The action plan would have to include recommendations for new policies and changes to policies and programs that support the goals based on the information and data collected and generated, including funding needs and recommendations for legislation.

The process to be used to develop the plan would require opportunities for public comment and engagement, including, but not limited to, online input, public hearings, and public and private sector engagement. It

would also require input from entomological, climate, water, agricultural, and natural resource experts in Nebraska. Comparable strategic action plans from other states would also be considered.

As proposed in the original bill, the plan would be funded from a transfer of up to \$250,000 from the Waste Reduction and Recycling Incentive Fund to the University of Nebraska. The plan would have to be submitted to the Governor and Legislature on or before December 15, 2020.

Hearing Notes

The Executive Committee accepted testimony on LB 283 on February 11, 2019.

Pansing Brooks said the measure would help Nebraska better prepare for the increasing effects of climate change, including pests, soil erosion and extreme weather patterns. She mentioned that thirty-four states already have developed similar plans.

Former Senator Ken Haar testified in support of the proposal, calling climate change “global heart disease” that needs to be addressed in a timely way rather than ignored.

A long list of environmental groups, entities and individuals testified in support of the bill including: Martha Shultski, Professor of Applied Climate Science, Nebraska State Climatologist; James Cavanaugh, Sierra Club of NE and Public Health Association; Alan Vovolka, Omaha Together One Community; Kim Morrow, Fairness Group (environmental consulting group); Donna Garden, Assistant Director, City of Lincoln Transportation Utilities; Alan Moeller, Nebraska Elder Climate Legacy; Jesse Belle, College of Public Health, UNMC (in personal capacity); Katie Torpy Carroll, The Nature Conservancy; Francis Mendenhall, Citizen’s Climate Lobby; Matt Gregory, Nebraska Wildlife Federation; Jesse Starita; Alex Houchin; Ron Todd Meyer, Nebraskans for Peace; Barrie Marchant, Lincoln Chapter, Citizen’s Climate Lobby; and Carmelo Lattaca.

The common theme was the need to do something about climate change.

There were four opponent testifiers including: Jane Polson, Keep Nebraska Beautiful; Linda Burns, Keep Cass County Beautiful; Roger Berns, Keep Cass County Beautiful, Louisville Mayor; and Rick Yoder. All supported the climate change study but opposed funding from the Waste Reduction and Recycling Incentive Grant Fund.

LB 336 - Change the vote required to exceed certain budget limitations. M. Hansen.

The Government Committee accepted testimony on LB 336 on March 7, 2019.

The bill proposes to change the vote of a political subdivision for exceeding the restricted fund budget by up to one percent with a majority vote rather than seventy-five percent.

In his introduction, Senator Matt Hansen noted the problem is many political subdivisions have small boards. For example, a 3-person board needs to have a unanimous vote under current law to exceed the limits. He noted his willingness to look at an amendment to make the vote 2/3rds so the smaller boards would have some higher threshold but would not have to get unanimous support.

Brandon Kauffman, City of Lincoln, testified in support. He noted the Lincoln City Council is a seven-member board. The current threshold of 75% requires six of the seven to vote in favor to exceed. He noted the highest threshold requirement imposed on the Legislature is 2/3rds vote to end a filibuster (33 of 49). The second highest is 3/5th to over-ride a veto (30 of 49).

Kristy Abraham, League of Municipalities, testified in support. She noted several smaller communities have small boards and it puts them in a position of gaining unanimous approval.

Beth Ferrell testified in support on behalf of NACO. She echoed the concern raised by previous testifiers about smaller board sizes. Like many cities and villages, many county boards are small, and it creates a situation of requiring unanimous votes.

Dustin Antonello, testified in opposition on behalf of the Lincoln Independent Business Association. His main argument was lowering the threshold would result in higher property taxes.

There were three letters of support and one in opposition submitted at the hearing.

LB 367 - Eliminate provisions relating to fund transfers and change a termination date under the Nebraska Litter Reduction and Recycling Act. Hughes.

The bill was amended into LB 858 and passed into law. A summary of the bill is included with LB 858.

LB 368 - Eliminate overappropriated river basins, subbasins, and reaches. Hughes.

The Natural Resources Committee accepted testimony on LB 368 on Wednesday, February 20, 2019.

The bill would eliminate all overappropriated references in statute. The bill would declare all basins previously deemed overappropriated as fully appropriated following the effective date of the act.

The bill would require that surface water controls be included in an integrated management plan and be adopted by the Department to maintain compliance with any interstate compact or decree or other formal state contract or agreement.

The bill would also require that on-stream reservoirs in fully appropriated river basins, subbasins, or reaches be managed by the Department of Natural Resources as flood control structures to protect lives and property below the structures. Such structures shall not exceed eighty percent capacity prior to March 1 of any year so that such structures are capable of capturing spring snow melt and runoff. The department shall develop a management plan for such structures as part of the integrated management plan.

Hearing Notes

In his opening, Senator Hughes mentioned he introduced the bill to generate some discussion about the Platte River Recovery Program and the direction the program is headed so the committee could better understand the issues facing water users in the Platte Basin.

Proponents

Larry Reynolds, Board member of the Tri-Basin NRD and President of the Nebraska Association of Resources Districts, testified in support of the bill.

Reynolds thanked Senator Hughes for bringing this bill before the Legislature as discussions need to begin about the direction of water management in Nebraska, especially as its ties to property taxes, reducing the local irrigated tax base, and the regulatory red-tape. Reynolds provided the committee with background on the current laws.

The over-appropriated requirement came into effect in 2004 after the State of Nebraska entered the Platte River Cooperative Agreement with Colorado, Wyoming and the US Fish and Wildlife Service. Nebraska entered the agreement specifically to help the Nebraska Public Power District and Central Nebraska Public Power and Irrigation District obtain Federal Energy Regulatory Commission (FERC) licenses. Reynolds made it clear, we do think this cooperation is important.

The statutes require NRDs to offset impacts of groundwater irrigation on streamflows needed to satisfy existing water rights and meet endangered species flow targets. The offset requirement was placed on the back of local irrigators through Integrated Management Plans developed by local NRDs and the State of Nebraska. The NRDs worked with the state to develop programs to retire irrigated acres, create augmentation projects, provide recharge projects, while maintaining the economic viability of the basin.

The first planning increment goal was to offset depletions to the Platte River back to 1997 levels of development. The first increment of the plans ran until this year. They are now being revised and renewed. One of the biggest problems with current statutes is the continually “moving goal-line”. There are five districts in the over-appropriated area. All five NRDs worked with the State of Nebraska and interested parties to meet the goals of the first increment of the Integrated Management Plans (IMPs) by 2019. That was originally 24,500 acre-feet of depletion credit back to the river annually to get to 1997 levels of development.

The districts met those goals. In 2018 these first increment numbers were reviewed and revised and several of them increased. For example, the Twin Platte offset obligation went from 7,700 acre-feet on an annual basis to over 25,000 acre-feet. The Central Platte NRD obligation changed from 3,400 acre-feet annually to 18,500 acre-feet.

In addition to providing these offsets to meet 1997 levels of development, all five NRDs are required by law to offset new uses by all the cities and villages in the basin. As these communities benefit both directly and in-directly from NRD water management activities, the districts would prefer that all beneficiaries contribute. All the existing projects have on-going annual costs.

Current law has two objectives for the Platte Basin. First, we must either reduce water consumption or offset groundwater impacts to water rights enough to get back to 1997 irrigation levels. We must then work toward reaching a full balance between water supplies and water uses, which is a fully appropriated condition. State law does not define how much water is needed to get from over-appropriated to fully appropriated. This is unknown, and this goal line is also constantly changing, but some estimates are over 400,000 acre-feet.

Our organization has tried for the past two years to extend our groundwater management levy authority to fund water projects in the fully and over-appropriated areas. Both attempts have failed. It was very apparent to many involved that the public did not understand the mandates that have been placed on local NRDs in these river basins.

The districts have invested \$57.4 million in infrastructure, irrigation retirement and other projects to return the first increment amount of water back to the river annually. In addition, it cost the districts \$4.1 million in annual operational costs to maintain that annual amount of water.

Reynolds reiterated the Nebraska Association of Resources Districts support policies to cut regulatory red tape and take down barriers to promote economic opportunities for all Nebraskans. We are willing to work with all parties involved to accomplish these important goals. However, we cannot continue to do that if the mandates are still in place and no specific funding authority is available locally to the districts.

John Thorburn, Manager of Tri-Basin NRD testified in support on behalf of Tri-Basin NRD.

Thorburn mentioned that Nebraska is fortunate to have local NRDs and the State of Nebraska working together to protect our irrigated agriculture economy. We are #1 in irrigated acres and Nebraska's NRDs are dedicated to ensuring the sustainability of our valuable groundwater resources.

Thorburn reported when the over-appropriated language became law as part of LB 962 in 2004, a sufficient dedicated state funding source that would help NRDs manage the over-appropriated area was intended to be part of that legislation. Unfortunately, that dedicated state funding mechanism wasn't part of the final bill. Eventually, the state provided some funds for offsetting groundwater depletions in districts that are fully or over appropriated.

These funds, over half provided through the Nebraska Environmental Trust, require a 40% local match from NRDs. This 40 percent match requirement was established knowing the districts had a 3-cent levy authority to tap into to provide the match. The levy authority has now expired but it is proposed to be extended with LB 134. The joint funding effort helped all upper Platte NRDs reach their depletion offset goals during the first increment of our Integrated Management Plans (IMPs).

Thorburn mentioned eliminating the over-appropriated statues and declaring the Platte Basin fully appropriated would provide assurance to the NRDs and public that, even though we must still satisfy requirements of Nebraska's New Depletion Plan, we won't be chasing an arbitrary fully appropriated condition that has not been defined.

Putting additional water in the river and offsetting new municipal uses is not cheap. It has caused NRD property tax levies to increase since 2004. However, if there is not local funding for water projects that offset groundwater depletions, our only alternative is to regulate irrigation water use, which has economic consequences locally due to reduced irrigated acres and reduced crop yields.

There have been some advocates of shifting the tax burden to only the irrigators via occupation taxes. We do not think shifting taxes to a narrower base solves any problems – it only taxes agriculture more in a time when they can least afford it. It also raises the question of whether this narrower base should bear the burden of paying to protect streamflows that provide them no direct benefit.

State/local integrated water management has worked and has built partnerships that might not have otherwise materialized. For example, many of the districts now have partnerships with surface water irrigation districts to help them improve irrigation efficiency and put excess water back in the river. Many of these don't require reduction in irrigated acres, but they do have upfront and operational costs.

Past and current offset projects will not get us to the goal of reducing streamflow impacts down to the undefined Fully Appropriated levels of development. To achieve this goal, we anticipate that NRDs must continue to dry up irrigated acres, reduce our property tax base and regulate irrigators even more strictly. The political results of accomplishing these goals will be push back from county officials and the public.

Thorburn also provided a summary of streamflow offset activities undertaken by each district that has had authority to use the three-cent groundwater management levy. This includes the five upper Platte Basin districts, Republican Basin NRDs and parts of the Upper Big Blue and Upper Niobrara-White NRDs.

Thorburn closed with reminding the committee that we do not know the fully appropriated offset target number for the Platte Basin or for each NRD in the over-appropriated area. This uncertainty is not helpful to the Platte basin economy or our constituents. This bill provides a starting point for discussions to provide them with some certainty. He mentioned the districts are open to discussing this issue further with all interested parties.

Opponents

Opposition testimony was led by Mike Drain from the Central Nebraska Public Power and Irrigation District (CNPPID). His main opposition was the burden should not be shifted to surface water users that divert directly from the Platte River. Rather, additional regulations need to be placed on the groundwater users in the Platte Basin to stop depletions to the Platte River. Drain disclosed that in the near term, the goal is for groundwater users to return 100,000 acre-feet of water annually above Lake McConaughy and another 100,000 acre-feet annually downstream of the lake to their surface water diversion point on the Platte River at North Platte.

Drain also mentioned they supported the three-cent levy authority for the NRDs. However, he mentioned if additional funding is needed, the tax burden could be shifted to occupation taxes on groundwater irrigators.

Drain also raised strong opposition to the issue of adding flood control storage requirements to reservoirs. He promised CNPPID would file legal action if that requirement was imposed.

Jeff Schafer, with Nebraska Public Power District, also testified in opposition. He echoed the testimony from CNPPID that groundwater irrigation needs to replace more water to the River so surface water diversions can obtain all the water they want for power generations and surface water operations. He disclosed the long-term goal is for groundwater users to replace 1 million acre-feet annually to the Platte River.

Jeff Fassett, Director of the Department of Natural Resources, testified in opposition. He mentioned the laws are working as intended and more regulations need to be placed on groundwater users in the basin. He mentioned the policy presented in LB 368 is a fundamental shift away from the current policy of protecting surface water diverters and regulating more groundwater users in the incremental march toward the long-term goal of returning 1 million acre-feet annually to the river. He suggested additional property tax dollars are not needed as groundwater regulations and occupation taxes on irrigators can be used by the local NRDs instead to achieve the goal.

Scott Olsen, a local CNPPID user, also testified in opposition. He mentioned the surface water diversions from the Platte River to Phelps County have increased the groundwater levels in Phelps County. He, as most other CNPPID users, have converted most of his ground from surface water to groundwater irrigation, but still uses some surface water. He mentioned the dual benefits of the diversion from the Platte River to Phelps County has provided surface water irrigation and groundwater recharge. This has provided low cost irrigation to his area and has reduced his cost of pumping groundwater. Continued diversions from the river to Phelps County will increase groundwater levels further in his area helping keep his groundwater pumping cost low.

Other surface water interests submitting letters of opposition included: The Nebraska Audubon Society, Nebraska Farm Bureau Federation, North Platte Valley Water Users Association, Nebraska State Irrigation Association, and the Frenchman Cambridge Irrigation District.

LB 386 - Change provisions relating to cash reserves under the Nebraska Budget Act. Erdman.

The Government Committee accepted testimony on LB 386 on Thursday, February 21, 2019.

The bill proposes to require that political subdivisions cash reserve not exceed fifty percent of the total amount received from personal and real property taxation budget adopted. Current law limits the cash reserve to fifty percent of the adopted budget.

Hearing Notes

In his introduction, Senator Erdman mentioned the bill is primarily aimed at the community colleges and the reserves they hold. The Western Nebraska Community College raises \$12.7 million in taxes and has \$16.7 million in reserve.

There were no proponents to the bill.

Several community college representatives testified in opposition. The focus of their testimony was to explain the reason they hold reserves. There are three components to reserves –tuition, building fund and property tax.

The tuition reserve is required to maintain accreditation standards, so students are eligible for federal student loans. The colleges need to have those reserves to maintain the accreditation standards. The building reserve is in place to provide financial assurance for maintenance. In addition, if a bond is put before the voters, they need to provide assurance to the bonding agencies that reserves are in place, so lower interest rates can be obtained. With less reserves, bond interest rates are higher. The property tax reserve is the smallest component to the reserve but must be maintained to provide stable tuition rates and operation cost.

The City of Bellevue and City of Omaha also provided testimony in opposition. The cities have different requirements for operations and reserves must be held for bonding rates, emergency services and other services provided by the cities.

Dennis Schueth, Manager of the Upper Elkhorn Natural Resources District in O’Neill, provided testimony in opposition on behalf of the Upper Elkhorn NRD and the Nebraska Association of Resources Districts.

Our district, like the other districts, follow the practice of pay-as-you-go for funding local projects. Under this planning process, the district sets aside funds every year for expenditures that will be incurred in future years. This savings plan allows the districts to avoid raising taxes to a maximum in the year that funds will be expended. We need secure funds to fulfill statutory requirements to protect natural resources and need the ability to manage cash reserves under the supervision of local elected boards.

Sometimes, the cash reserve may require more and sometimes substantially more than what is proposed in this legislation. Also, the current 2.5% budgetary tax lids prevent the districts from raising taxes to the maximum to meet the needs in a given year. He also noted districts do not have general obligation bonding authority to borrow the funds to pay for cost-share and regulatory programs.

Schueth also noted the State Water Quality Fund has been reduced from over \$4 million a year to \$1 million per year. Also, State Aid to NRDs has been eliminated. This shifts the costs back to local districts to fund the programs locally.

Schueth provided a couple of examples of the projects his district is saving funds for.

The first is a program to protect public health through a water quality program.

As of February 1, 2019, the Upper Elkhorn NRD has labeled 25 townships (parts or whole townships) as Phase III Management Area for water quality. Townships designated Phase III have had average nitrate-nitrogen levels above 9 ppm for multiple years. The maximum level under the Safe Drinking Water act is

10 ppm. The local board has worked with local producers for the past several years to develop a program and has set aside funds for implementation.

The plan will require the NRD collect soil samples down to 36 inches to identify fields, which are larger than 40 acres, where more than 50 lbs/ac of actual nitrogen was applied. The NRD will need to fund the cost of the soil sampling and analysis. There will also be cost-share to producers to assist with implementation.

The Upper Elkhorn NRD has been a recipient of other funds to assist with development of the plan. These grants that are awarded are limited to a certain number of years. When those grants expire, the full cost shift back to the local district so local funds need to be set aside to implement, maintain and enhance the program.

However, once local NRD rules and regulations are in place, there are some grants that become ineligible. One such funding source is the Nebraska Environmental Trust as funds cannot be used to implement local regulations. Other sources of funding require matching funds. For example, The Water Resources Cash Fund and Water Sustainability Fund require 40% local match.

Another project the Upper Elkhorn NRD is working on involves several partners and funds will be needed in future years. The Upper Elkhorn NRD is a member of the Niobrara River Basin Alliance (NRBA) which involves three other districts and other water users. The NRBA is partnering with the Nebraska Game and Parks to purchase the Spencer Hydro Facility from the Nebraska Public Power District and convert the water right to instream flow right to protect the river and reserve the excess water for future economic and beneficial uses in the basin.

When this purchase occurs, the facility will be managed to the betterment of all ground and surface water users, recreation and wildlife within the Niobrara River Basin. Acquiring this facility is not a fast process. The NRBA and Nebraska Game and Parks Commission plan to submit applications to the Water Sustainability Fund (WSF). The WSF requires a 40% local match and the districts have been setting aside funds in cash reserves for this future expenditure.

Schueth closed by reminding the committee as local district boards plan projects such as these, a healthy cash reserve is necessary to use pay-as-you-go.

LB 412 - Require an election regarding creation of a joint public agency. Geist.

The Government Committee accepted testimony on LB 412 on Thursday, February 7, 2019

The bill would require a vote of the registered voters of political subdivisions before a joint public agency could be created.

The vote would have to be at the primary or general election. The political subdivisions would be prohibited from entering into an agreement until after the voters of each political subdivision have approved the creation of the joint public agency.

Hearing Notes

Coby Mach, Lincoln Independent Business Association (LIBA), testified in support of the bill. He noted there are seven JPAs in Nebraska and three of them are in Lincoln. He claimed they create a bureaucracy and additional taxing authority that voters have no recourse on.

Mach expressed the groups opposition to the JPAs that created the Haymarket, Pinnacle Bank Arena and the Lincoln/Lancaster County Corrections Facility

Mach pointed out last year the City of Lincoln and Lincoln Public Schools (LPS) attempted to create another JPA to provide additional security for the schools. The parties decided not to do it after opposition from LIBA and others. At the suggestion of the opponents, the city and LPS decided to enter into an interlocal agreement and spend \$2 million from existing funds on school security.

Mach argued that if political subdivisions wants to create a new political entity with taxing authority, the local voters should be the ones that decides that. Not the local subdivisions involved.

Charlotte Ralston, on behalf of taxpaying citizens in Lincoln testified in support of the bill, also expressed opposition to the JPAs created in Lincoln. She argued the voters rejected a bond offered by Lancaster County to build a new county jail. The city and county then created the JPA to do the project together. She claimed the voters should have approved the joint entity.

Nicole Fox, Platte Institute, testified in support claiming more voter participation and transparency is needed in government.

Jessica Shelburn, Americans for Prosperity NE, supported the bill echoing the same points brought up by previous testifiers.

Opponents included Lincoln Mayor Chris Beutler. He pointed out the creation of JPA laws were to encourage cooperation with political subdivisions and to save costs. The West Haymarket JPA was created because not one of the entities involved could develop Pinnacle Bank Area and the Haymarket on their own. However, working together the community was able to get a major project completed that all can use.

He also summarized the Lincoln - Lancaster County Corrections or County/City Jail. Both entities needed to make improvements to meet the minimum standards set by the state. By working together, a new facility was constructed that serves both the city and the county and it saved the taxpayers money.

He noted the JPA's are very transparent and have public meetings and notices. The meetings are also aired on the local public access channel. Theoretically, more public involvement is better. However, the path this bill is leading toward is direct democracy by requiring a public vote on everything. It raises a question of whether we should elect local officials to make decisions.

Lynn Rex, League of Municipalities, also testified in opposition. Rex reminded the committee that back in 1996, the Legislature established very severe limits on local governments spending. Local villages and cities went from \$1.05 maximum levy to 45 cents in two years. She also noted the laws were changed to encourage local governments to cooperate through interlocal agreements and joint public agencies.

She noted there are only seven JPAs in Nebraska, which is small in comparison of the total number of political subdivisions in Nebraska. There are a lot of restrictions placed on JPAs and the projects built under JPAs have been very beneficial to the communities.

Beth Ferrall, NACO, also provided opposition testimony noting the same points brought up by Mayor Beutler and Lynn Rex.

In her closing, Senator Geist noted JPAs aren't bad and have been positive for the community. However, she expressed the need to have the voters decide whether they want to create them.

LB 552 - Change appropriations relating to the Nebraska Tree Recovery Program. McDonnell.

The Appropriations Committee accepted testimony on LB 552 on Monday, March 4, 2019.

The bill proposed to increase the funding for the Nebraska Tree Recovery Program from \$250,000 to \$3 million per year. The bill targets the funds toward removal, disposal and replacement of ash trees.

In his opening, Senator McDonald, mentioned the state needs to be proactive about Emerald Ash borer. The Ash Borer was first found in a park in his district. He reported cutting down and disposing of a mature Ash tree is about \$600. He also recognized the recent state revenue forecast is down and would be willing to accept a lower appropriation.

John Winn, with the City of Omaha, testified in support. Winn estimated that Ash trees make up 14% of public trees. So far, the City of Omaha has cut down about 1,000 trees and have over 14,000 more to cut

down. Ash trees are the focus for now, so other maintenance is deferred in Omaha. He noted the trees are a safety issue as, once diseased, the branches become weak and break off. He mentioned several individuals in other states have been injured by falling Oak tree branches

Lynn Johnson, City of Lincoln Parks & Recreation Director, testified in support. The City of Lincoln plans to remove 1,000 Ash trees per year and has budgeted \$1.8M annually to remove trees. The city has an ordinance to require private landowners to remove dead trees and does have some cost share for landowners that cannot afford to take them down. The city has also engaged in a public information effort to inform landowners about treatment and/or removal programs for Ash trees. She mentioned it takes about 15 years for the borer to kill all the ash trees in the area.

Others testifying in support included Lynn Rex with the League of Municipalities and Gary Aldridge.

Dave Olsen, with the Nebraska Forest Service, provided neutral testimony. He mentioned the Emerald Ash Borer was found in Omaha 3 years ago and last year in Lincoln. Once infected, the trees die within 3 years. The branches die first and can create safety risks. Olsen mentioned treatments are cost-prohibitive and the best way to address the issue is to take the tree down. If taken down before it is infected, there can be uses for the wood.

John Erixson, Nebraska State Forester, provided neutral testimony as an individual and provided information about the Nebraska Tree Recovery Act. Erixson mentioned the act was created in 1994 but funding was reduced in the early 2000's. Erixson estimated there are about 1 million Ash trees in Nebraska and about 250,000 are on public lands. He reported that Nebraska has learned from other states that we need to get ahead of the problem as the trees become very brittle once infected and become a public risk.

He told the committee that Ash is a hard wood and can be used for flooring and furniture. The NFS is looking at new market opportunities for the Ash trees. Examples are providing free Ash wood to schools for wood working classes and possibility of providing some to the State of Nebraska Corrections for wood working and furniture.

There was no opposition testimony and no action has been reported by the committee.

LB 581 - Require the use of generally accepted accounting principles in preparing budgets under the Nebraska Budget Act. Albrecht.

The Government Committee accepted testimony on LB 581 on Wednesday, March 20th. The bill proposes to require the budget statement for each governing body to be made in accordance with generally accepted accounting principles (GAAP) using the accrual basis. An exemption would be allowed if the political subdivision has been granted a waiver from the Nebraska State Auditor.

Hearing Notes

Lauren McCarthy, Legislative Aid for Joni Albrecht, opened on the bill as Senator Albright could not attend. She mentioned the changes would make the accounts payable and accounts receivable show up on the budget statements.

Proponents

Sarah Curry, Policy Director for the Platte Institute, testified in support. She researched the issue over the past year and thirty-seven other states have this type of requirement. The cash and modified accrual do not provide a full picture of the financial position of government. She claimed using accrual will show all expenditures and obligations. She noted at the hearing that a couple of cities and the NRDs use GAAP for budgets.

(NOTE: The NRDs do not use GAAP for budgets as the forms are provided by the State Auditor's office using cash method. GAAP are used on NRD audits, which is different than a budget)

Opponents

Christy Abraham, League of Municipalities, the bill is unworkable for most of the communities because of the high cost. Senator Albright meet with the League and others and mentioned that an interim study might be more appropriate.

Beth Ferrell, NACO, the cash basis is easier for counties to use and easier for citizens to understand. It would be expensive for counties to switch over.

Russ Karpisek, Legislative Liaison for the State Auditor, testified in opposition. The budget forms are provided to all of the political subdivisions are all the same, using the cash method of accounting. He noted the accrual accounting will not help people understand budgets. However, there is a difference with the Audit forms that can use GAAP.

The Nebraska Association of Resources Districts submitted a letter in opposition. The letter outlined the increased accounting and software costs to shift from cash basis to accrual-based budgets. At a time when we are looking for ways to reduce property taxes, placing another unfunded mandate on local government will not help.

Further, switching to accrual will not help the public understand the local government budgets. Although accrual is well understood by accounting and financial experts, the vast majority of the people only use cash basis to track their income and expenses. Accrual accounting and budgeting is used by publicly traded stock companies, while cash accounting is used by small businesses and individuals. Using cash-basis makes it easier for most people to understand the local governments budget.

There was no neutral testimony. Four more letters of opposition and one letter of support was submitted.

LB 606 - Provide for water augmentation projects and retention of water rights as prescribed. Groene. Groene Priority Bill.

The bill would authorize natural resources districts to develop water augmentation projects for streamflow enhancement and allows for the acquisition of real property for such. When property is acquired, the governing natural resources district would be required to establish allocations for the amount of groundwater that may be withdrawn for the project. After the project has been established, the owner or owners of such project may sell any real property purchased for the project and continue to pump for beneficial use, as before, the necessary groundwater for augmentation purposes without regard to land area or acres owned.

Senator Groene declared LB 606 his priority bill for the 2019 session.

In his opening, Senator Groene told the committee that his goal is to get the property sold and back on the tax role without jeopardizing the project. Additionally, returning the land to private ownership would boost the area's economy by generating additional property tax revenue for Lincoln County by allowing for development.

Ken Anderson, a Lincoln County resident, testified in support of LB 606. He said the augmentation project has cost the county a significant amount of property tax revenue. He noted selling the land would return it to the tax roll.

Dan Estermann, a Lincoln County rancher and Middle Republican NRD board member, testified in support of the bill on his own behalf. He argued that LB 606 would make it clear to board members that they could sell the land and lower the occupation tax on irrigators.

Todd Siel, General Manager of the Lower Republican Natural Resources District, testified in opposition of the bill on behalf of the Lower Republican NRD and the Nebraska Association of Resources Districts.

The Lower Republican NRD is one of the four NRDs comprising the Interlocal Agreement known as NCORPE. These four NRDs: Twin-Platte, Upper Republican, Middle Republican, and Lower Republican, came together in 2012 to begin development of what is now called the NCORPE Project. This 19,500-acre block of land was previously operated as an irrigated corn and potato farm before we began the process of

restoring it to native rangeland. This restoration is believed to be the largest grassland reclamation project in Nebraska history.

Siel pointed out the operation of this augmentation project prevented a irrigation shutdown of an estimated 300,000 – 500,000 acres and an immediate reduction in groundwater allocations throughout the Republican Basin. The economic impact from such a shutdown would have been devastating to thousands of Nebraskans and hundreds of our state’s communities. The success of this project has proven to be invaluable for the State of Nebraska in our continuing efforts to meet the requirements set forth by the Republican River Compact.

Siel noted the NCORPE Board of Directors and the Lower Republican NRD Board of Directors are both made up of farmers, ranchers, and agri-business who understand and appreciate the value of private property rights and private ownership, but these Directors are also aware of the inherent and unnecessary risk of separating groundwater access from surface property ownership.

He outlined the adopted NCORPE Policy regarding Land Ownership as follows:

“The NCORPE Board at this time is not in support of selling NCORPE lands due to common law principles linking land ownership to the ability to access the underlying groundwater, and the desire to maintain the lowest cost of financing for the benefit of irrigated landowners funding the project. Selling NCORPE lands absent clear legal separation between land ownership and groundwater access jeopardizes project operations and would breach a mortgage on NCORPE land that exists to provide additional security to bond holders”

He also outlined Nebraska Supreme Court ruling in June of 2018 on a similar augmentation project in Dundy County. Siel outlined some highlights of the Supreme Court ruling on the “Upper Republican NRD v. Dundy County Board of Equalization” case as follows:

“We find no reason to treat underground uses – in this case the use of the aquifer, wells and pipeline system – differently from any other use of the property. As the NRD points out, use of the groundwater is a derivative right immediately dependent on ownership of the surface over it”.

2. *“The right to use groundwater ‘does not float in a vacuum of abstraction but exists only in reference to and results from ownership of the overlying land”.*

Siel noted the main points raised by the court were originally stated by the state Supreme Court in the Sorensen case more than 30 years ago which is the same decision that Senator Groene now portrays as a legal basis for his bill. The June 2018 Supreme Court decision used Sorensen as precedent for the Dundy County ruling because it clearly distinguishes between water uses allowed pursuant to an act that establishes permits for municipal and domestic use – which NCORPE is not – from other uses. Siel provided a quote from the Sorensen case:

“Concerning landowners without a permit under the act, the common law still governs the use of groundwater in as much as such use is a limited private property right in Nebraska”.

It should also be noted that the Nebraska Supreme Court in 2017 upheld a district court decision that NCORPE did not need a permit.

Siel also addressed the provisions for mandatory groundwater allocations for an augmentation project in the bill. Currently, NRDs across the state have the authority to place an allocation on groundwater pumping for beneficial uses within the boundaries of each NRD. The functional implementation of an allocation presently lies with the natural resources districts and they must follow a structured procedure to implement such. It is unclear how this would be accomplished as the proposed statute is unclear.

Siel closed by raising concern over the narrow language allowing the sale of the overlying property, as it does not provide us sufficient comfort and would create more questions than answers. It simply invites and enhances the threat of litigation.

Jasper Fanning, general manager of the Upper Republican NRD, testified in opposition to the bill. He noted the bill would create new legal risks for the NCORPE project rather than protecting it.

Fanning noted over the next few years it may be possible to maintain compact compliance with fewer retired irrigated acres. He said this would allow the NRDs to sell some of the N-CORPE property to private owners as irrigated land rather than dryland, as envisioned under LB 606. Under this scenario, NCORPE could recoup more of its investment by selling the land at a higher value, Fanning said.

Even if the land is sold, Fanning added, the project still would need to maintain pipes and valves and pay other operating expenses, which he said would total approximately \$400,000 per year. Operating a 42” pipeline and associated valves is a lot more expensive and difficult than the normal 8-10” buried pipeline used in normal irrigation practices.

He also noted the NCORPE members are seeking alternative ways to pay those expenses and reducing the reliance on occupation taxes. Examples would be to lease the ground for grazing or other purposes.

When asked by committee members about public hunting, Fanning told the committee members that land on the edge of the property is open to public hunting. However, there is no public hunting at the center of the property where the project pump stations, maintenance and other operational equipment is located.

Fanning also responded to questions about maintaining staff on the property site. There are three employees and one is a specialist in range management. They are working often with local ranchers and University officials on range management research and techniques to restore pastures. There are several areas that still need to be fully restored to grass, as a total restoration takes a long time.

Jay Rempe testified on behalf of Nebraska Farm Bureau Federation in opposition to the bill. Rempe noted the project protects all irrigators in the Republican and Platte Basin. He also noted separating the land ownership from the groundwater poses many other risks to landowner's ability to irrigate.

Dean Large, Upper Republican NRD Board member, also testified in opposition to the measure. He reiterated the concern about separating the land ownership for the access to groundwater, which has been recently upheld by the Nebraska Supreme Court.

Jeff Fassett, director of the state Department of Natural Resources, gave neutral testimony on the bill. He said any change to state law that would allow for the sale of the land needs to be precise enough to ensure that the NCORPE project can continue. Fassett mentioned he has been in discussion with the state attorney general's office and shares the concern with them that the bill as introduced poses additional risk of litigation which could jeopardize the use of the project for compliance and also have a "ricocheting effect" on state water law.

Fassett stressed the value of NCORPE—along with Rock Creek and the other management actions the NRDs are investing in—is absolutely what's keeping the state in compliance with our relationship to Kansas in the Republican River Compact. He noted that is something we do not want to place any risk on.

In his closing, Senator Groene told the committee members to ignore the opponents of the bill and advance it so the property could be sold.

The committee took no action on the bill.

LB 712 - Prohibit joint entities and joint public agencies from taking action against representative for their speech. Friesen.

The Judiciary Committee accepted testimony on LB 712 on March 14, 2019.

The bill proposes that a joint entity created under the Interlocal Cooperation Act or the Joint Public Agency Act shall not prohibit a representative of its members or of any joint board from, or censure such representative for, expressing his or her opinion or speaking on any matter related to the joint entity or joint board if such speech is otherwise lawful.

Senator Friesen mentioned a local area joint agency on aging, which covers multiple counties in his district passed a by-law change to censure board members if they spoke against the agency or policy approved by the board. Senator Friesen felt this was wrong to limit opinions.

There were no proponent or opponent testimony to the bill. A couple of individuals spoke in a neutral capacity but talked about protecting free speech and protecting academic freedom.

The ACLU submitted a letter in support.

LB 729 - Adopt the Soil Health and Productivity Incentive Act. Walz.

The Agriculture Committee accepted testimony on LB 729 on Tuesday, February 19, 2019

The bill proposes to adopt the Soil Health and Productivity Incentive Act. The purposes of the act are to (1) improve soil health and productivity throughout the state through the planting of diverse cover crops, (2) incentivize farmers to plant cover crops, (3) increase farmer yields and profitability through improved soil health farming practices, and (4) improve degraded waterways to protect the public's health through increased water filtration with the application of cover crops.

The bill proposes to provide incentive payments to plant cover crops. Landowners with eight or fewer employees would be eligible. Only land within two and one-half miles of stream and rivers would be eligible. The program would be operated by the Nebraska Department of Agriculture with funding from federal, state and local grants.

The state would be divided into four zones and targeting land within those zones in different years.

- Zone 1 would be Northeast Nebraska. The program would be available in years 2020, 2021, and 2022.
- Zone 2 would be in the Lower Platte Basin. The program would be available in years 2021, 2022 and 2023.
- Zone 3 would be the Central Platte Basin. The program would be available in years 2022, 2023 and 2024.
- Zone 4 would include lands not in Zones 1, 2 or 3. The program would be available in 2023, 2024 and 2025.

Payments would be \$20/acre for single species cover crops and \$45/acre for multi-species cover crops. The maximum payment for qualified landowner would be \$45,000 per year.

Hearing Notes

Senator Walz mentioned in her opening the new farm bill has more conservation funding for state cover crop programs. The bill is intended to establish a program so the federal dollars can be directed to prevent nitrate contamination.

Graham Christensen, a farmer and community consultant from Burt County, testified in support of the bill. He mentioned this was a companion bill to the Healthy Soils Act legislation introduced this year (LB 243 by Senator Gragert). He mentioned the focus of cover crops needs to emphasize more multi-species planting and pollinator plants. The focus also needs to be planting cover crops, grasses and pollinator plants on pivot corners.

He also mentioned that although not specified in the bill, potential funding could come from NRCS, NDEQ, and the NETF.

Eleanor Rogan, UNL Med Center and Public Health Specialist, spoke on behalf of herself in support and mentioned they are doing research on high nitrates and cancer. She mentioned that cover crops would help reduce fertilizer runoff.

Grant Belcher, a cover crop supplier, testified in support of the bill and mentioned farmers benefit from planting cover crops by reducing run-off. The cover crops also promote soil health.

Melissa Baker, a community gardens organizer, testified in support of the bill. She compelled upon the committee that cover crops will help address climate change.

Brett Wiser, NRCS, testified in a neutral capacity. He presented the committee with information about existing federal cover crop programs and other cost share programs. He also mentioned that details about the new conservation provisions in the farm bill will not be finalized until this summer or early fall.

The NARD presented neutral testimony. This included a report to the committee about five natural resources districts (NRDs), that provide cost share for planting cover crops. The testimony noted these programs are limited in local funding, based upon the local boards budgeting decision, they are not limited to farm size or distances from the river. These are designed to help producers throughout the district to take advantage of practices that improve soil health and reduce reliance on commercial fertilizers.

The NARD testimony raised the concern that the local funding could be mandated back to the local NRDs. Although not in the bill at the current time, the districts do not want to see the bill advanced if it will end up with a mandate on the local districts.

In addition, the testimony suggested that if a state program would be created, it should be done so to create synergy between federal and local programs. Further, the other issue to consider is what crop mixes work best and provide benefits to the soil and producer. Currently the districts are working with UNL Extension on research projects that look at the costs and benefits of different cover crops on soil types and crop rotations. The research is preliminary, but it does provide producers with some data to show what works in their area and what does not.

There was no opponent testimony. **LB 769 – Change provisions relating to the Nebraska Natural Resources Commission. Gragert.**

The Natural Resources Committee advanced LB 769 to General File on a 7-0-1 vote on February 25th. The bill requires that members of the Natural Resources Commission be residents of the State of Nebraska. The bill as proposed is included in AM 2865 to LB 632 and was passed into law.

LB 790 - Change state bidding requirements and contract approval procedures. Slama. Government Committee Priority Bill.

On March 6th, senators adopted an amendment, AM 2758, offered by Senator Hilgers that added natural resources districts to the list of political subdivisions that can utilize design-build contracts. The amendment was adopted by a 27-0-16-6 vote.

Before the bill could be advanced to Final Reading, Senator Pansing Brooks objected to the original language of the bill arguing the private sector could take over operation of prison systems. Subsequently, she filed an amendment to prohibit such and was quickly joined by other senators. The bill ran out of time, per the speakers rule and was taken off the agenda until some compromise can be reached and/or 33 votes can be secured to invoke cloture.

The bill, as advanced to General File, authorizes the Department of Administrative Services (DAS) to join competitively bid group contracts involving one or more political subdivisions in other states rather than seeking new bids for an independent contract. The state purchasing bureau would be tasked with negotiating the terms of such contracts.

On General File, senators advanced LB 790 to Select File by a 32-1-16 vote after adopting AM 2436 offered by Senator Slama on a 31-1-17 vote.

That amendment, AM 2436, incorporates provisions of LB 890 which allows political subdivisions 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, for water, wastewater, utility, or sewer construction.

In order for a political subdivision to utilize design-build, the governing body needs to approve a resolution by at least 2/3rds vote that includes a statement that the political subdivision has made a determination that the design-build contract or construction management at risk contract delivery system is in the public interest based, at a minimum, on one of the following criteria: (a) Savings in cost or time; or (b) requirement of specialized or complex construction methods suitable for the design-build contract or construction management at risk contract delivery system.

The bill was the Government Committee Priority Bill for the session.

LB 802 - State a legislative finding and declaration relating to the right to use ground water. Hughes.

The bill finds and declares that the right to use ground water is an attribute of owning fee simple title to land overlying the source of the ground water and is inseparable from the land to which the right applies.

The bill provided limited exceptions to the declaration including the transfers of ground water authorized in the Municipal and Rural Domestic Ground Water Transfers Permit Act, the Industrial Ground Water Regulatory Act, transfers for domestic purposes, approved permits to transfer to another state and approved permits to transfer for environmental purposes.

The bill further declared it does not otherwise alter, modify, or change the regulatory authority granted under the Nebraska Ground Water Management and Protection Act.

Hearing Notes:

The Natural Resources Committee accepted testimony on LB 802 on January 22, 2020.

In his opening, Senator Hughes mentioned this bill was brought on behalf of the Nebraska Cattlemen and the Nebraska Farm Bureau as an effort to simply codify existing common law. He outlined that Nebraska courts have repeatedly reaffirmed that the right to use groundwater is tied to ownership of the overlying land. It was highlighted that recent legislative efforts to separate groundwater rights from land ownership have created concern among the bill supporters, with the concern that the practice would set dangerous precedent in allowing groundwater rights to be bought and sold as a commodity.

Senator Hughes told the committee this bill addresses that concern, but does not change common law, rather simply just reaffirms it. He told the committee there are zero intentions of impacting existing NRD or NeDNR groundwater management efforts. He mentioned they have received some feedback and are

working on an amendment to address those concerns and ensure the bill is precise and doesn't cause unintended consequences.

Senator Hughes received several questions and comments from the committee regarding existing law and Supreme Court rulings. Some senators, in particular Senator Geist, stressed the importance of not jeopardizing the existing success of projects such as NCORPE. Senator Hughes noted the legislation would further protect the NCORPE and Rock Creek projects.

Senators Halloran and Moser requested an amendment to the bill that would allow an exception for NCORPE to separate the land ownership from access to water. Senator Hughes stressed that would jeopardize the project, as it could be challenged in court, and would put the entire region at jeopardy and that's not a risk he's willing to take.

Proponents included Chris Schluntz who farms and raises cattle in Republican City. He testified on behalf of the Nebraska Cattlemen. He reiterated that common law directly links the access to water from the overlying land and that the Nebraska Supreme Court has reaffirmed this several times. This legislation simply restates the existing common law and further ensures rights to use groundwater remain tied to landownership.

When questioned by Senator Halloran about special legislation carving out NCORPE, Schluntz responded by noting if you allow NCORPE to separate water from the land, how many more instances can there be, if it happens with NCOPRE than it just snowballs from there.

Don Blankenau also testified in support of the bill on behalf of the Nebraska Association of Resources Districts. He noted the Association supports the concept to codify components of Nebraska common law, which also preserve the existing rules and regulations adopted by NRDs. In addition to codifying existing common law, this legislation would put language in statute that would be more clear and easier to reference and understand than referring to a long list of court cases.

Blankenau testified that the association remains committed to working with the committee to address any concerns with the bill. Blankenau answered several questions by the committee regarding existing exemptions for municipal and industrial uses by providing a thorough overview of existing common law and the permitting process for other uses.

Doug Winz, a farmer from Harlan County Nebraska, also testified in support on behalf of the Nebraska Corn Growers Association and Nebraska Farm Bureau. He reiterated the importance of codifying common law and Nebraska Supreme Court rulings.

The only opponent of the bill was Jeff Fassett, Nebraska Department of Natural Resources. He opened his testimony by noting that existing law and courts have found augmentation projects to be for a beneficial use and legal. He noted that throughout the 2019 session he raised concerns over law changes proposed by LB 606. He noted he is remaining consistent in raising concerns over changing Nebraska Water Law, stating Nebraska Water Laws are a complex system that beg for stability and legislative caution, as changes will most certainly lead to litigation.

He noted that he has not seen the amendments that are apparently being worked on, but that he would like to be involved in that process. He requested the committee not advance the bill, but instead engage his department to do a thorough review of these issues.

Neutral testimony was provided by Karen Amen of Lincoln, testifying on behalf of herself. She requested that hydro-geologic connections be included in the definitions.

Anthony Schutz, UNL College of Law also testified in a neutral capacity. He stated he was testifying to answer questions if the committee has them about water law in Nebraska. He mentioned upon his initial reading of the bill, he misunderstood it. He told the committee we already separate the right to use water from land with municipal uses, certified acres, water banks and the like. He noted the bill would require any NRD that wants to pump water for augmentation projects to buy enough land to pump a specific volume of water. He spoke some about a proposal to create a permit process to do streamflow augmentation.

Letters of support were submitted for the record by Jasper Fanning, URNRD, and, Todd Siel, LRNRD.

A letter of opposition was submitted by Sherry Miller, League of Women Voters of Nebraska.

Senator Hughes in his closing noted that water is very complicated, even the simplest ideas have staggering obstacles in not creating unintended consequences. He said he is looking forward to addressing concerns with an amendment and move forward on the bill.

LB 829 - Change provisions relating to certain in lieu of tax payments made by the Game and Parks Commission. Erdman.

Currently the Nebraska Game and Parks Commission pays in-lieu-of taxes on property owned based upon the value for the use it had immediately before acquisition by the commission excluding any improvements on the land either before or after its acquisition.

The bill proposes to allow the county to change the value to the highest and best use.

Hearing Notes:

In his opening, Senator Erdman mentioned the purpose of the bill is to be a property tax relief bill by having the NGPC pick up a larger share.

The NGPC pays in lieu of taxes based upon what it was prior and only on land acquired after January 1, 1977. So if it is ag land, it stays as ag land. If it was increased to recreation, it would be five times as much.

The fiscal note shows 2019 payments of a little over \$1 million paid on 72,000 acres. The proposed language could increase the in lieu of taxes in a range between \$546,000 and \$2.4 million.

Senator Erdman pointed out this bill would apply to all property, not just what was acquired after January 1, 1977 which could add about 37,000 acres.

Jon Cannon, Deputy Director of NACO, testified in support. He stressed that all other taxpayers have to pay taxes on the highest and best use. The NGPC shouldn't be treated any different than the private property owner.

Tim McCoy, Deputy Director of the NGPC, testified in opposition and gave history on the program.

Prior to 1976, there were no statutes in place to provide in lieu of taxes. When the habitat stamp program was created in 1976, the in lieu of taxes program was created to provide payments based on the existing use. The habitat stamp brings in about \$3 million annually.

For example, if they acquire irrigated land and convert to grass land, there are more taxes paid than grass classification. The values change when the value of the class of property changes in the county. The public lands created under this program all have public access at no charge.

In response to questions, McCoy reported they own about 110,000 acres total owned in WMA and about 38,000 acres in state parks. The total NGPC budget is about \$98 million, about 12% is state general fund appropriation.

Kristal Stoner, Audubon society, testified in opposition. She mentioned only three percent of the land in Nebraska so it is important to provide opportunities for citizens to enjoy natural resources. She argued the system works and adding taxes takes away for management and restoration of habitat on private and public land.

Jerry McDonald, Nebraska Pheasants and Quail Forever, testified in opposition. He echoed that the increased taxes would take away from management and restoration of habitat on public and private land.

Nebraska Farm Bureau submitted a letter of support.

Multiple letters of opposition from wildlife groups and individuals.

In his close, Senator Erdman stressed the system isn't working and we need to provide tax relief. If their taxes went up to \$3 million, it would only be 3% of their budget. There is room within their budget to do this. He stressed that outdoor recreation needs to step up and pay their share.

LB 845 -- To change procedures relating to augmentation projects under an integrated management plan. Groene.

The bill proposed to allow owners of the augmentation project to sell the land and continue to pump water for the project or augmentation purposes without regard to land area or acres owned.

Hearing Notes:

On February 20, 2020, the Natural Resources Committee accepted testimony on LB 845.

In his opening Senator Groene mentioned he had planned to bring an amendment to last year's bill but decided to just bring another new bill that has everything he claimed it needed. He told the committee LB 845 is significantly more precise than previous bills and would allow NRDs who allocate pumping to ensure that existing allocations are unaffected. He summarized the NCORPE project as two NRDs bailing out the whole state. He mentioned selling the property could bring \$20 million in revenue and \$50 million in debt service and would eliminate operating cost. He also claimed NCORPE is buying additional land.

During his testimony he said the ground water vs surface water fight is far from over and that the Twin Platte NRD needs to come up with additional water.

Senator Groene also told the committee last year the Attorney General's office said everything with the bill was fine, now they're opposed to it. He said the lawyers we trust are confused and are using false scarecrow tactics.

He also claimed the NRDs are putting wind-generation towers on public land. At the end of his opening, he told the committee he didn't ask anybody to come testify because they can't afford gas money due to having to pay the occupation tax.

There were no proponents to the bill.

Don Blankenau testified in opposition on behalf of the Nebraska Association of Resources Districts. He noted the implications of separating the land and water should be considered in the broader light of how it could impact other augmentation projects and Nebraska's overall management structure. He reminded the committee of Director Fassett's testimony on LB 802, where he stated that Nebraska's system of water management was working and urged this body to avoid any changes unless all stakeholders come to agreement on the correct language. He noted NARD believes those same concerns exist for LB 845 but are amplified because this bill specifically targets augmentation projects which are pivotal to Nebraska's compliance with interstate agreements. Any disruption to the operation of these augmentation projects could result in liability to the State.

Some of the specific concerns associated with LB 845 are:

In *Upper Republican NRD v. Dundy County Bd. Of Equalization*, 912 N.W.2d 796 (2018), the Nebraska Supreme Court ruled that the access and use of groundwater is tied to the ownership of land. The bill changes that common law stating that "if real property was acquired to develop and operate an augmentation project," the "owners may later sell such real estate." This bill therefore provides that augmentation projects need not have any real property to operate. This will completely detach the right to access ground water from land ownership or, ostensibly, other sort of legal interest at the point of water extraction. Neither the Nebraska Supreme Court nor the Legislature has ever allowed access to ground water in unspecified amounts without any interest in the real property. If some interest in real property is required to access ground water, what is it?

From an equal protection perspective, why shouldn't municipalities, industries, livestock operations, or irrigators be allowed similar access without any specific property interest? Or should augmentation projects be held to the standards imposed on other bodies? In all instances, the water is being physically moved from the point of extraction to other locations and all of those uses are beneficial. So, on what basis do augmentation projects receive special treatment? If the real property held by an augmentation sponsor sold and a court subsequently invalidated this law, the common law would be resurrected and require land ownership to access the groundwater - BUT the real property would no longer be in the possession of the augmentation project owner. With no real property, the augmentation project could be enjoined from operations.

If a new augmentation project needs to be developed for compact compliance (or any purpose), does it need to acquire land first? The bill is unclear on this point but, if so, why? If not, can the project sponsor simply condemn an easement, enter the land, build infrastructure and pump as it desires without regard to impacts to surrounding landowners?

This bill doesn't specify that any land sold may be restricted as to access to ground water. While access to ground water is an incident of land ownership subject to certain limitations, this bill does not expressly allow the augmentation sponsor to hold restrictions in the way of easements that can permanently prevent access to the ground water under the lands sold.

This bill contains no language to insulate the augmentation project owner from injunctive relief from other well owners who may allege harm from its operation. If the real property is sold and a domestic well is developed (and livestock wells appear to qualify as domestic), the new well owner could sue to enjoin the operation of the augmentation wells. This could impact the state's ability to comply with interstate compacts and agreements.

This bill contains no language to insulate the augmentation project from monetary damages resulting from pumping. Under existing law, the footprint of the land acquired can largely preclude well interference claims. If the real property is sold and domestic wells are developed and impacted, the augmentation project owner may be faced with monetary claims. It should be noted that "augmentation uses" are not listed in the constitutional preference categories so they could be viewed as subordinate to other uses. In any event, constitutional issues are implicated.

The bill seems to subject the augmentation project to Neb. Rev. Stat. § 46739(1)(a) but, in the same sentence, states that it may pump water in the amount necessary for augmentation purposes. If it may pump in the amount necessary, shouldn't it be exempt from any limitations in § 46-739?

This bill is very different than the permitting process associated with municipal and industrial ground water transfers. Those transfer applications go through DNR and DNR considers how existing well users may be impacted based on the anticipated pumping. That permitting process was adopted before LB 962 was adopted in 2004 and was the basis of the Supreme Court's opinion in *Sorenson v. Lower Niobrara NRD*. Under this bill, there are no considerations – the water may be pumped without any parameters. If a new augmentation is to be developed without any interest in land or permitting considerations, on what basis is the Court to judge whether the use is legally acceptable? The analysis contained in *Sorenson* provides little guidance.

The NRDs have undertaken enormous efforts to manage water for compact and interstate compliance. If this law opens the door to litigation, it should give NRDs express sovereign immunity from any suits to enjoin operations AND require the State of Nebraska to indemnify the NRDS for their investments in augmentation projects for compact or agreement compliance should the operation ever be interrupted due to litigation.

Ultimately LB 845 doesn't address any issue of statewide concern and creates potentially serious issues.

During questioning Senator Gragert asked how many augmentation projects are in Nebraska – Blankenau noted there are currently 3 projects and 4 in the planning stages. Senator Geist asked if the ratio of land to

water pumped is the same on those other augmentation projects – Blankenau noted that generally yes, they are similar.

In a response to a question from Senator Geist, Blankenau noted that the Supreme Court case set a good standard to determine how much land is needed and noted that NCORPE is about 18,000 acres.

George Cunningham testified in opposition on behalf of the Nebraska Sierra Club. He told the committee the bill would upset fundamental groundwater law, where the only exception has been for municipal water projects. He stressed that while this bill is targeted at augmentation projects, it opens the box for a commercial open market system for water in Nebraska. He highlighted that private entities would challenge this bill as special legislation, and it would lead to an export market of Nebraska water.

Jasper Fanning testifying on behalf of the Upper Republican NRD outlining for the committee that the URNRD has constructed the Rock Creek augmentation project and is one of four members of the NCORPE project. His testimony highlighted that while Senator Groene says he's trying to make things clearer, there is nothing clearer than the existing precedent already set by the courts. He noted that the URNRD is not interested in selling the augmentation project land and that the projects are working as designed.

Fanning stressed that they're new into these projects and at this point they don't want unnecessary risk, mentioning this will be just the first year the project will operate for the Platte River, and that obligations are ongoing and constantly changing. As an example of future unknowns, he mentioned the fact that the NCORPE pipeline is designed for recharge, and while not being used for that currently, it's too early to sell the land and tie their hands.

Senator Hughes asked Fanning if NCORPE is actively buying more land. Fanning noted that NCORPE has traded and sold parcels far away from the well field and replaced those with land that immediately borders the well field, noting this effort helps to maintain appropriate number of certified irrigated acres that were traditionally pumped.

In response to a question from Senator Gragert, Fanning mentioned NCORPE has been approached by different entities looking at wind or solar projects, and that the board is currently listening to proposals.

In response to a question from Senator Hughes, Fanning responded that NCORPE is currently leasing for grazing and that in line with Senator Groene's intentions, the land is being put back into production with private lease and use of the property, he also noted that the revenue from the leasing is being used to pay the bonds.

Ansley Fellers testified in opposition on behalf of the Nebraska Farm Bureau, Nebraska Corn Growers, Nebraska Soybeans and the Nebraska Cattlemen. Her testimony noted that NFB has policy in place that directly opposes what this bill is attempting to do, mentioning that they don't support separating the right to use groundwater from the overlying land. She stressed that while this bill is targeted at one project, it would impact everyone in the state and crack open the door for separating water from the land. She also noted that

irrigators have worked hard to reduce water use and have relied heavily on the NCORPE project, anything to jeopardize it and threaten more litigation could jeopardize the economic stability of the basin.

Nelson Trambly, board member of Lower Republican NRD, testified in opposition of the bill. He testified that since the completion of the NCORPE project, the state of Nebraska has been in compliance with the compact and working favorably with Kansas. He stressed that this bill only creates concerns by jeopardizing the ability to use the project. He told the committee the project is working as intended and protecting all taxpayers and irrigators in the basin. He also noted that selling the land at the reduced dry-land cost would not be in the best interest of taxpayers as it would only provide 25 cents for every \$1.00 spent. Purely in monetary terms, that guarantees a 75% loss for the taxpayer.

Walter Grabar, a resident of Lincoln, testifying on behalf of himself, mentioned that this proposition is one sided to benefit only a small number of people. He stressed that the committee needs to protect water rights and the access to water for the public interest and not advance the bill out of this committee. He told the committee this is just a single person coming forward in the best interest of a very small number of people.

Anthony Schutz, University of Nebraska Law professor, testified in a neutral capacity. He asked the committee to enact a permeant mechanism for augmentation legal rights. His opinion is the best mechanism we have now is planning combined with provisions for burying pipe and building projects. He noted the augmentation projects that we're seeing in Nebraska are unique and amazing projects.

There was only one letter of support and several letters in opposition filed for the record.

In his closing Senator Groene told the committee the Tri-Basin NRD uses augmentation without owning land and that there are no rules and no tie to beneficial use. He said that slavery would still exist if we ignored minorities. He mentioned the state needs to step forward and ease the burden of tax cost and the land use. He ended with saying this bill doesn't harm augmentation projects, it protects them and claimed the AG's office has looked at this and it has been properly vetted.

The committee indefinitely postponed the bill on August 6, 2020.

LB 855 - Eliminate legislative confirmation for certain members of the Niobrara Council. Moser.

The bill removes the current requirement for Legislative confirmation of individuals on the Niobrara Council. The Natural Resources Committee accepted testimony on LB 855 on January 29th. The bill was amended into LB 858 and passed into law.

LB 856 - Extend sunset of the Petroleum Release Remedial Action Cash Fund. Moser.

The bill proposed to extend the sunset date for the Petroleum Remedial Action Cash fund from June 30, 2020 to June 30, 2024.

On February 13th provisions of LB 856 were included in an amendment (AM 2346) to LB 858 and passed into law.

LB 857 - Require state agency review of rules and regulations. Lowe.

The bill would require each state agency to review the rules and regulations adopted and promulgated by the state agency on the schedule prescribed in the bill and provide a report electronically to the Clerk of the Legislature on or before December 31 of the year prescribed in the schedule.

The report shall include the statutory authorization for the rules and regulations and an assessment of whether the rules and regulations are accomplishing the statutory purposes or need revisions.

The Government Committee accepted testimony on LB 857 on January 31st.

In his opening, Senator Lowe mentioned it is designed to help Senators, especially with term limits in place, understand what rules and regulations are in effect. He mentioned that a couple years ago, the Legislature passed LB 299 was to review Occupational Licensing only. This bill requires the review and report of all regulations to give senators an idea of how regulations are working.

During questioning, Senator Blood noted that similar statutory language is already in place.

Proponents

Nicole Fox testified in support on behalf of the Platte Institute. She pointed out that regulations are a heavy burden on the private sector. She stressed that agencies should look at all the costs regulations impose on the economy both direct and indirect.

Other states have reviewed regulations. For example, Idaho went through this process and eliminated 75% of the regulations which took unnecessary regulations on the economy.

Dustin Antollo, Lincoln Independent Business Association. A recent national study shows that business with 50 or less employees show the cost for the regulations cost about \$11,000 per employee. He reported

that small businesses spend 4 hours a week completing paperwork for regulations. This is a heavy burden on small businesses.

Opponents

Ken Allen, director of the Nebraska Board of Barber Examiners, testified in opposition. He also mentioned that existing laws are in place for reports on regulations.

Neutral

Bo Botelho, the Chief Operating Officer of the Nebraska Department of Health and Human Services, testified in the neutral capacity. He mentioned there is already statutory requirements for agencies to provide an annual report that outlines all existing regulations. This requirement is duplicative and would add cost to government for review.

There were five letters filed in support. The committee reported no action on the bill.

LB 859 - Change provisions relating to qualifications and terms of office for certain Game and Parks Commission members. Hughes.

The Natural Resources Committee accepted testimony on LB 859 on February 6th.

The bill proposes to change the criteria of the three members of the Game and Parks Commission representing agricultural pursuits. The change would be to require these individuals to be engaged in farming or livestock production.

Existing members in this classification that do not fit the revised definition would be able to serve out the duration of his or her term.

In his opening, Senator Hughes mentioned he is not targeting any commission member with the bill, rather he would like to see future commission members be active farmers and ranchers to improve the relationship between ag producers and the commission.

Proponents

The Nebraska Association of Resources Districts testifying in support of the bill. Our remarks were prefaced that our testimony is not targeted toward any existing commission member. In addition, the local NRDs have many existing positive relationships with the Game and Parks on management of NRD parks and facilities and other joint partnerships. To further cultivate that relationship, we invite the Director and Assistant Director of the NGPC to participate in all five of the NRD Managers meetings, our Annual Meeting and our Legislative Conferences to try to maintain and improve our working relationships.

Rather, our testimony focused on trying to address concerns we hear from landowners about relationships between ag landowners and the commission. The changes proposed in LB 859 could make a positive step forward by having commission members directly engaged in farming or livestock production rather than agriculture pursuits.

The oral testimony noted we are willing to work with the committee and the commission to help improve relationships with all parties involved and encouraged support for the bill.

John Ross, a retired farmer, testified in support as an individual. He mentioned that the NGPC has not paid enough attention to the concerns of farmers and ranchers. He provided the example of a herd of 50-60 deer on his 300 acres that has resulted in significant crop losses.

He testified that for years NGPC has given too much voice to special interest groups focused on bigger bucks and farmers and ranchers requesting antlerless only permits to control the population have been at the bottom of their list. He said the bill will help balance wants and needs. He also offered a suggestion for an amendment that would require each Commission member to have an email address, noting that currently only 1 of the 9 members does.

Opponents

Patrick Berggren, NCPC District 6 Commissioner, testified in opposition of the bill. He told the committee that the existing requirement of agricultural pursuits has worked just fine and that it is unclear what this bill is trying to change. He raised concerns over how farm and ranch production qualifications would now be measured. He told the committee that currently half of the commission has some idea of what is going on in ag.

Scott Smathers, Nebraska Sportsman's Foundation, also testified in opposition. He stressed that there is not that wide of a gap between sportsmen and landowners. He said the current definition of agricultural pursuits is sufficient. He also raised concerns over making it more difficult to find commission members willing to serve, telling the committee that as chairman he's found it incredibly difficult to find quality replacements for the Natural Resources Commission, with some seats sitting vacant for over 2 years.

Walt Radcliffe testified in opposition on behalf of Friends of Nebraska Parks. He highlighted that there is no showing that the commission is lacking agricultural knowledge. His testimony also focused on the ambiguity of the new terminology, suggesting the committee keep the existing language of agriculture pursuits as it has over 50 years of definition and practice and doesn't have to be redefined and rethought. He also noted that the bill doesn't reference any definition for farming and livestock production. He mentioned it's not been demonstrated that the commission is lacking agriculture knowledge.

Letters of opposition were submitted for the record by the Nebraska Wildlife Federation, the Nebraska Audubon Society, and Eric Zach of Lincoln.

There was no neutral testimony.

Letters of support were submitted for the record by Nebraska Cattlemen and Nebraska Farm Bureau.

In his closing Senator Hughes stated that this issue has been building for some-time. Wildlife numbers are expanding and creating additional challenges for farmers and cutting into already challenging conditions. He told the committee the reason people have quit going to NGPC meetings is because they attended meetings and complained for decades and nothing changed.

He also reiterated the ambiguity in the definition of agricultural pursuits, noting that could include anyone who owns a stock in their portfolio related to ag. He again highlighted that the commission needs people who derive the majority of their income from the land and people with more understanding of what landowners are facing. He stated that overall his goal has been to get NGPC more engaged with landowners, and while that may be improving, the work needs to continue.

LB 860 - Change Game and Parks Commission district limits and designations as prescribed. Hughes.

The bill proposed to maintain a nine-person commission but make two major changes in the commission representation.

First, rather than District # 2 representing only Douglas County, the district boundary would include the following additional counties: Antelope, Burt, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Knox, Madison, Pierce, Platte, Sarpy, Saunders, Stanton, Thurston, Washington, and Wayne.

Second, District #8 currently includes only Lancaster County. The bill proposes to move Lancaster County to a revised District #1 which would include the following additional counties: Butler, Cass, Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Seward, Thayer, and York.

The bill proposed a transition period beginning January 15, 2021 through January 15, 2025 for existing commission members to serve terms and transition to the new district representation.

The Natural Resources Committee accepted testimony on LB 859 on February 6th.

In his introduction of LB 860 Senator Hughes highlighted that the intent of the bill is to redraw districts based on landmass. He reminded the committee that NGPC manages land, not people. He reiterated that the bill is not designed to get rid of any commissioner. The overall objective is to get better representation in the western portion of the state.

Proponents

The Nebraska Association of Resources Districts testified in support of LB 860.

The NARD prefaced that our testimony is not targeted toward any existing commission member. In addition, the local NRDs have many existing positive relationships with the Game and Parks on management of NRD parks and facilities and other joint partnerships.

Rather, our testimony was focused on trying to address concerns we hear from landowners about relationships between ag landowners and the commission.

At our recent Legislative Conference, the NRD Board members discussed this issue in detail and voted unanimously to support the bill to expand the district representation on landmass as it could improve trust and cooperation with ag landowners.

The NARD oral testimony suggested leaving District # 2 representing only Douglas County and District #8 as Lancaster County only, rather than merging them with other counties. The concern raised by the NRDs in those counties proposed to be included in the new district was that it could result in less rural representation as the counties merged into those districts might end up being represented by Lancaster and/or Douglas county residents.

As an alternative, NARD suggested expanding the number of districts so more residents in the non-urban areas could be represented. For example, Nebraska statutes allow for up to 21 board members on local NRD boards, so we get as much geographical representation as possible. There are several districts that have that many board members. The testimony noted the 27-member Natural Resources Commission manages \$11 million annually for the Water Sustainability Fund.

The NARD offered to work with the committee and the commission to help improve relationships with all parties involved.

In questioning from the Committee, it was noted that there are not specific qualifications for NRD board members such as ag production, wildlife interest, etc., as these are elected positions, and anyone can run if they are eligible for public office. There are individuals from all fields that serve on local NRD boards. When you get to appointed members of state commissions or board, that is when qualifications come into play.

Opposition

Doug Zingula, Commissioner NGPC 7th District (Western Nebraska), testified in opposition of the bill. He commented that the current design has and is continuing to work well for wildlife, fisheries, and the people of Nebraska. He expressed concerns over the impacts the bill could have to existing commissioners. He also testified that parks in eastern Nebraska have a higher use and high impact and that the commission doesn't want to lose some of that representation. When asked about changing the number of commission members, Zingula mentioned that the current number of commissioners is sufficient and that he's not sure adding representatives would change things.

Scott Smathers also testified in opposition, on behalf of the Nebraska Sportsman Foundation, mentioning that the population base must factor into district representation. He told the committee the membership likes the current representation and that a lot of the concerns you hear over NGPC is coffee shop hype.

Walt Radcliffe testified in opposition representing Friends of Nebraska Parks, noting that the bill is just a matter of opinion and not matter of fact. He said they feel the current system works well and there is no reason to change it. He provided the committee with a background of changes to the commission, noting that in 2008 the commission was updated to increase members to 9 and that they also changed to 4-year terms with a 2-term limit.

Wes Sheets, Lincoln, testified in opposition on behalf of the Nebraska Division of the Isaac Walton League. He testified that wildlife belongs to the people and that representation should be based on population, one man one vote.

Stan Patzel, Lincoln, testified in opposition, noting that with the change district 1 and 2 would cover close to 70% of the Nebraska Population, he told the committee the commissions districts should be based on population, one man one vote. He also expressed concern that bill would eliminate the opportunity for one of the existing commissioners to continue serving.

Letters of opposition were submitted for the record by the Nebraska Wildlife Federation, the Nebraska Audubon Society, and Eric Z., Lincoln. There was no neutral testimony.

In his closing Senator Hugues referenced the past changes to the commission makeup and noted that boundaries often change because circumstances change.

The committee indefinitely postponed the bill on August 6th.

LB 861 - Change provisions of the Integrated Solid Waste Management Act with respect to consumer merchandise and containers. Hughes.

The bill prohibits a county, municipality, or agency from adopting, enforcing, or otherwise administering an ordinance or resolution that prohibits the use of or that sets standards, fees, or requirements regarding the sale, use, or marketing of containers. The proposal would not apply to county, municipality, or agency recycling or solid waste collection programs.

The Natural Resources Committee advanced LB 861 to General File on February 27th with Committee Amendment AM 2672. This amendment is included in AM 2866 to LB 632 and was passed into law.

LB 863 - Limit ownership of land by the Game and Parks Commission. Hughes.

The bill proposed that beginning September 1, 2020, the Nebraska Game and Parks Commission would be prohibited from purchasing or acquiring title to any additional sites if such purchase or acquisition would increase the amount of property the commission owns on September 1, 2020.

According to the Fiscal Note on the bill, the actual expenditures for the fiscal years FY14 through FY19 for land acquisition by the Commission are shown below. The acquisition is achieved through the utilization of a mix of agency cash funds, federal funds and grants, as well as grants from other entities (ex. Nebraska Environmental Trust, Ducks Unlimited). The expenditure average over these six (6) fiscal years is \$844,218.

- FY 14 -- \$939,800
- FY 15 -- \$885,000
- FY 16 -- \$206,859
- FY 17 -- \$1,873,552
- FY 18 -- \$1,144,596
- FY 19 -- \$15,499

The Natural Resources Committee accepted testimony on LB 863 on January 30th.

In his opening, Senator Hughes, mentioned his office and other senators have had a lot of complaints about the lack of maintenance at state park facilities. He said it is apparent that the NGPC cannot keep up with maintenance on the property they have. Noting, it appears that sites in Western Nebraska suffer worse on maintenance, but eastern Nebraska facilities have problems too. Most of the complaints has been about the lack of spraying for noxious weeds and maintaining fences, which cause problems for adjoining property.

Senator Hughes told the committee this would be one way to help the NGPC attempt to manage what they have before they ask for more land and property.

Proponents

John Ross, a retired farmer, testified in support as an individual. He mentioned South Dakota does a much better job maintaining their property on less money. He stressed the NGPC needs to do a better job maintaining what properties they have and be more responsive to adjoining landowners.

There was one letter of support from Kathy Wilmot of Beaver City, Nebraska.

Opponents

Tim McCoy, NGPC Assistant Director, opposed the bill. He mentioned Nebraska is ranked 48th for public lands. Only Kansas and Rhode Island have less. They also manage some public properties for other federal, state and political subdivisions, such as NRD recreational facilities. He admitted they have areas of the state where they may be short on staff but are trying to address concerns.

The NGPC has 470 permanent employees and hires more than 900 temporary and seasonal staff to help with Parks and Wildlife Management Areas (WMAs). The NGPC has the same problems as other private and public employers to find temp and seasonal employees in rural areas.

He mentioned the Habitat Stamp program was created to spend 1/3rd on acquisition, 1/3rd on maintenance and 1/3rd on private land programs. There has been a shift from acquisition to the other programs over the years.

Scott Smathers, representing the Sportsman's Group, testified in opposition. He stressed there is not enough public lands in Nebraska.

John Denton, representing Ducks Unlimited, also opposed the bill. They are working with the NGPC on WMAs to get more public access. Ducks Unlimited purchases land and then transfers the property to the NGPC.

Jim Johnson, Interim Director Nebraska Wildlife Federation, testified in opposition and mentioned they have been successful in working with NGPC to acquire habitat for cranes, mountain lions, and river otters. With urban growth and development areas, the loss of habitat is a problem. He stressed they must be able to continue efforts to acquire and protect more habitat.

Multiple other wildlife groups sent letters of opposition.

In his closing, Senator Hughes mentioned he appreciated all the comments. His objective with this bill is to get the Game and Parks employees to meet more regularly with adjoining landowners, try to be better neighbors and try to address concerns.

The committee indefinitely postponed the bill on August 6th.

LB 890 - Provide for water, wastewater, utility, and sewer construction projects under the Political Subdivisions Construction Alternatives Act. Hilgers.

The Government Committee advanced LB 890 to General File on February 10th on a 7-0-1 vote with Committee Amendment AM 2274.

The bill proposed to allow a political subdivision 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, for water, wastewater, utility, or sewer construction.

Political subdivision is defined in the act to mean a city, village, county, school district, community college, or state college.

The proposed amendment (AM2274) adds to the bill by requiring that a resolution by a governing body to use design- build or construction management at-risk delivery contracts for a particular project must include a finding that using that method is in the public interest because of a time or cost savings, or because there is a requirement of specialized or complex construction methods suitable for one of these modes of service delivery.

Hearing Notes

The Government Committee accepted testimony on LB 890 on January 23, 2020.

Senator Hilger introduced the bill by noting this is his latest step in a multi-year effort to utilize design-build. He outlined that last year the Legislature expanded the use of design-build to cities for transportation projects by passing LB 583. He stressed that expanding the use to include water, wastewater, utility, and sewer construction projects would just provide another tool in the tool box to improve efficiency and offer cost-savings for the handful of projects that will qualify.

Proponents of the bill included Tom Casady, Interim Director Lincoln Transportation, on behalf of the City of Lincoln. He testified that the use of design-build is expanding nationwide, as it offers cost savings and encourages more value engineering. He highlighted how the City of Lincoln has used design-build for many projects successfully and saved a considerable amount of money. The option to utilize it for other projects would offer the city the ability to shorten lengthy construction processes and save additional money.

Christy Abraham also testified in support on behalf of the League of Nebraska Municipalities and the City of Omaha. She testified that the City of Lincoln is not the only municipality with an interest in utilizing Design Build for utility projects, she noted that they have been approached by another 1st class city with immediate interest in using Design Build.

Don Wesley testified in support on behalf of the Greater Nebraska Cities. He also outlined the interest in cities utilizing Design Build to improve flexibility, time savings and cost savings for utility projects.

Opposition testimony was provided by Matt Bevington, Owner - Valley Corporation, and President of National Utilities Contractors Association. He testified that the use of Design Build would reduce the number of bids and put large contractors at a competitive advantage over small and mid-size contractors. He stressed that Design Build should be used only for large and more complex projects. He noted that the association would like to work with the committee to better serve small communities.

In his closing Senator Hilgers testified that he is open to working with the opposition to make the bill better. He mentioned the bill won't erode the low bid process, as the low bid will still win. He also outlined that the same transparency would be provided throughout the bidding process.

There was no neutral testimony.

LB 905 - Provide for a fee on single-use checkout bags and for a program to provide reusable checkout bags to the public. DeBoer.

The bill proposes to create Plastic Bag Reduction Fund for the purpose of creating a program to provide reusable checkout bags to the public. The program would be administered by the Department of Environment and Energy.

A reusable checkout bag is defined to mean a bag that: (1) Is provided by a store to a customer at the point of sale; (2) has handles and is designed and manufactured for a minimum lifetime capability of at least 125 uses carrying twenty-two pounds over a distance of at least 175 feet; (3) is capable of being washed so as to be cleaned and disinfected at least 100 times; (4) is at least two mils thick; and (5) contains recycled content materials.

The program would be funded by a five-cent fee on every single-use plastic bag provided by retail stores. Bags provided to contain meat, seafood, loose produce or other unwrapped food items; newspaper bags; and laundry or dry-cleaning bags would not be subject to the fee.

The Nebraska Department of Revenue estimates that the fee would generate \$4.9 million in fiscal year 2020-21 and an additional \$9.5 million in FY2021-22. They estimate that figure would decline to \$7.2 million in FY2022-23 and \$4.8 million in FY2023-24, assuming that people would use fewer plastic bags because of the fee.

The Revenue Committee accepted testimony on LB 905 on January 30th.

In her opening, Senator Wendy DeBoer, said she introduced the bill on behalf of students at Omaha Northwest High Magnet School and the University of Nebraska at Omaha Service-Learning Academy.

She mentioned the issue of plastic litter and the film-like plastic bags is one which she believes to be increasingly problematic. This bill represents an opportunity to begin to address the issue.

Proponents

Lillian Hughes testified in support of LB905. She said cutting plastic bag use would reduce litter, prevent harm to wildlife and decrease costs associated with the bags, such as clogged storm drains and jammed sorting machines at recycling plants.

Annie Nelson also testified in support, saying that plastic use endangers our food and water supply. Plastic bags do not biodegrade, she said, and so will persist in the environment for centuries. Nelson said researchers have found microplastics—small pieces of plastic that have degraded from larger pieces—in oceans, rivers and even Nebraska groundwater. She also claimed microplastics also can affect soil health.

Opponents

Kathy Siefken testified in opposition to LB 905 on behalf of the Nebraska Grocery Industry Association, the Nebraska Chamber of Commerce and Industry, the Nebraska Retail Federation and the Nebraska Restaurant Association. She said retailers buy plastic bags and provide them to customers for convenience.

She said the fee would encourage more people to use paper bags, which are worse for the environment than single-use plastic bags because they require more resources to make. She mentioned that although plastic bags are a visible source of litter, they comprise only about 10 percent of plastic waste.

She claimed that plastic bags really aren't the problem. Rather the problem is the way some individuals are disposing of the plastic bags.

Dustin Antonello testified in opposition to the bill on behalf of the Lincoln Independent Business Association. He said the fee would create an inconvenience for small businesses and consumers for little environmental benefit. According to the U.S. Environmental Protection Agency, he said, plastic bags make up less than 1 percent of municipal plastic waste.

He also mentioned the higher use of reusable bags also has been found to increase shoplifting. Further, the bags can cause foodborne illness if consumers do not wash them regularly.

LB 921 – Provide for The Good Life Is Outside Plates. Hilkemann.

The Transportation Committee accepted testimony on LB 921 on February 10, 2020.

The bill proposed to create license plates to be known as “The Good Life Is Outside Plates” to provide funding for state recreational trails. The bill proposes a \$5.00 fee on the initial application which would be credited to the Game and Parks State Park Improvement and Maintenance Fund for the purpose of trail improvement and maintenance.

In addition, the bill proposes a \$40.00 fee for personalized message The Good Life Is Outside Plates. This fee would be divided as follows: Twenty-five percent (\$10.00) to the Department of Motor Vehicles Cash Fund and seventy-five percent (\$30.00) to the Game and Parks State Park Improvement and Maintenance Fund for the purpose of trail improvement and maintenance.

Hearing Notes

Senator Hilkemann noted in his opening that he has traveled throughout the country and rides different trails. These trails provide economic development in those areas where they are developed. This fund would help develop and maintain the trails. He noted the Department of Motor Vehicles had some suggestions for technical corrections to the bill on the cost of plates.

The fiscal note shows it will cost \$3.60/plate to produce but current law provides a maximum cap of \$3.50/plate. The fiscal note also projects that if implemented the fee would only generate about \$21,000 annually to the fund. Proponents Julie Harris – Bike-Walk Nebraska. Advocate for walking and biking in Nebraska. Nebraska needs to be ready to take advantage of the National Trail system. Other states are creating trails across their respective states to create a National Trail System.

Proponents

Alex Duryea, Nebraska Game and Parks Commission (NGPC) testified the agency has over 600 miles of trails, including the Cowboy Line. Also, there are over 500 miles of trails in parks and state recreation areas. Park and recreation areas users have asked for more trails at the facilities. He noted the plate fees would help for matching federal funds which would be used for maintenance, upgrades, new trails in parks, and adding amenities and signage. The Audubon Society submitted a letter of support.

There was no opposition.

LB 1010 – Change Cash Reserve Fund Provisions. Speaker Sheer, on behalf of the Governor.

The bill proposed several changes to the cash reserve. The Appropriations committee worked out other provisions and did not need to make any changes to the cash reserve statutes.

LB 1024 - Change provisions of the Intergovernmental Risk Management Act. Clements.

On February 24th, the Banking Committee accepted testimony on LB 1024.

The bill makes several changes to the Intergovernmental Risk Management Act to address issues related to recent legal issues with the risk pool established by the League of Municipalities.

First, it proposes that every risk management pool organized pursuant to the act shall be subject to the Unfair Insurance Trade Practices Act.

Second, the bill clarifies that electing board members is under the authority of each member entity. It also requires there be a procedure for removing a member of the board of directors for good cause shown and for filling the vacancy.

Third, the bill provides authority to the Director of the Department of Insurance, after notice and a hearing, to issue corrective orders to a risk management pool that is not complying with the Intergovernmental Risk Management Act or the rules and regulations adopted and promulgated under the act.

Finally, if the department finds just cause, after notice and a hearing, not to renew a certificate of authority, the risk management pool shall be dissolved as provided in the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act.

Hearing Notes

In his opening, Senator Clements outlined the intent of the bill is to try to improve the authority of the Nebraska Department of Insurance to address concerns raised last year with another legislative bill dealing with risk pools.

In particular, he mentioned the bill was brought to him by some concerned citizens and not from the Nebraska Department of Insurance. Clements mentioned the problems that the League of Municipalities is having with their risk pool (LARM) for liability, errors and omissions. There are two competing boards that are trying to control the program and now the courts have become involved.

Senator Clements also brought up the Gage County liability situation with the so-called “Beatrice 6” wrongful conviction judgement. He mentioned that if the bill would have been in place, there might have been insurance coverage for the county.

Finally, Senator Clements noted that LARM tried to force North Platte out of the pool last year.

Proponents

Bruce Ramsey, Director of the Nebraska Department of Insurance, testified in support of the bill noting it would address a lot of the concerns raised about operation of LARM and allow the Department of Insurance to address the issues.

Robert Bell, lobbyist for the Nebraska Insurance Federation, pointed out the private sector competes against the government pools. He asked the committee to “level the playing field” so there is no advantage to running government pools.

Opponents

Lynn Rex, League of Municipalities, testified in opposition on behalf of the League and the Nebraska Association of School Boards. She noted there are some things in the bill that might help but noted that several new provisions would cause problems. She noted there is plenty of work to do to address the issues around LARM. For background, she mentioned that back in the 1980s, private insurance would not provide policies to government, so the risk pool statutes were created. The committee needs to be sensitive to that as we don't want to go without insurance coverage again.

There was no neutral testimony.

In his closing, Senator Clements mentioned he had not talked to the League of Municipalities about the bill but would be willing to over the interim.

LB 1026 - To appropriate funds to the University of Nebraska - Daughtery Water for Food Institute. Bolz.

The Appropriations Committee accepted testimony on LB 1026 on February 12th. Although the bill did not advance, funding was provided in the Appropriations bills (LB's 1008, 1009) and signed into law.

The bill proposed to appropriate \$2.5 million from the General Fund for FY2020-21 and \$2.5 million from the General Fund for FY2021-22 to the Board of Regents of the University of Nebraska to provide funds to the University of Nebraska Daughtery Water for Food Institute to support water and agricultural research and existing collaborative initiatives to implement best practices in water conservation.

At the hearing Senator Bolz said this bill grew out of the work on LR 209. Telling the committee, the program is bringing state of the art technology to Nebraska Farmers and Nebraska is on front lines of new irrigated technology, allowing us to do more with less water. Water sustainability is one of the most urgent issues of our time. She said the institute has more than 100 faculty creating new innovative practices, and that this investment is crucial to helping ensure water sustainability.

Proponents Ronnie Green, Chancellor University of Nebraska – Lincoln, testified in support of the bill, he also submitted a letter on behalf of Nebraska Farm Bureau. He opened his testimony by saying it's the wealth of Nebraska's water resources that sets us apart and enables Nebraska to be a global ag epicenter. He told the committee Nebraska irrigates the most acres in the country, but in large areas our groundwater levels have risen, noting this is a huge accomplishment when compared with other states where water levels have declined. He said the healthy aquifer is made possible by statewide policies to conserve, and as importantly the investments in the universities research, with the water center being a critical part of our success.

Peter McCornick, Executive Director, Daugherty Water for Food Global Institute, testified that the institute attacks the challenges of raising more food with less resources head on. Technology is being used by the institute to support information used at the field and Natural Resources District level. He said the institute has studied and worked with NeDNR to evaluate the critical agreement with Wyoming on the North Platte River and is working with many stakeholders, including cities, to address research on nitrates.

Senator Wishart expressed concern over the increasing water quality issues across the state and asked specifically how these funds would implement actions to address water quality. McCornick responded by mentioning the Bazile Management Area, saying there is some science there, but part of the challenge is getting various stakeholders (cities and farmers) to improve processes. He said they're working with communities to look at their options.

Senator Stinner inquired about existing institute funding and its stability, McCornick responded by highlighting that the University's water related budget is about \$30 million, the institutes direct budget is about \$10 million. He said the support from UNL is stable, but the funding from the Bob Daugherty Foundation gift is winding down.

When asked about funding from NRDs, McCornick stated the University and NRDs are working jointly to pay for 1 person in the Bazile Management Area.

Roric Paulman, a farmer from Sutherland, testified in support of the bill. He provided an extensive overview of the multiple Governor-appointed committees he has served on to advocate for water sustainability. He also mentioned several programs he developed to help the University of Nebraska work with producers. There were no opponents and no neutral testimony. There were 17 letters submitted in support.

LB 1072 – NRD General Obligation Bonding. Hughes.

The bill proposed to grant NRDs not encompassing a city of the metropolitan class, the authority to issue general obligation bonds, entitled flood protection bonds. The purposes of the bonds would be used to pay costs of design, rights-of-way acquisition, and construction of flood protection projects and practices within the natural resources district issuing such bonds. The flood protection projects and practices would include, but are not limited to, low-impact development best management measures, conveyance channels, dams, reservoir basins, and levees.

To issue the bonds, the bill would require the board of directors to approve by two-thirds of the members of the board. Further, such special bond levy would be includable in the computation of other limitations upon the district's existing tax levy authority.

Similar bonding authority already exist for the Papio Missouri River NRD, which encompasses a city of the metropolitan class (Omaha).

On February 5th, the Natural Resources Committee accepted testimony on LB 1072.

In his opening on LB 1072, Senator Hughes noted that NRDs have been given the legislative responsibility to address flood control. He noted the legislation allows NRDs to fund projects with bonding providing a savings to taxpayers via favorable interest rates and more importantly does not increase any tax levy authority. He also told the committee the bill excludes and does not change or extend last year's bill granting bonding authority for NRDs encompassing a city of the metropolitan class.

Proponents

Mike Sousek, General Manager Lower Elkhorn NRD (LENRD), testified in support of the bill on behalf of the LENRD and NARD. He started by stressing that this is not a new tax, it is as simple as offering a new tool that can be used to save taxpayer money.

He told the committee this bill offers property tax relief by granting NRDs the bonding authority so they could get better interest rates rather than using the current authority to borrow from a bank. The interest rate savings could be up to 2% and the length of the term could be extended, lowering the annual property tax funding needs.

Sousek noted that operating “pay as you go” hampers progress on flood control projects and does not keep up with inflation on land and construction costs. In addition, Nebraska residents are losing out on the benefits provided by projects.

Sousek outlined an extensive list of projects where the LENRD is partnering with local communities to fund flood mitigation efforts, he highlighted projects with the cities of Randolph, West Point, Wakefield, Scribner, Pender, Pilger, Norfolk, Osmond, Winslow, and Dodge County. He also provided an example of a shovel ready project where bonding could help the district provide flood protection to the community of Battle Creek, highlighting that the project would yield over \$1 million in annual benefit to the community by taking the area out of the flood plain and saving individuals the cost of flood insurance.

Bob Hilske, General Manager Nemaha NRD, testified in support of the bill. Hilske's testimony outlined that costs to construct projects continue to escalate and a variety of funding options are needed to build infrastructure to protect Nebraskans from catastrophic flooding. General obligation bonds are a funding tool that allow large projects to be funded and constructed cheaper and faster providing immediate benefits. He also noted that many projects that are constructed by NRDs have a grant component. Grant funding varies

over time and bonding better allows a district to take advantage of those funds when they are available versus hope the grant will still be there when enough money is saved to construct the project. He told the committee that if any local NRD funding is necessary to assist with repairing Peru levees, general obligation bonds would be a viable tool to have available.

Michael Fleeer, Battle Creek City Administrator, testified in support of the bill on behalf of the city of Battle Creek. He told the committee Battle Creek has had reoccurring flooding and they're looking for options to control or eliminate the impacts. He told the committee the city could bond for the project, but still lacks the necessary funding. He thanked the LENRD for working with the city to find solutions and reminded the committee that authorizing NRD bonding authority would not result in a tax increase with the NRD maintaining existing levy lids. During questioning he provided an outline of options for mitigating the communities flooding, including a dam, channel widening, and diversion channels, he reminded the committee that all would require working with existing property owners, and noted that only option 1 would have downstream benefits and avoid just passing the problem downstream.

John Hansen also testified in support of the bill on behalf of the Nebraska Farmers Union. Hansen mentioned he was on the NRD board more than a decade ago and the Battle Creek mitigation project was in the plan then, mentioning the benefits that would have already been realized if it had been completed then. He mentioned as chair of the finance committee he would have loved to have the option to save taxpayer money by utilizing bonding when constructing the Willow Creek Dam, a project that has provided over a decade of protection and millions in mitigated damages. He testified that the Elkhorn River as a whole has a vast need for mitigation projects, and upstream tributary projects are necessary, noting bonding is a tool that can save taxpayer money while funding those projects.

Letters of support were submitted by Gering-Ft. Laramie Irrigation District, Norfolk Chamber of Commerce, LPSNRD, LCNRD, LBBNRD, MNDRD, and several cities and villages.

Opponents

Opponents of the bill included Doug Kagen, testifying on behalf of Nebraska Taxpayers for Freedom. He testified that infrastructure projects for flood control are not necessary. He suggested the 100-year flood risk is just a scare tactic and eagerly proclaimed that it only has a 1% chance of occurring.

Grant Melotz, a Washington County resident testified in opposition. His testimony suggested that this was just offering a blank check to the NRD. His testimony mostly focused on his opposition to a bond proposed by Bennington Public Schools.

Mick Mines testified in opposition on behalf of the Papio Missouri Valley Preservation Association. He told the committee this is just an example of NRDs taking advantage of a crisis.

Shawn Melotz, a Washington County resident testified in opposition. Her testimony focused on proclaiming that this would be a tax increase. She noted that the PMRNRD claimed an urgent need for extending the bonding authority last year for PMRNRD, but no bonds have been issued since passage of the bill in 2019.

There was no Neutral testimony.

Letters of opposition were submitted for the record by the Nebraska Wildlife Federation and the Nebraska Department of Natural Resources.

The committee indefinitely postponed the bill on August 6th.

LB 1167 - Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act. Albrecht.

The bill proposes to change the Open Meetings Act by eliminating language that a body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

The bill proposes to require a public body to allow members of the public an opportunity to speak at each meeting.

Hearing Notes:

On February 20, 2020, the Government Committee accepted testimony on LB 1167.

In her opening for LB 1167 Senator Albrecht stated this bill promotes transparency in the government process and public bodies will benefit from this bill by listening to the people.

Senator Blood asked for clarification because she read the portion of the open meetings act that already states meetings are open to the public and the public has the right to speak. Albrecht noted the intent is to make public comment mandatory at all meetings.

Shawn Merlotz, with the Papio Valley Preservation Association, testified in support. She noted that in 2004 there was a proposal to build a dam on their property which she opposed. The Papio-Missouri River NRD

did allow for comment on that proposal at their public meetings until 2005 when the proposed dam site was dropped. She claimed the district has been denying her request to speak against projects since. She noted this bill would no longer allow the NRD to control their agenda so people could speak on any matter they wish.

Douglas Kagan, Nebraska Taxpayers for Freedom, testified in support. In his testimony he mentioned most subdivisions do allow for public comment and some officials encourage it. However, the Legislature should mandate public comment at all public meetings. He gave the example that some local subdivision will request you fill out a form to get on the agenda and if you don't do that they are not allowed to speak at the public meeting.

Daniel Conrad, ACLU of Nebraska, testified in support and stated that it's in line with Nebraska's political culture and it strengthens and clarifies what we are already doing. Daniel mentioned her organization receives feedback in three main areas: incarceration, school funding, and public meetings. She noted there is a need for people to speak out.

Doug Oertwich testified in support and noted he serves on multiple boards in his small community. They always allow three minutes for people to speak at their meetings, because it's important to hear everyone and have transparency. However, he mentioned in the last year he went to a meeting where people were allowed to speak but their comments were not part of the public record. He requested that everyone should be given the right to speak.

Jack Gould, Common Cause Nebraska, testified in support. He noted a public body should want to have a forum to allow public input and they should be prepared to handle all the comments from the public not just a select number.

Larry Storer, an individual from Omaha, testified in support stating under the constitution nobody has the right to eliminate public comment. He noted that he had been escorted out of multiple public meetings by law enforcement, which is wrong. He claimed words matter and the committee needs to expand the bill to clarify the rules so everyone can understand them.

Michael J. Ohara representing the Sierra Club talked about how hard it is to get people to show up at public meetings. If someone were to show up and not be given the opportunity to speak it would make getting the public to attend even harder. One thing to think about is teleconferences and public input via teleconference and have some thought about how to do that.

Scott McHenry, Lower Elkhorn NRD and NARD Board Member, testified in opposition on behalf of the LENRD and NARD. He made it perfectly clear that we are not opposed to allowing the public to speak at a

meeting. The current law allows for public comment, but in an orderly fashion allowing the chairperson to control the meeting and keep the meeting on subject, which is preferred.

McHenry noted this legislation takes away the ability of a local chairperson to conduct an orderly meeting by allowing individuals to speak on any matter. It does not even have to be related to the subject matter the political subdivision deals with. For example, we could end up having people come in and want to talk about the un-identified drones that were reported last fall, which has nothing to do with the NRDs.

He also provided background of how the LENRD meetings are run. At the beginning of each meeting, their chairman reads when and where the public meeting notice was printed. Followed by that statement is an announcement of the Open Meetings Act, which a copy is posted on the wall of every room they conduct public meetings. After that statement is made, their chairman announces the same script at every meeting to encourage public participation. It reads:

“Prior to beginning tonight’s meeting, I would like to announce the procedure that will be used for this meeting to preserve order. With respect to each agenda item, the Directors will first hear any staff comments. Then the public will be given the opportunity to speak to the item. Comments are limited to 3 minutes per person. Lastly, the directors will discuss the item and take action as needed. We ask that the public not interrupt the Directors discussion.

Also, if anyone in the audience wishes to speak on any agenda item please make sure you sign the attendance sheet located near the doorway.”

He noted it is like the process used by the Legislature with the sign-in sheets at hearings. If a person did not sign the attendance sheet in advance, the chairman lets everyone wishing to address the board a chance to do so later.

To further encourage public participation, the NRD staff has incorporated an open house format to some of their more controversial subjects. These open houses take place prior to a meeting and the public is encouraged to attend to speak directly with the experts and staff on the given subject. During these open houses, the district has also hired a court reporter to also document public statements and seating is set up for anyone wishing to listen to comments directly. This format has also been used for public hearings. These transcripts are then forwarded to all board members for them to review prior to any decision being made.

The General Manager has encouraged board members to be present during these open houses to further engage them with the public who attend.

Another avenue that the public can take if they wish to address the board is to visit with any of the board members. Their contact information is made available to the public and board members have brought subjects to the chairman or general manager to get addressed. These items can be addressed through current policy or may not even be relevant to the NRD. The district has 24 staff working fulltime who are very responsive with helping the public connect with other government agencies to address the concern they may have.

Lastly, he noted that if this additional requirement mandates public comment without restrictions, it would be difficult to maintain an orderly meeting and finish before the midnight hour.

Lynn Rex, League of Nebraska Municipalities, testified in opposition and noted this bill undermines current laws and allowing it at all meetings just doesn't work. She noted that if it's a personnel related meeting, then it goes into closed session to deal with that so public comment is not needed. Rex also noted Grand Island uses a form that can be filled out at any time and the citizen can ask to talk about the issue at an upcoming meeting.

Rex noted the bigger issue with the bill is that it allows people to talk about whatever they want – things not on the agenda that don't have to deal with anything that is happening at that meeting. She noted agendas should matter, and the public should participate on agenda items and not have a free-for-all at the end of the meetings.

Jim Vlach, a school board member from Alliance and the Nebraska Association of School Boards, testified in opposition. He noted the functions of the school board are many including open communication. Following an agenda is important in order for a school board to act efficiently. He further noted, the boards need to be able to protect the students and staff. If comments are made during a meeting that are false, the damage is already done. The current law provides a way to buffer that.

Jack Cheloha testified in opposition for the City of Omaha. He mentioned the change basically allows an "open public mic period" at a public meeting which is not a good idea. He gave some background on the City of Omaha's agenda, noting there can be up to 120 items on the agendas typically in the form of resolution or ordinance. Ordinances need 3 readings and typically the public comment is at the 2nd meeting.

Cheloha noted public input is important and they do everything they can to hear from the public. However, open comment period is of less value, can be counter-productive and can have unintended consequences. An "Open Mic" is not part of a good government system.

John Cannon, Deputy Director of NACO, testified in opposition noting there is vagueness to the language in the bill and shouldn't necessarily apply to all situations. He listed numerous committees in Lancaster County that have public meetings that the Open Meetings Act and public comment does not necessarily pertain to. This change would take a certain amount of flexibility away from elected officials. The change to the bill is not serving the public the way we want it to and leads to unintended consequences.

There was no neutral testimony. Numerous letters were submitted on both sides of the issue.

In her closing, Senator Albrecht thanked the committee for giving everyone 5 minutes to speak. She mentioned her staff looked into minutes and agendas from across the state and claimed to find numerous instances where there was no public comment listed on agendas and there was no record in their minutes of the public meeting. However, she did not mention any specific entity.

LB 1193 - Change election provisions for certain bond issue, tax levy, and property tax limitation questions. Linehan.

The Government Committee accepted testimony on LB1193 on February 12th.

The bill changes all existing special elections for the purposes of approving the issuance of bonds, a property tax levy, or exceeding a property tax levy limitation by a political subdivision to hold the election in conjunction with the statewide primary or general election or a regularly scheduled municipal primary or general election.

An exemption would be provided to allow for a special election on a different date if it is to address an emergency due to circumstances beyond the control of the governing body of the political subdivision, such as the destruction of a facility or other infrastructure by fire, flood, tornado, or other emergency circumstance.

In her opening, Senator Linehan mentioned that special elections are not necessary, and they should be timed with the primary or general elections. This would improve voter turnout at elections.

Proponents

No one testified in support of the bill.

Opponents

Kathy Danek, a Lincoln Board of Education member, testified in opposition of the bill. She mentioned the Lincoln Public Schools Special Bond election was held on February 11th by mail ballot. She claimed the special election had a 34.1% turnout which exceeded the last primary turnout by 7.25%. She also mentioned the timing of construction projects. If the election isn't until May, it is likely the projects won't get started until late in the construction season or delayed until the following year. The February election allows construction to start earlier and can save \$2-3 million by starting early and getting the project done.

In her closing, Senator Linehan mentioned the point of the bill is to get a higher turnout at the primary and general elections.

There were eight letters filed in support.

LB 1195 - Change provisions regarding access to public records. Morfeld.

The bill proposed to change public record laws when public records data maintained in a computer file, they shall remain a public record regardless of the form in which it is stored.

Hearing Notes:

On February 21, 2020, the Government Committee accepted testimony on LB 1195. In his opening, Senator Morfeld mentioned the purpose of the bill was to allow for electronic copies of public records to be provided. It also clarifies that any citizen, or resident, can make a public record demand. There was no testimony provided and Senator Morfeld waived closing.

LB 1201 -- Create the Flood Mitigation and Planning Task Force. Bostelman.

The original bill proposed to create the Flood Mitigation and Planning Task Force within the Nebraska Emergency Management Agency. The Natural Resources Committee advanced LB 1201 to General File on March 4th with Committee Amendment AM 2753, which replaces the original proposal. This amendment is included in AM 2865 to LB 632 and was passed into law.

LB 1211 - Change requirements for the preparation of proposed budget statements. Hansen, B.

The Government Committee accepted testimony on LB 1211 on February 5th.

Senator Ben Hansen intent with LB 1211 is to change the approach of how political subdivisions budget.

Currently, the budget statement is required to start with the estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property.

The bill would eliminate that process and require the budget to be started with the revenue to be received from the taxation of personal and real property. Then other sources of revenues would be included.

Under the current law, the certification of levy must be within one percent of the total budget, with some exclusions for delinquent taxes, anticipated litigation, etc. The bill would require the levy to be certified within one percent of the amount raised from personal and real property.

Senator Hansen mentioned this bill is intended to start a conversation to improve the approach to budgeting with the taxpayers in mind.

Proponents

Joe Murray testified in support of the bill as an individual noting local government should decide how much money they have before we decide how much to spend. He mentioned number of towns/villages where he has observed regularly how much they want to spend and then they try to figure out how they can get that money.

Opponents

Jon Cannon, Nebraska Association of County Officials (NACO), testified in opposition noting the county does not spend money on things they are not authorized by the legislature. The county officials always look at the needs and balance against the constraints placed on it by the legislature. His experience has been the counties look at what needs to be funded, controlling local tax rates and following legislative constraints.

Christy Abraham, League of Nebraska Municipalities, spoke against the bill. She noted the change in the law creates problems with the timing of the budget process. She noted many of the league members want clarity on the bill as the proposed process does not work

Colby Coash, Nebraska Association of School Boards, also spoke against the bill noting the proposed timing of the budgeting process doesn't take current tax authority into consideration.

There was one letter of support and one letter of opposition submitted.

LB 1212 - Adopt the Property Tax Request Act. Hansen, B.

The Revenue Committee accepted testimony on LB 1212 on February 27th.

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.

The new process for the resolution/ordinance would be as follows:

Hold a public hearing and provide notice of such hearing and pass a resolution or an ordinance that complies with the following process:

1. The public hearing required under this section shall be held at a meeting of the political subdivision with no items on the agenda other than: (i) Discussion and action 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 (ii) The political subdivision's budget.
2. The governing body conducting the public hearing shall provide interested parties desiring to be heard an opportunity to present oral testimony: (i) Within reasonable time limits; and (ii) Without unreasonable restriction on the number of individuals allowed to make public comment.
3. A political subdivision shall not schedule a public hearing under this section at the same time as the public hearing of another political subdivision in the same county.
4. A political subdivision shall hold the public hearing required under this section beginning at or after 6 p.m.
5. If a political subdivision holds a public meeting for the purpose of addressing general business of the political subdivision on the same date as a public hearing required under this section, the public meeting addressing general business items shall conclude before the beginning of the public hearing required under this section.
6. The notice of the hearing shall be published in a newspaper or combination of newspapers of general circulation in the political subdivision.
7. The notice shall: (i) Be no less than one-fourth page in size; (ii) Use type no smaller than eighteen point; (iii) Be surrounded by a one-fourth inch border; (iv) Be run once each week for the two weeks before the political subdivision conducts the public hearing; and (v) State that the political subdivision will meet on a certain day, time, and place fixed in the notice, which shall be seven or more days after the day of the first publication, for the purpose of hearing comments regarding the proposed increase in the property tax request over the amount from the prior year.
8. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.
9. It is the intent of the Legislature that: (i) Whenever possible, the notice shall appear in a newspaper that is published at least one day per week; and (ii) The newspaper or combination of newspapers selected shall: (A) Be of general interest and readership in the political subdivision; and (B) Not be of limited subject matter.
10. The form and content of the required notice would be as follows:

NOTICE OF PROPOSED TAX INCREASE (NAME OF POLITICAL SUBDIVISION) The (name of political subdivision) is proposing to increase its property tax revenue. The total assessed value of property differs from last year's total assessed value by percent. 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, would be \$..... per \$100 of assessed value.

The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$..... per \$100 of assessed value. Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by percent.

All concerned citizens are invited to a public hearing on the proposed increase in the political subdivision's property tax request.

PUBLIC HEARING Date/Time: (date and time) Location: (name and address of meeting place) To obtain more information regarding the increase in the property tax request, citizens may contact the (name of political subdivision) at (phone number of political subdivision).

The resolution or ordinance setting a political subdivision's property tax request at an amount that exceeds the political subdivision's property tax request in the prior year would have to include, but not be limited to, the following information:

(a) The name of the political subdivision; (b) The amount of the property tax request; (c) The following statements:

(i) The total assessed value of property differs from last year's total assessed value by percent;

(ii) 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, would be \$..... per \$100 of assessed value;

(iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be \$..... per \$100 of assessed value; and

(iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

The resolution or ordinance setting a property tax request would have to be certified and forwarded to the county clerk on or before October 13 of the year for which the tax request is to apply.

Finally, any levy which is not in compliance with the new Property Tax Request Act shall be construed as an unauthorized levy.

Hearing Notes

In his opening Senator Hansen said the bill makes an effort to account for economic development. He told the committee the bill contains no hard caps, rather it simply requires if more money is raised, prudent steps are taken. He said the bill matches the 'Truth in Taxation' law in Utah and highlighted the reduction in property taxes in Utah.

Senator Hansen made reference to an amendment that would replace the bill but did not formally file it. From his description, the county would hold a special hearing on one day after compiling all the local political subdivisions final budgets in that county. Prior to the hearing, the county would send a postcard to every resident announcing the date of the hearing and listing out the property tax requests for each political subdivision in that county as they compare to the previous year. This would give everyone one place to go to complain about taxes.

Senator Hansen distributed a handout on the timeline used in Utah and noted that he will have to work on the timeline over the interim.

Proponents

Dustin Antonello, Lincoln Independent Business Association (LIBA), testified that a separate hearing would promote transparency. He provided an example of LIBA being the only testifier at a budget hearing due to the hearings scheduled time.

Nicole Fox testified in support on behalf of the Platte Institute. She testified that last year's LB 103 was a good step, but that the problem is most Nebraskans don't know about the law or the process. She said this bill would become true transparency in taxation and highlighted that it worked in Utah.

Joe Murray, a Lancaster County citizen, testified that with LB 103 the understanding was that it would shine light on escalating valuation increases, but in practice the political subdivisions in his area were already doing what LB 103 required and nothing changed.

Ansley Fellers testified in support on behalf of the Nebraska Farm Bureau. She expressed the urge for the legislature to act on a broader scale for property tax relief. She outlined that this bill would retain local control while increasing transparency.

Jessica Shelburn, Americans for Prosperity, testified in support outlining their desire for transparency in addition to what LB 103 and LB 148 has offered. She testified that people are intimidated to appeal valuations and said this gives individuals the opportunity to be empowered and hold elected officials accountable.

Opponents

Jon Cannon testified on behalf of NACO, outlined that notice requirements would be more burdensome, and that they already have notice provisions. He testified that it is apparent that enhanced notice doesn't lead to more participation. He also noted that comparing Utah to Nebraska is like apples to oranges, with 64% of land in Utah being owned by the Federal Government and only a fraction of the counties Nebraska has.

Lynn Rex testified for the League of Nebraska Municipalities and stressed that LB 103 already provides added transparency. As an example, she highlighted that there are 29 political subdivisions in Polk County and Twin Rivers School is in 4 Counties, which would prevent the ability to ensure hearings are not at the same time. She stressed that political subdivisions are making no effort to hide their budgets and that elected officials are taxpayers too who develop budgets thoughtfully.

Kory Gilbertson testified in opposition for the Home Builders Association-Lincoln and Metro Builders Coalition of Omaha.

There was one letter of support from the Nebraska Chamber of Commerce, one letter of opposition from the Ralston Public Schools and one neutral letter from Media of Nebraska Inc.

In his closing Senator Hansen spoke about the possibility of moving some of the budget and notice information more towards an email system. Senator Friesen expressed concern that those attending the hearing may be disappointed because by the time you get to a budget hearing, it's often final product and hard to change. Senator Hansen closed by mentioning it may change budgets by trying to create a think twice mentality for elected officials because people will come and complain more.

Section Three – Interim Study Resolutions

2020 Interim Study List

Below is a list of interim studies that are of interest to natural resources districts. There is no requirement that public hearings will be held on interim studies. This becomes less likely under the current COVID crisis. A full list of interim studies can be found at:

<http://www.nebraskalegislature.gov/session/interim.php>

LR 333 – An interim study to examine the possibility of placing one or more reservoirs on the Platte River and its tributaries for flood control, hydroelectric energy, recreation, economic development, and environmental stewardship (McDonnell).

PURPOSE: The purpose of this interim study is to examine the possibility of placing one or more reservoirs on the Platte River and its tributaries for the purpose of flood control, hydroelectric energy, recreation, economic development, and environmental stewardship.

The study shall be completed in collaboration with the University of Nebraska College of Engineering and affected stakeholders. Stakeholders shall include representatives from the Department of Natural Resources, the Department of Environment and Energy, the Game and Parks Commission, affected municipalities and natural resources districts, local taxing authorities, affected drainage districts, and other interested entities. The study shall consider the impact and placement of one or more reservoirs of sufficient size and scale to provide flood control, a stable and reliable drinking water supply, power generation, extreme weather mitigation, and recreation, and to attract and retain a workforce to foster regional and economic growth.

The issues addressed by this interim study shall include, but not be limited to: (1) A history of the Platte River watershed; (2) The purpose of and need for such reservoirs on the Platte River; (3) A description of a possible reservoir project; (4) Project challenges and benefits; (5) Next steps; (6) Water supply issues, including existing water supplies, future water supply needs, water rights, flood control, hydrology and hydraulics, and methodology; (7) Existing flood risk and predicted flood risk with and without a reservoir project; (8) Recreation, including existing regional recreation and future regional recreational needs; (9) Hydropower, including existing power demands, future power demands, and the integration of hydropower into regional power production; (10) Site selection and optimization; (11) Conceptual reservoir design; (12) Possible project features, including an evaluation of alternatives; (13) Potential project costs and benefits; (14) Alternative reservoir locations; (15) Expansion of existing facilities; (16) A description of the outcomes if no action is taken; (17) Screening of alternatives; (18) Permitting issues and procedures; and (19)

Necessary collaboration with federal agencies such as the Federal Energy Regulatory Commission, the Environmental Protection Agency, the United States Army Corps of Engineers, the Fish and Wildlife Service, and the United States Department of Agriculture for the completion of such potential reservoir project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION: 1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. 2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

LR 340 --- An interim study to examine the extent of surface water irrigation in Nebraska and the condition of the surface water irrigation projects. (Stinner and Hughes).

PURPOSE: The purpose of this interim study is to examine the extent of surface water irrigation in this state and the condition of the surface water irrigation projects.

The study shall also examine the economic, social, and environmental benefits of such irrigation projects. The issues addressed by this interim study shall include, but not be limited to: (1) The number of irrigation districts, reclamation districts, public power and irrigation districts, and canal companies in the state; (2) The acres served with surface water irrigation and the number of surface water irrigators in the state; (3) The miles of canals, laterals, pipelines, and drains operated and maintained in the state for the purpose of surface water irrigation; (4) The number and size of dams, reservoirs, and lakes operated in the state as part of surface water irrigation projects, including those still under federal ownership through the Bureau of Reclamation; (5) Information about the age and condition of the surface water irrigation project facilities in the state; (6) Costs of operating and maintaining existing surface water irrigation projects, including amounts paid to the federal government for operation and maintenance of facilities operated by the federal government as part of such projects; (7) Benefits from the surface water irrigation projects other than the delivery of irrigation water; and (8) An estimate of future funding needs to address aging surface water infrastructure.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SIXTH LEGISLATURE OF NEBRASKA, SECOND SESSION: 1. That the Natural Resources Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution. 2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.