



Nebraska's Natural Resources Districts

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Protecting Lives • Protecting Property • Protecting the Future

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April 20, 2022

TO: NARD Board of Directors, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: April 20th NARD Sine Die Update

The 107th Legislature, 2nd Session, ends Sine Die -- The Nebraska Legislature adjourned Sine Die April 20, 2022, on day 60 of a 60-day session. The next regular session is scheduled to begin January 4, 2023. 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 2021-22 Legislative Bills of interest to natural resources districts.

A total of 146 bills were passed this session. In addition, several other bills were incorporated by amendment to the bills that passed. No bills are carried forward to the 2023 session, so all bills that did not receive final approval by the Legislature, or postponed by committee, were indefinitely postponed on the last day of the session.

There was one constitutional amendment, LR 283CA, advanced that will be on the ballot in November. The amendment proposes that any city, county, or other political subdivision that owns or operates an airport to use its revenue from any source for the public purpose of developing or encouraging the development of new or expanded regularly scheduled commercial passenger air service at such airport.

There were 64 bills and three constitutional amendments on the NARD Watch List. The breakdown of those are as follows: support and passed – 16; oppose and passed – 0; support and died – 6; opposed and died – 10; monitor and passed – 11; and monitor and died – 24. Thanks goes out to the lobbying team of Zulkoski and Weber!

The first section lists bills that were passed by the Legislature and approved by Governor Ricketts (Pages 5-36). The second section includes bills that have been indefinitely postponed (Pages 36-94). The third section lists Interim Study Resolutions that were introduced in 2022 (Pages 94-97). An index of the bills and corresponding page number in the report can be found on Pages 2-5. A 3-Page spreadsheet is included separately for a quick reference to all bills of interest to natural resources districts included in this update.

Thirteen Senators Leaving – Thirteen state senators finished their last session. Eleven are term limited out. These include Senators Curt Friesen, Matt Hansen, Robert Hilkemann, Dan Hughes, Mark Kolterman, Brett Lindstrom, John McCollister, Adam Morfeld, Patty Pansing Brooks, John Stinner, and Matt Williams. Senators Steve Lathrop and Tim Gragert have decided not to run for a second term.

All have done a tremendous job serving the State of Nebraska. Thank you for your public service!

Other possible changes -- Other senators are seeking other elective offices. Senator Mike Flood is running for U.S. Congress in the 1st District, Senator Tony Vargas is running for U.S. Congress in the 2nd District, Senator Carol Blood is running for Governor, and Speaker Mike Hilgers is running for Nebraska Attorney General. If any of the senators were to win their respective elections, they would have to resign from their current office.

Nine sitting senators have opponents in the upcoming election cycle. Senators Myron Dorn and Tom Brandt are running unopposed.

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Section One – Bills Passed by the Legislature and Approved by Governor Ricketts

Most bills passed and approved by the Governor become law three calendar months after the Legislature adjourns unless they have an emergency clause or a specified operative date. The emergency clause is a provision that allows a bill or a portion of a bill to take effect immediately after the Governor signs it or after the Legislature overrides a governor's veto.

LB 29e - Designate Juneteenth National Independence Day as a state holiday. Wayne.

Senators gave final approval to LB 29e on April 12th, 2022, by a 48-0-1 vote. The bill includes the emergency clause and was approved by Governor Ricketts on April 18th.

The Government Committee reported LB 29 to General File on Jan. 24th with AM 1610 following a 7-0 vote.

As originally proposed, the bill would have eliminated Arbor Day, the last Friday in April as a state holiday and replace it with a new state holiday called “Juneteenth” which is also known as Freedom Day, Jubilee Day, Liberation Day, and Emancipation Day, on June 19th. This language was eliminated with AM 1610.

Previously, the Legislature advanced LB 29 to Final Reading by voice vote on March 31st after adopting an amendment to add the emergency clause to the bill by a 35-0 vote. They advanced LB 29 to Select File on March 14th by a 47-0-2 vote after adopting the committee amendment (AM 1610) by a 47-0-2 vote. The amendment retains Arbor Day as a holiday and adds Juneteenth to the existing list of state holidays.

Federal legislation passed and approved by President Biden in June of 2021 made Juneteenth a federal holiday.

The Government Committee reported LB 29 to General File on Jan. 24th with AM 1610 following a 7-0 vote.

The Government Committee accepted testimony on LB 29 on March 3rd 2021.

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

Proponents

Karen Bell-Dancy, executive director of the YWCA of Lincoln, testified in support of the bill. She noted establishing Juneteenth as a state holiday would signal its importance to all people, further highlighting that the holiday would not only demonstrate recognition of the past but would also be an affirmation that Black lives matter.

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

There was no opposition or neutral testimony.

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

Senators gave final approval to LB 91 on April 12th by a 47-0-2 vote. The bill was approved by Governor Ricketts on April 18th. The bill makes several technical changes to regulation of native and nonnative plant species.

Previously, the Legislature advanced LB 91 to Final Reading by voice vote on March 31st. They advanced LB 91 to Select file by a 43-0-6 vote after adopting the committee amendment (AM 96) by a 41-0-7 vote.

The Agriculture Committee advanced LB 91 to General File with AM 96 on February 11, 2021, by an 8-0 vote.

The amendment (AM 96) makes several changes, first it strikes the proposed revision to the definition of "agricultural seed" and revises the definitions of native and non-native plant species to include plant species indigenous to North America prior to European settlement. It strikes the inclusion of yellow bluestem in Section 2 of the bill. It adds language that reduces the allowable period after germination or viability (TZ) testing native seeds may be offered for sale without being mislabeled from 15 months to 12 months and removes the option for viability (TZ) testing of hermetically sealed seeds of non-native seeds.

With AM 96, the two new proposed definitions for regulation of plant species read as follows:

- Native plant species means any grass, sedge, rush, or forb indigenous to North America prior to European settlement.
- Nonnative plant species means any grass, sedge, rush, or forb not indigenous to North America prior to European settlement.

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

The Agriculture Committee accepted testimony on LB 91 on January 26, 2021.

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

Proponents

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

Opponents

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

Merritt noted their first concern is the difficulty in determining what plant species are categorized as native and non-native. This change has the potential to create confusion as classification may be open to interpretation for some plant species. He noted their second concern is with the length of time seed may go without verifying the germination rate. Consumers rely on the accurate labeling to make growing decisions. There are multiple factors that affect seed viability rate, including processing, handling and storage conditions. Guaranteeing an accurate or consistent germination rate beyond the current 12 months could be difficult. The result would be a loss of consumer confidence in the stated seed label germination rates.

LB 742 – A bill to provide for minutes to be kept in an electronic record under the Open Meetings Act. Erdman.

Senators gave final approval to LB 724 on April 12, 2022, by a 42-0-7 vote. The bill was approved by Governor Ricketts on April 18th.

The bill allows all public bodies to keep minutes in written or electronic record. Current law only allows electronic record of meeting minutes of a school district board or educational service unit.

Previously, the Legislature advanced LB 742 to Final Reading by voice vote on March 31st. On March 14th, the Legislature advanced LB 742 to Select File on a 42-0-7 vote.

The Government Committee reported LB 742 to General File on Feb. 15th following an 8-0 committee vote.

The Government Committee held the hearing for LB 742 on Feb. 9th, 2022.

In his opening, Senator Erdman said this is a cleanup bill because some elected officials thought they couldn't store their minutes in electronic form. He noted the original bill made it seem like only schools and ESUs could do it, but this allows all public bodies to store them in electronic form.

Proponents

Christy Abraham, League of Nebraska Municipalities, testified in support. She noted that in 2015, ESUs and school districts got the ability to have electronic minutes and it would be nice if the rest of government entities could keep minutes in electronic form and of course still have paper/written form. She noted that it doesn't change the access for public records requests.

Chris Dibbern, General Counsel with Nebraska Municipal Power Pool, testified in support. She noted this clarifies the statute to bring it up to modern standards.

Beth Bazyn Ferrell, NACO, testified in support. She noted this gives counties another option on how to store their minutes if they so choose.

One proponent letter was submitted for the record.

There was no opposition or neutral testimony. In closing, Senator Erdman requested that the bill be advanced to the consent calendar.

LB 805 - Change provisions of the Black-Tailed Prairie Dog Management Act, the Nebraska Wheat Resources Act, and the Noxious Weed Control Act. Hughes. Agriculture Committee Priority Bill.

Senators gave final approval to LB 805 on April 13th by a 39-1-9 vote. The bill was approved by Governor Ricketts on April 19th. The corresponding appropriations bill, LB 805A, adds \$2 million to the program from the ARPA funds in each of the next three fiscal years was approved on a 40-0-9 vote.

Previously, the Legislature advanced LB 805 to Final Reading by voice vote on March 28th. They advanced it to Select File on March 3rd by a 33-5-11 vote after adopting the committee amendment (AM 1976) by a 32-1-16 vote.

The Agriculture Committee advanced LB 805 to General File on Feb. 23rd with AM 1976 following a 5-1 vote. The committee amendment kept the original proposal in LB 805 and added the provisions of LB 712 and LB 802.

- LB 712 makes changes to the Black-Tailed Prairie Management Act. This bill creates a procedure for adjacent landowners to waive their objection to an unmanaged colony. It also specifies that certified mail must be used for individual notice and removes sections that imply a county board does not need to adhere to the general notice rules. Additionally, this bill adds an onsite investigation requirement. It also clarifies that a landowner has the right to appeal a county board's decisions and actions under the Act to any court having jurisdiction. Lastly, this bill has a severability clause.
- LB 802 updates provisions of the Nebraska Wheat Resources Act. Currently, wheat producers pay the excise tax when wheat is under loan. The bill eliminates the excise tax collection on loan grain and make the collection when the wheat is sold for the first time in Nebraska. The bill also states that the excise tax will not be collected on wheat sold as seed. It also allows the Wheat Board to invest in seed development entities and exercise ownership rights of varieties to help market varieties developed by Nebraska wheat research funding.

Under LB 805, beginning in FY 2022-23, the bill increases the appropriation from \$1 million to \$3 million annually for vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams. The corresponding appropriations bill, LB 805A, adds \$2 million to the program from the ARPA funds in each of the next three fiscal years.

Under current law, this program is limited to vegetation within the banks of a stream or within 100 feet of the banks. The bill strikes the 100-foot limitation and expands to the flood plain of the stream.

The bill maintains the limitation that such funds shall only be used to pay for activities and equipment as part of vegetation management programs. This program is operated by the Nebraska Department of Agriculture.

The Natural Resources Committee held the hearing for the bill on Jan. 18th, 2022.

Sen. Hughes opened the hearing by providing an overview of the bill.

Proponents

Mike Reed, Weed Superintendent of Douglas County, testified in support of LB 805. He noted that over the years the workload of managing weeds in the Lower Platte has shifted from the main channel to include the flowing tributaries. He mentioned the flooding of 2019 and the impact it had on Nebraska and said the flooding would have been far greater if Nebraska had not maintained weeds along waterways. Reed stressed the goal is to proactively manage for water conveyance and maintenance in tributaries is key.

Todd Boller, Noxious Weed Superintendent for Fillmore County, highlighted the work in the Republican River Basin that has removed phragmites along the river to improve water flow to Kansas. Todd gave examples of how acreage coverage of invasive species has successfully been reduced. However, the one plant that has shown an increase in acres is phragmites. In order to control the species, we must expand our work outside of the river channel. While portions of the rivers in Nebraska are in maintenance phase there is still work to be done.

NARD provided testimony in support of the bill. NARD thanked Senator Hughes for staying engaged on this issue and working with all the parties involved to control invasive species on Nebraska's rivers and streams. It is very much appreciated by the local NRDs.

The local NRDs have been very active in joint ventures with the State of Nebraska to control the spread of Phragmites in Nebraska's river systems. The local NRDs have been providing additional cost share dollars to leverage the state funds that are appropriated to this program. We have also been working directly with the local weed management authorities and others to coordinate efforts to keep the river conveyance open for all water users.

When we started addressing this issue over a decade ago, both the Platte and Republican rivers were infested to the point where you could not see the river at all in some areas. The Phragmites is a very invasive plant that spreads through the root system.

While we have been able to clear the channels, if we don't stay ahead of it, the streams will get clogged again. It is imperative that we continue to take annual actions necessary to support water conveyance programs so all water users that depend on the river get adequate water supplies. This on-going preventive maintenance can be critical to preventing re-infestation of the invasive plants.

The additional funding provided will assist the local efforts. We are also supportive of changing the 100-foot limitation and expand to the flood plain of the stream. This would allow control measures to reach beyond an arbitrary 100-foot line. We would suggest that the primary focus needs to be on the stream.

Jon Cannon, Executive Director of NACO, mentioned the lawsuit with Kansas noting a potential \$72M liability was reduced to \$5.2M because of the increased stream flows partially due to reducing phragmites along the Republican River. He addressed a question that was previously asked "why should the state bear the cost and not the landowner?" his response was the control provides a community benefit and further that Kansas will not sue an individual landowner, rather they will sue the state.

Andrew Dunkley, Nebraska Farm Bureau, testified that noxious weeds can be a real threat to crops and that their members are in favor of using taxpayers' money wisely and further funding this program. There was no Opposition or Neutral testimony.

In closing, Sen. Hughes addressed some of the questions asked during testimony. Why more money? It costs more money to do business these days.

There is landowner cost share because it is in the best interest of everyone in the state. Further he outlined that it does take specialty equipment and chemicals to address this issue.

LB 809 - Change provisions of the Drinking Water State Revolving Fund Act, the Environmental Protection Act, the Game Law, the Waste Reduction and Recycling Incentive Act, and the Wastewater Treatment Facilities Construction Assistance Act. Moser. Natural Resources Priority.

Senators gave final approval to LB 809 on April 12, 2022, by a 46-0-3 vote. They also approved the appropriations bill, LB 809A, by a 46-0-3 vote. The bill was approved by Governor Ricketts on April 18th.

The bill makes several modifications to the use of the funds and the assets of the Safe Drinking Water Act, Drinking Water State Revolving Fund Act and Wastewater Treatment Facilities Construction Assistance Act.

Previously, the Legislature advanced LB 809 to Final Reading by voice vote on March 28th. The Legislature advanced LB 809 to Select File on March 11th by a 35-0-14 vote after adopting the committee amendment (AM 2004) by a 35-0-14 vote. The Natural Resources Committee advanced LB 809 to General File on Feb. 24th with AM 2004 following a 7-0 vote.

The corresponding appropriations bill, LB 809A, includes \$720,527 from the General Fund for FY2022-23 and \$953,468 from the General Fund for FY2023-24 to the Department of Environment and Energy to aid in carrying out the provisions of the bill. Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed \$284,960 for FY2022-23 or \$513,760 for FY2023-24. The appropriations bill was advanced to Final Reading by a voice vote. It was advance from General File by a 34-0-15 vote.

In addition to the original provisions of the bill, the committee amendment incorporated the provisions of three other bills into the bill: LB 803, LB 924, and LB 978 (as amended by AM 2004).

- **LB 803 - Redefine immediate family for purposes of obtaining limited permits for deer, antelope, wild turkey, or elk. Hughes.**

The bill proposed expand the definition of immediate family member of a landowner or leaseholder to include grandchildren and step-grandchildren and their spouses for the purpose of being eligible for special hunting permits as the immediate family of a qualified landowner. The bill also increases the number of total permits and youth permits that can be issued. As amended, the bill permits eight total permits to be issued, two to adults over 19 years, and up to six for youth.

- **LB 924 - Include cities of the first class as grant recipients under the Waste Reduction and Recycling Incentive Act. Brewer.**

The bill proposed to expand grants under the Waste Reduction and Recycling Incentive Fund to cities of the first class for deconstruction costs related to the recovery and processing of recyclable or reusable material from abandoned buildings. Current law limits the program to cities of the second class, villages, and counties of five thousand or fewer population.

- **LB 978 - Provide powers and duties relating to the treatment of dredged and fill material under the Environmental Protection Act. Hughes.**

The bill proposed to add power and duties of the Environmental Protection Act to the Department of Environment and Energy to prohibiting or permitting the discharge of dredged or fill material into waters of the United States, commonly referred to as the 404-permitting process.

LB 809 makes several modifications to the use of the funds and the assets of the Safe Drinking Water Act, Drinking Water State Revolving Fund Act and Wastewater Treatment Facilities Construction Assistance Act.

Under the Safe Drinking Water Act, it adds the ability to use the fund to buy or refinance the debt obligation of any municipality for a public water supply system if the debt was incurred and construction began after July 1, 1993.

Under the Drinking Water State Revolving Fund Act, it expands the cost share for public water systems of 10,000 or less from 50% to 75% to provide grants and for the purpose of providing loan forgiveness. The bill also expands the authority to provide grants in addition to loans for this size of system.

It allows for grants and loan forgiveness, for up to 75% of eligible project costs, concurrent with loans to public water systems for lead service line replacement projects in accordance with all federal regulatory and statutory provisions under the Drinking Water State Revolving Fund Act.

Under the Wastewater Treatment Facilities Construction Assistance Act, the bill increases the grants from 50% to 75% of the eligible project cost for municipalities with populations of ten thousand inhabitants or less.

The Natural Resources Committee held the hearing for LB 809 on Jan. 20, 2022.

Sen. Moser introduced the bill by noting it updates funds to be consistent with federal law and allows flexibility for NDEE to administer funds. He noted the bill was brought on behalf of NDEE.

Proponents

Jim Macy, NDEE Director, provided an overview of the Clean Water and State Revolving Fund loan programs. The funds provide below market rate loans to eligible communities. This bill updates State statute to be consistent with federal regulation. Grant and forgiveness assistance is being increased from 50% to 75%. A separate grant and financial assistance program is needed for lead service lines of public water systems. Over 33,000 lead service lines have been identified in Nebraska. This new standalone section is needed to comply with federal guidelines. In FY22 NDEE will receive approximately \$18M in CWA funds and up to \$68M in Drinking Water programs on top of normal allocations which typically are \$8.5M for DW \$6.8M for CW.

Director Macy was asked if this grant would apply to a community to replace filters in reverse osmosis systems? Macy responded that operation and maintenance of existing facilities is usually the responsibility of the community and not included in these types of loans.

Annette Sudbeck, Manager of the Lewis and Clark NRD, testified in support on behalf of LCNRD and the NARD. All of communities located in the Lewis and Clark NRD have populations fewer than 10,000 residents and their drinking water systems serve the individual community, the community may purchase or sell drinking water to another community, and several communities are served by the Cedar Knox Rural Water Project. The water project serves 902 rural connections, four communities, and several sanitary improvement districts (SIDs) in northern Cedar and Knox Counties. Of particular interest to the district is the portion of the bill pertaining to changing the available amount of grant and loan forgiveness for eligible projects from 50% to up to 75%.

LB 809 as proposed, will level the financial playing field for communities of less than 10,000 residents when faced with the need to make modifications to their drinking water systems. Small communities are required to meet drinking water regulations just as large communities. When smaller communities are faced with expensive improvements or repairs to existing systems those expenses are shared among a smaller population which can significantly increase water rates among the smaller user base in comparison to larger communities.

For example, a \$1 million system repair or upgrade with 50% loan forgiveness in a community of 200 households would cost each resident \$2,500 over the course of the repayment period where it would be \$250 in a community of 2,000 households and \$25 for a community of 20,000 households. Increasing the percentage of available grant or loan forgiveness from 50% to up to 75% will significantly improve the repayment rate for the remaining loan portion for communities under 10,000 residents.

In the case above, it would decrease the cost for the community of 200 households to \$1,250, and \$125 for the community of 2,000 households while the repayment rate would remain the same for the community of 20,000 households.

Sudbeck noted state funding is key for many communities and rural water projects who face system upgrades to maintain drinking water rates that will better allow loans to be repaid in a timely fashion while lessening the impact to individuals in the affected communities. LB 809 will positively impact the funding capability of communities of less than 10,000 residents by allowing increased grant and loan forgiveness for eligible projects. The changes proposed in LB809 are important to communities and rural water projects of the district and to communities and rural water projects across the state for providing sustainable funding levels that facilitate affordable drinking water service.

Rick Kubat, Metropolitan Utilities District, testified that Omaha has 17,000 lead service lines with an average replacement cost of \$7K for a total of \$119M in homeowner liability. Lead service lines exist in older parts of town. Once you start funding something like this you need to be able to pay and replace all lines over time. Kubat addressed questions from the committee over the difference between ARPA and Infrastructure funding, noting that ARPA money was distributed to cities and counties, and that MUD to date has not received any of the ARPA funds.

Elizabeth Elliott, Director of Lincoln Transportation and Utility Department, testified that lead service lines impact all communities across the state. The homeowner is responsible for the line from the street to the house and the bill would help those people. She noted there are 5,600 homes in Lincoln with lead service lines and 3,200 homes with galvanized lines near lead lines that EPA requires to be replaced. Additionally, there are 10,400 unknowns, and most, if not all, of those likely contain lead. The cost of replacing just the known lines could cost \$53,000,000 and that amount is expected to be more than double when you add in the 10,400 unknown lines. This bill would create opportunity to assist with replacing those lines for residents.

Lash Chaffin, League of Nebraska Municipalities, testified that this is becoming a critical issue very quickly and we need to deal with it as quick as we can. He noted this bill brings a lot of effort to lead line replacement. Lash mentioned Jim Macy sold the department short of how sophisticated their grant program has become. NDEE works very closely with small communities, USDA, and other entities to fashion a loan grant program specific to a utility.

There was no Opposition or Neutral testimony.

In closing, Sen. Moser summarized proponent testimony during closing and reiterated that this bill helps Nebraskans and small communities.

LB 840 - Change provisions relating to publication and rates for legal notices. Brewer. Speaker Priority.

Senators gave final approval to LB 840 on April 12th by a 47-0-2 vote. The bill was approved by Governor Ricketts on April 18th.

Previously, the Legislature advanced LB 840 to Final Reading on March 10th by voice vote. They advanced it to Select File on March 1st by a 40-0-9 vote after adopting the committee amendment (AM 1915) by a 38-0-11 vote.

The General Affairs Committee reported LB 840 to General File on Feb. 17th following an 8-0 committee vote. The Committee advanced the bill with an amendment (AM 1915), which clarifies that a website posting, or a failure to make the website posting does not affect the legal validity of the public notice.

The bill updates per-line prices newspapers charge for public notices beginning in October 2022. The rates have been in effect since 1995.

Also beginning in October 2022, the bill requires that all legal publications and notices of whatever kind or character that may by law be required to be published a certain number of days or a certain number of weeks to also be posted by the newspaper on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers.

The General Affairs Committee held the hearing for LB 840 on Feb. 14th, 2022.

Opening on the bill, Sen. Brewer expressed that the bill was brought on behalf of the Nebraska Press Association. He outlined provisions of the bill and noted that it has been 26 years since rates were last increased. Sen. Brewer also expressed that the public notice website being operated and maintained by the Press Association will help modernize and create better public access. Sen. Brewer offered an amendment that intends to clarify that being posted on the website is not part of the official legal notice.

Proponents

Proponents included representatives from several community newspapers. Their testimony reiterated that costs for print and distribution have continued to increase while the fee structure has remained the same for 26 years.

Dennis Derossett also testified in support on behalf of the Nebraska Press Association. His testimony outlined how public notices disseminate information and enhance civic engagement. He noted that public notices are not the primary source of revenue for papers, but it is a significant source. He outlined that the Press Association has had

discussions with several associations representing local governments, and they heard repeatedly that a 11.1% increase is not unreasonable.

Derossett provided the committee with an overview of the website the Press Association is hosting that contains public notices - www.nepublicnotices.com. He noted their association requires all members to upload notices. He noted print notices remain the appropriate legal process, however the website provides greater transparency and greater awareness. It was noted that notices for future meetings are not available, but notices from the past are included on the site. He testified that it is their hope that notices will be posted 24-48 hours after it's in the paper.

There were 2 letters in support submitted for the record.

Opposition - There was no opposition testimony.

Neutral

Christy Abraham, testified in a neutral capacity on behalf of the League of Municipalities. She thanked the Press Association for engaging with the League on the topic. She noted that the league appreciates the ability to publish notices on Sunday. She noted that while the League appreciates the fact that there hasn't been an increase in 26 years, this bill would mean an increased cost for local municipalities. She asked for an amendment that would clarify that once the notice is in the paper, it meets legal requirements even if it doesn't make it onto the website.

Elaine Menzel, also testified in a neutral capacity on behalf of NACO. Her testimony reiterated the same thoughts and concerns as those expressed by the league.

In closing, Sen. Brewer reiterated the large increases in costs of doing business and expressed that this is a modest request.

LB 908 - Provide additional requirements for virtual conferencing under the Open Meetings Act. McDonnell.

Senators gave final approval to LB 908 on April 12th by a 44-1-4 vote. The bill was approved by Governor Ricketts on April 18th.

The bill allows a public body to hold a meeting by virtual conferencing if: (a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body; and (b) No action is taken by the public body at the virtual meeting.

Previously, the Legislature advanced LB 908 to Final Reading by voice vote on March 31st. On March 14th, the Legislature advanced LB 908 to Select File on a 39-1-9 vote after adopting the committee amendment (AM 1950) by a 40-1-8 vote.

The Government Committee advanced LB 908 to General File on Feb. 22nd with AM 1950 following a 6-0 vote. The committee amendment clarifies that the new authority to use virtual conferencing under the proposal does not diminish the authority previously granted in statute for public bodies to use virtual conferencing under other circumstances.

This meeting would still be subject to advance public notice, the public's right to participate by virtual conferencing, and reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate.

The Government Committee held the hearing for LB 908 on Feb. 16th, 2022.

In his opening, Sen. McDonnell said the bill would provide a logical exception to the open meeting act. LB 908 is a narrow exception to allow a virtual option. He noted the bill would provide an efficient way for a meeting with a quorum. Additionally, being able to hold these virtually allows for more engagement.

Senator McDonnell highlighted the transparency the Douglas County Board adheres by. This would not impact the current meetings held. Transparency builds trust. We are not trying to take away the transparency to the public we are just trying to make it more convenient to participate.

Proponents

Mary Ann Borgeson of Douglas County Board of Commissioners testified in support. She highlighted how the Douglas County Board has formed committees of the full board so they can discuss, but not act on, topics outside of board meetings. She expressed that it's important for these committees to meet outside of regular board meetings in order to hold efficient board meetings. The county board does not take any action at these committee meetings, and they are open to the public.

Borgeson noted there are safeguards built in to make sure the public can participate in the meeting. Information of meeting must be published with call-in information, physical location of meeting, and anyone can comment and ask questions the same as an in-person meeting.

During questioning, Borgeson highlighted how the Douglas County Board has seen more participation from the public in their meetings because they have a virtual option.

Candace Berens, Deputy County Attorney and Lancaster County Board of Commissioners testified in support. Berens outlined the various meetings held on a weekly basis with the Lancaster County Board of Commissioners and staff. She highlighted how LB 908 would allow the Lancaster County Board of Commissioners to conduct more timely discussions while adhering to the open meetings act and improve the flexibility of their meetings.

Beth Bazyn Ferrell, NACO, testified in support. She stated this bill would provide another tool and flexibility for county officials while maintaining transparency.

There were no opponents or neutral testimony.

In closing, Senator McDonnell requested that the bill be advanced to the consent calendar.

LB 925 - Adopt the Resilient Soils and Water Quality Act and state intent regarding appropriations. Gragert. Gragert Priority.

Senators gave final approval to LB 925 on April 12th by a 42-5-2 vote. They also approved the appropriations bill, LB 925A, on a 36-9-4 vote. The bill was approved by Governor Ricketts on April 18th.

The bill adopts the Resilient Soils and Water Quality Act which creates demonstration and research farms across the state to provide demonstration of healthy soil practices in support of the educational and research programs of the producer learning community. Lease agreements would be allowed with private landowners for the purpose of establishing demonstration and research farms.

The appropriations bill, LB 925A, provides \$250,000 from the General Fund for FY2022-23 and \$250,000 for FY2023-24 to the Department of Natural Resources, for Program 334, to aid in carrying out the provisions of the bill. Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed \$92,500 for FY2022-23 or \$94,350 for FY2023-24

The Legislature advanced LB 925 to Final Reading by a voice vote on March 10th. Previously, on February 24th, they advanced it to Select File by a 34-7-8 vote after adopting AM 1836 on a 37-1-11 vote. The amendment, offered by Senator Gragert, clarifies that annual reports will be filed every year through 2027 to match the funding period.

The Natural Resources Committee reported LB 925 to General File on Feb. 3rd following a 5-3 committee vote. Senator Gragert declared the bill as his priority for the session.

The program is to be organized by the Department of Natural Resources. The Department shall provide technical and legal assistance in the formation of a producer learning community comprised of active agricultural producers, landowners, and others who have an interest in soil health and water quality.

The department shall assist the producer learning community in building awareness and knowledge relating to soil health and water quality to guide agricultural producers and landowners in making informed decisions to bring about a more rapid and widespread adoption of best management practices.

The department shall hire a facilitator to lead a collaborative effort to organize the producer learning community and assist the producer learning community in acquiring gifts, grants, and sponsorships. The department shall authorize the facilitator to serve as an ex officio member of the producer learning community and may locate the facilitator outside of the City of Lincoln.

Under the proposal, a producer learning community is defined as an agricultural producer-led, nonprofit, voluntary membership organization dedicated to fostering learning, skills, and abilities, and the gathering and sharing of knowledge for the purpose of carrying out the Resilient Soils and Water Quality Act.

The department may partner or contract with any entity or entities that have resources that would assist in the formation of the producer learning community including, but not limited to, the University of Nebraska and any association of natural resources districts.

The department may also collaborate with the Corn Board, the Soybean Board, the Grain Sorghum Board, Wheat Board, and any private farm and ranch associations or membership organization.

The department shall divide the state into different regions in which to establish demonstration and research farms that are representative of each region's particular agricultural diversity. In establishing such regions, the department may use the land management areas of the Natural Resources Conservation Service of the United States, the state's natural resources district boundaries, and Nebraska Extension Engagement Zones of the University of Nebraska Institute of Agriculture and Natural Resources as guidance in establishing boundaries.

Beginning in 2022 and running through 2027, the department shall submit an annual report on or before December 31 to the Governor and electronically to the Agriculture Committee of the Legislature and the Natural Resources Committee of the Legislature to report on the status and progress of implementing the Resilient Soils and Water Quality Act and any impacts and accomplishments made in protecting and improving soil and water quality across the state.

The bill includes intent language to appropriate \$250,000 beginning in FY2022-23 through FY2026-27 to carry out the Resilient Soils and Water Quality Act. The appropriations bill, LB 925A, only provides the first two fiscal years of funding.

The Natural Resources Committee accepted testimony on LB 925 on Jan. 26th, 2022.

Proponents

Several individuals testified in support of the bill, highlighting the need for expanding conservation practices. Testifiers outlined the shifting demands of consumers, noting consumers are continuing to demand food produced from more sustainable practices.

Annette Sudbeck, General Manager of Lewis & Clark NRD, provided testimony in support on behalf of LCNRD and NARD. Soils and soil health are the main line of protection for the Nebraska's water resources. Growing crops while maximizing soil health is critical to improved water infiltration, minimized contaminant runoff and reduced nitrate leaching, protecting both ground and surface water resources.

The proposal of LB 925 will provide an avenue for farmers, through development of demonstration farms and learning communities, to share or exchange information with fellow crop producers who are working in the same

geographical area, facing similar problems, and attempting to identify appropriate solutions for the situation they are facing on their farms. The demonstration farm concept deepens the level of interaction a farmer has with neighboring farmers by creating the atmosphere of trying and sharing things that may be out of their traditional scope.

Thus, creating a platform for back-and-forth communication and exchange of ideas will naturally expand knowledge and help producers recognize how they can minimize the potential impact of trying new things.

Thank you to Senator Gragert for his foresight in protecting the lifeblood of the people of our state and of the agricultural economy in Nebraska – Soils and Water. Protection of these vital natural resources will help ensure the longevity of farmers who have significant impact in many sectors of the state.

Charles Shapiro, a retired University of Nebraska-Lincoln soil fertility specialist, testified in support of LB925. After reviewing many surveys about how farmers receive new information, he said, it was humbling to discover that they most often learn from other farmers and not an extension specialist like him.

Also in support was Craig Derickson, retired Nebraska state conservationist for the Natural Resources Conservation Service. He said producer interest in soil health practices has increased significantly in the last decade. He noted the most noticeable need is a way to coordinate those activities and a full-time facilitator could do that.

Daryl Obermeyer, a Nemaha County farmer, also testified in support. He said his farm could be used to demonstrate how certain farming practices preserve topsoil, increase the amount of organic matter in the soil and reduce the need for chemical fertilizers.

Opponents

There was no opposition testimony.

Neutral

Steve Ebke, testified in a neutral position on behalf of the Ag Leaders Working Group. His testimony acknowledged the value of healthy soil practices. He outlined that the pieces for expanding the education and adoption of healthy soil practices are already in place.

Ebke noted the groups are concerned that hiring a facilitator would add a new layer of salary and overhead. He added that farmers currently have access to a plethora of soil health information and programs offered by nonprofit organizations, private businesses, Natural Resources Districts and Nebraska Extension, which he said could fulfill the facilitator role. Nebraska Extension should be one of the primary sources of educational and demonstration activities that will continue to promote soil health across the state.

In closing, Sen. Gragert expressed disappointment over the neutral position taken by the Ag groups. He stressed that he's fully against mandates and nothing in the bill creates or leads to mandates noting it's purely voluntary. This is a new concept that would not replace anything already occurring. He noted that NRDs and other organizations don't have the resources currently and would need to hire additional staff to do the work that the bill intends to achieve.

LB 1011e - Provide, change, and eliminate provisions relating to appropriations. Speaker Hilgers, at the request of the Governor.

Governor Ricketts signed the bill with some line-item vetoes on April 4th, 2022. Senators voted to over-ride the vetoes on April 7th by a 42-3-4 vote.

Senators gave final approval to LB 1011 on March 29th by a 38-4-7 vote after invoking cloture by a 36-3-10 vote. The bill proposes changes to appropriations for FY 2021-22 and FY 2022-23 that were adopted last year.

The Appropriation Committee recommendations were included in AM 1999, which was adopted on General File. The amendment reflects the governor's budget proposal, with a few significant changes made by the committee, including lowering the requested \$400 million Cash Reserve transfer for the Perkins County Canal project to \$53.5 million.

On Select File, the same Senators that turned the budget debate on General File into a debate on prison reform blocking any amendments to the budget, again repeated that process. Following the required 4 hours of Select File debate, Senators were able to invoke cloture by a 42-1-3 vote. The Legislature then advanced LB 1011 to Final Reading on a voice vote.

On General File, over 20 amendments were filed by Senators Lathrop, Morfeld, Wayne and McKinney, turning the dialog into a prison reform debate rather than on appropriations for programs. They would discuss the need for prison reform on each amendment through its allotted time, then withdraw the amendment and move on to the next. After repeating this process for eight hours, Senators were able to invoke Cloture by a 40-4-5 vote. The Legislature then advanced LB 1011 on a 40-6-3 vote after adopting the committee amendment (AM 1999) by a 41-5-3 vote.

LB 1012e - Provide for funds transfers, create funds, and change and eliminate provisions regarding a fund and reimbursement provisions. Speaker Hilgers, at the request of the Governor.

Governor Ricketts signed the bill with some line-item vetoes on April 4th, 2022. Senators voted to over-ride the vetoes on April 7th by a 42-3-4 vote.

Senators gave final approval to LB 1012 on March 29th by a 34-6-9 vote after invoking cloture by a 43-2-4 vote. As introduced on behalf of the Governor, the bill creates new funds related to various programs. As advanced by the Appropriations Committee, AM 2000 added several new funds as proposed in other bills. Related to natural resources are the following:

- **Perkins County Canal Project Fund.** The fund can be used for design, engineering, permitting, and options to purchase land related to building a canal as outlined by the South Platte River Compact and to contract with an independent firm for the purposes of completing a study of such canal.
- **Water Recreation Enhancement Fund.** The fund shall be used for water and recreational projects pursuant to the Water Recreation Enhancement Act.
- **Surface Water Irrigation Infrastructure Fund.** The fund shall be used to provide grants to irrigation districts and authorize the Department of Natural Resources to establish procedures and criteria for awarding grants for repair or construction of physical structures for irrigation projects. This was proposed in LB 1074.
- **Trail Development and Maintenance Fund.** The fund shall be used to provide grants to natural resources districts to assist in completing the Missouri-Pacific (MOPAC) trail between the cities of Lincoln and Omaha. This was proposed in LB 813.

The same max time prison reform debate happened on LB 1012 on Select and General File. On March 24th, Senators were able to invoke cloture on Select File on a 41-3-1 vote, the bill was then advanced to Final Reading on a voice vote.

Previously, on General File Senators ended debate with a cloture vote of 38-1-10, adopting the committee amendment (AM 2000) on a 41-2-6 vote, then advancing the bill to Select File by a 38-2-9 vote.

LB 1013e - Change provisions relating to the Cash Reserve Fund. Speaker Hilgers, at the request of the Governor.

Governor Ricketts signed the bill with some line-item vetoes on April 4th, 2022. Senators voted to over-ride most of the vetoes on April 7th by a 41-5-3 vote.

Senators gave final approval to LB 1012 on March 29th by a 33-5-11 vote after invoking cloture by a 34-3-12 vote. The bill changes provisions relating to the state's Cash Reserve Fund, also known as the rainy-day fund.

On March 24th, Senators advanced LB 1013 to Final Reading on a voice vote, following a 41-3-1 cloture vote that ended 4 hours of prison reform debate.

On March 22nd, following 8 hours of General File debate on prison reform, Senators were able to invoke cloture by a 39-4-4 vote. Senators then advanced LB 1013 on a 39-4-4 vote after adopting the Committee Amendment on a 40-3-4 vote.

The Appropriations Committee amendment (AM 2001) uses \$513 million from the cash reserve for a variety of transfers outlined in bills introduced this session, including:

- \$80 million to the Jobs and Economic Development Initiative (JEDI) Fund, from LB 1023.
- \$53.5 million to the Perkins County Canal Project Fund, from LB 1015.
- \$50 million to the Surface Water Irrigation Infrastructure Fund, from LB 1074.

LB 1014e - Appropriate Federal Funds allocated to the State of Nebraska pursuant to the federal American Rescue Plan Act of 2021. Speaker Hilgers, at the request of the Governor.

Senators gave final approval to LB 1014e by a 40-4-5 vote on April 7th, 2022. Governor Ricketts approved the bill on April 13th. The bill included the emergency clause, so it goes into effect immediately.

Previously, senators advanced LB 1014 to Final Reading by a 33-7-9 vote after invoking cloture by a 34-4-11 vote. The bill directs the appropriations for the \$1.04 billion in funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021.

The bill was declared a Speaker Major Proposal, which authorized the speaker to arrange the order of the debate of any amendments or motions on the proposal. Senators were advised that any amendment to fund a new program would need to offer an equal funding reduction from other program(s) included in the committee amendment.

Elkhorn Sen. Lou Ann Linehan offered two amendments during Select File debate to place limitations on entities receiving funds under LB 1014. The first, adopted 32-0, caps administrative expenditures at 15 percent for any agency, board or commission that receives ARPA dollars from the state through the bill.

The second, adopted 31-0, prohibits funds appropriated in the bill from being used by or for a joint public agency. Linehan said that in the past political subdivisions that have held failed bond elections have formed JPAs to allow them to use another entity's levy authority without a vote of the people.

On March 23rd, Senators advanced LB 1014e to Select File following eight hours of debate and the adoption of several amendments. Senators were able to invoke cloture by a 46-1-0 vote. Senators then advanced the bill to Select File on a 41-1-5 vote after adopting the Committee Amendment on a 44-1-2 vote.

On March 22nd, the Appropriations Committee filed a Committee Amendment (AM 2330) which contained the committee's recommendations for appropriating ARPA funds. The Amendment, which replaces the bill, included adjustments to provisions of the bill as introduced by the Governor, and included provisions of 20 additional bills.

Of interest to natural resources, the committee amendment excluded the Governor's recommendation of \$30 million for drinking water projects. This funding was intended to assist the Lewis and Clark NRD in securing a new water source for rural water districts.

After working with Senators Williams and Dorn, Senator Gragert filed an amendment (AM 2542) to include \$7 million of ARPA funding to provide grant assistance for a rural drinking water project that serves rural water connections and at least four communities in two contiguous counties to convert to a ground water source and to provide for water system infrastructure and distribution. In turn, the amendment reduces funding by \$6 million for Rural Workforce Housing Investment Act and \$1 million for job training and placement grants to nonprofit organizations for employment services for refugees. The amendment was adopted on a 33-0-16 vote.

Other features of the Committee Amendment, AM 2330, include:

- \$23.1 million for a grant to Gering Irrigation District to satisfy matching requirements for a project authorized by the United States Bureau of Reclamation for construction and repairs on any tunnel or canal. The Gering-Fort Laramie Canal's three tunnels collapsed in July 2019, cutting off more than 100,000 acres from irrigation water for a month until temporary tunnel repairs could be made.
- \$4 million in ARPA funds for grants for reverse osmosis systems.
- \$20 million in ARPA funds to provide a grant to a city of the primary class that utilizes more than thirty million gallons per day of water to be used for the design, construction, and implementation of additional water supply projects.
- \$150,000 in ARPA funds for the University of Nebraska Institute of Agriculture and Natural Resources to update the Assessing Climate Change report.

The amendment did exclude STARWARS and Perkins County Canal from receiving ARPA funds. However, the committee partially offset these exclusions with cash reserve and general fund transfers in LB 1011, 1012 and 1013.

Below are more details on specific appropriations related to natural resources that were advanced with LBs 1011, 1012, 1013 and 1014.

Perkins County Canal Project – Provides a \$53.5 million transfer from the Cash Reserve Fund to the Perkins County Canal Project Fund within the Department of Natural Resources. The canal proposal is included in LB 1015.

The purpose of the funds is for the Department of Natural Resources to contract with an independent firm to determine the cost of a canal, potential for water that could be diverted, the timeline of permitting, and drinking water benefits that may exist for the cities of Lincoln and Omaha from the canal's construction. Findings must be presented at a public hearing to the Appropriations Committee of the Legislature on or before December 31, 2022. Expenditures may also be made for permitting and land options (but not actual land purchases) pursuant to any canal as outlined by the South Platte River Compact.

STARWARS – Provides \$200 million for the recommendations from the Statewide Tourism and Recreational Water Access and Resource Sustainability (STARWARS) special legislative committee. This committee was tasked with conducting studies related to economic development and public safety at (1) the Lake McConaughy region of Keith County, (2) Knox County region that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park and (3) the Platte River and its tributaries from Columbus to Plattsmouth.

The proposals of the special STARWARS committee were subsequently incorporated into proposed legislation (LB 1023). The Appropriations Committee created two new cash funds; the Jobs and Economic Development Initiative (JEDI) Fund under the Dept. of Natural Resources and the Water Recreation Enhancement Fund under the Game and Parks Commission. They also included transfers to these funds and a corresponding appropriation:

- JEDI - \$80 million from Cash Reserve and \$20 million from the General Fund, totaling \$100 million.
- Water Recreation - \$100 million from the General Fund.

Included in the funding is \$1 million for repairs to a levy near Schuyler, \$22 million for a new Saunders County Flood Control project and \$1 million to contract with an independent consultant to study the consequences of any lake in the Lower Platte River Basin to the public water supply of impacted communities.

University Agricultural Innovation Facility (LB 703) - Provides a \$25 million transfer from the Cash Reserve Fund to the Nebraska Capital Construction Fund (NCCF) with a corresponding NCCF appropriation to the University of Nebraska for the establishment of an agricultural innovation facility at the Nebraska Innovation Campus. This would be a companion facility located adjacent to the USDA Agricultural Research Service National Center for Regenerative and Resilient Precision Agriculture on the Nebraska Innovation Campus. This facility would serve as an incubator providing an array of support for Nebraska's agricultural entrepreneurs and startup companies. The project would be funded with \$25 million from the University with \$25 million in private or other matching funds.

Trail Development and Maintenance Fund (LB 813 & LB 981) - Provides a \$8.3 million transfer from the Cash Reserve Fund to a newly created cash fund, the Trail Development and Maintenance Fund. This funding would be utilized by the Game and Parks Commission to provide a grant to a Natural Resources District to facilitate the completion of the Missouri-Pacific (MO-PAC) trail between Lincoln and Omaha.

Surface Water Irrigation Fund (LB 1074) - Provides a \$50 million transfer from the Cash Reserve Fund to the Surface Water Irrigation Infrastructure Fund and corresponding cash fund appropriation to the Department of Natural Resources is included. The funds will be used to award grants to Irrigation Districts to be used for repair or construction of any headgate, flume, diversion structure, check valve, or any other physical structure used for irrigation projects. The Department of Natural Resources is allowed discretion in designing criteria and procedures in its grant awarding. Applicants must have 10% of matching funds and no grant may exceed \$5 million.

Governors Emergency Fund (for Peru Levee) - Provides a \$5 million transfer from the Cash Reserve Fund to the Governor's Emergency Cash Fund to assist the Peru levee, which was damaged in the historic flooding of 2019. The levee along the Missouri River was breached and flooded the town of Peru. Since then, the Army Corps of Engineers has designated the Peru levee eligible for federal funding to repair the damages. Peru needs to have funding available up front for this and the transfer would enable the town to qualify for federal funds to help restore the levee that retains flood waters from entering the town.

Program No. 314 - Critical Infrastructure Facilities (LB 1014) - Provides \$23.1 million in ARPA funds to provide a grant to an irrigation district, which is part of an interstate irrigation system that experienced a failure, in order to satisfy matching requirements for a project authorized by the United States Bureau of Reclamation for construction and repairs on any tunnel or canal. The Gering-Fort Laramie Canal's three tunnels collapsed in July 2019, cutting off more than 100,000 acres from irrigation water for a month until temporary tunnel repairs could be made.

Program No. 319 - Water Projects (LB 1081) – Provides \$20 million in ARPA funds to provide a grant to a city of the primary class that utilizes more than 30 million gallons per day of water to be used for the design, construction, and implementation of additional water supply projects, which shall only be used for such purpose.

Eligible project costs shall include, but not be limited to, costs for a water treatment plant, land acquisition, acquiring permits, a wellfield, pumping, and transportation of water over twenty-five miles for the purpose of providing potable water to the city. The Department of Natural Resources may award a grant to a city of the primary class based on criteria and procedures established by the department.

Program No. 781 - University - Administration (LB 1014) – Provides \$150,000 in ARPA funds for the University of Nebraska Institute of Agriculture and Natural Resources to update the Assessing Climate Change report released in 2014.

The University of Nebraska Institute of Agriculture and Natural Resources shall contract with a third-party, science-based organization to develop an independent report that identifies and recommends specific prescriptive

measures to be taken by the State of Nebraska relating to the updated Assessing Climate Change report. Such prescriptive measures shall include (1) a conservation and management plan under section 320 of the federal Clean Water Act and (2) plans for green infrastructure investments and projects to improve resilience to climate change. The University of Nebraska Institute of Agriculture and Natural Resources shall electronically deliver both the updated Assessing Climate Change report and independent report providing recommendations by the third-party, science-based organization to the Governor and the Legislature by December 1, 2024.

Program No. 513 - Environmental Quality (LB 1160) – Provides \$4 million in ARPA funds for the Department of Environment and Energy to provide grants for villages and cities of the second class to install reverse osmosis systems in community water systems where drinking water test levels are above ten parts per million of nitrate and, if appropriate, provide grant funds for use to install reverse osmosis systems if test levels for nitrate in drinking water pumped from private wells are above ten parts per million.

Program No. 528 - Drinking Water Facilities Loan Fund (LB 1014) - Proposals include \$7 million in ARPA funds to provide grant assistance for a rural drinking water project that serves rural water connections and at least four communities in two contiguous counties in order to convert to ground water sources and to provide for water system infrastructure and distribution.

LB 1015 - Adopt the Perkins County Canal Project Act. Speaker Hilgers, at the request of the Governor. Hughes Priority.

Senators gave final approval to LB 1015 on April 12th, 2022, by a 42-4-3 vote. The bill was approved by Governor Ricketts on April 18th.

The bill proposes to build a canal that would divert South Platte River water from Colorado to Nebraska under a 1923 interstate compact. The compact entitles Nebraska to 120 cubic feet of water per second during the summer. Nebraska also has a right to 500 cubic feet of water per second during the non-irrigation season **but only if** it builds a canal to divert it from the river in Colorado to a reservoir system in Nebraska.

Previously, senators advanced LB 1015 to Final Reading by voice vote on March 29th after adopting an amendment, AM2647, to include conflict-of-interest provisions. The amendment prohibits any elected official in the executive branch of state government, or a member of the Legislature, from directly or indirectly holding a financial interest in any entity which is party to a contract or have a financial interest in the ownership or lease of any property relating to the development, construction, management, or operation of the Perkins County Canal Project. The prohibition also extends to his or her immediate family member and applies to such official while he or she is in office and for two years after he or she leaves office.

The Legislature advanced LB 1015 to Select File on March 9th by a 36-3-10 vote. Senators voting no included Machaela Cavanaugh, John Cavanaugh, and Megan Hunt.

The Natural Resources Committee advanced LB 1015 to General File on February 28th by a 6-0-2 vote. Omaha Sens. John Cavanaugh and Justin Wayne abstained. The bill proposes to create the Perkins County Canal Project Act and was Senator Hughes Priority Bill for the session.

While LB 1015 doesn't include funding, Governor Ricketts proposed paying for it in his budget package that included a \$400 million transfer from the state's Cash Reserve Fund and \$100 million in federal COVID-19 relief funds from the American Rescue Plan Act.

The Appropriations Committee voted unanimously to allocate a much lower sum — \$53.5 million — from the cash reserve to begin design and engineering studies and buy options on land where the canal would be built.

Several senators spoke in favor of the bill on the floor.

Senator Dan Hughes noted that it is imperative that we proceed with this project and failure to pass this bill would be tantamount to giving away our water rights to users in Colorado.

Senator Michael Flood noted it would signal to Colorado that Nebraska is serious about securing its water resources under the compact. He said Nebraska could make up for reduced Platte River flows only by releasing water from Lake McConaughy, which would affect irrigation, hydropower generation and municipal water supplies.

Flood further noted that if we don't assert our rights, less water will cross the state line in the future. This is a modest investment for an unbelievable gain.

Provisions of the Act are as follows:

(1) The Legislature finds that it is essential to the economic prosperity, health, and welfare of the people of the State of Nebraska, and to the environmental health of the entire Platte River Basin, to protect Nebraska's full entitlement to the flows of the South Platte River as provided for in the South Platte River Compact. The South Platte River Compact is the law of Nebraska and of the United States that specifically authorizes Nebraska to develop a canal and associated storage facilities for the diversion of water from the South Platte River for beneficial use in Nebraska.

(2) The Legislature declares that a canal and associated storage facilities, which shall be known as the Perkins County Canal Project, shall be developed, constructed, managed, and operated under the authority of the State of Nebraska consistent with the South Platte River Compact and pursuant to the Perkins County Canal Project Act.

The bill proposes to provide the Department of Natural Resources with the necessary authority to develop, construct, manage, and operate the Perkins County Canal Project.

The department's powers under the act shall include:

- (a) contracting for services,
- (b) acquiring permits,
- (c) acquiring and owning real property,
- (d) acquiring, holding, and exercising water rights,
- (e) employing personnel,
- (f) accepting grants, loans, donations, gifts, bequests, or other contributions from any person or entity, public or private, including any funds made available by any department or agency of the United States,
- (g) managing and expending such funds as are made available to it from the Perkins County Canal Project Fund, and
- (h) any other necessary functions consistent with the compact and pursuant to the act in protecting Nebraska's full entitlement to flows of the South Platte River.

For purposes of the Perkins County Canal Project Act, the Department of Natural Resources is authorized to acquire real estate or access thereto in the name of the State of Nebraska by the use of eminent domain.

The department is also authorized to resolve all disputes that may arise, including the initiation or defense of legal actions of any kind, as necessary to achieve the purposes of the act.

The Natural Resources Committee held the hearing for LB 1015 on Feb. 9th, 2022.

Sen. Hilgers opened on the bill by expressing how important it is that Nebraska protect its legal rights under the compact. He outlined that water from the South Platte supplies not only to western Nebraska, but communities in eastern Nebraska are also impacted by what it supplies. He reiterated that protecting our water is critically important to the state of Nebraska.

During questioning, Sen. Wayne asked how long this will be caught up in litigation? Speaker Hilgers responded that Article 6 is very clear and that these kinds of compacts don't have a statute of limitations.

Sen. Wayne asked if Nebraska can impose injunction without exercising the right to build canal? Speaker Hilgers reiterated that the compact specifies that unless the canal is constructed, we can't enforce those flows.

Proponents

Gov. Ricketts provided testimony in support of the bill. He began by mentioning after people, water is the greatest resource in the state. He testified that the state has done a wonderful job of management of our Natural Resources, 50 years ago leaders had the foresight to develop the Natural Resources District system to protect groundwater, helping to keep levels within 1' of predevelopment on average. He contrasted this with Colorado where they lack an NRD system and have seen declines of 14' and are mining water.

Gov. Ricketts outlined that Colorado has introduced a bill to prioritize providing no excess water above the legal minimum to Nebraska. He noted proposed projects would reduce water coming to Nebraska from the South Platte River by 90%. He highlighted the impact that would have to all existing uses of water across the state.

Gov. Ricketts reiterated that Nebraska only has the ability to protect the 500 cfs flows if the canal is built. He asked people who say this project is too expensive, to consider the costs of not doing anything. He closed by noting that 50 years ago leaders took steps to protect Nebraska's water resources, and asked the committee to consider what people 50 years from now look back and say?

During questioning, Sen. Cavanaugh asked if there are no other legal methods to pursue non irrigation season water? Gov. Ricketts reiterated that Nebraska has no legal obligation to make Colorado provide any water without this project.

During an exchange with Sen. Hughes, the Governor complimented the NRDs, DNR and the AG for watching development in Colorado. It was outlined that Colorado is considering \$9.8 billion for water projects in Colorado and this is \$500 million to protect same amount of water. The Governor highlighted that the state is proposing to spend significantly less to secure water and in his opinion, it's a bargain.

There were questions from the Committee regarding if the funding could be in increments. Gov. Ricketts noted it makes sense to set aside the money now. It was noted if the project doesn't require the entire \$500 million, any remaining funds would return to the general fund.

Tom Riley, Director of NeDNR, testified in support. Riley noted in his 35 years of being a water resources engineer, he's never seen a more important water project for Nebraska. Riley provided a recap of what will happen if Colorado continues its ever-expanding use of South Platte River water and what is likely if Nebraska doesn't act. He stressed that Nebraska and local NRDs would need to make up losses via other means, jeopardizing all the work that has gone into protecting endangered species and addressing the over appropriated status in basin.

Riley provided information that shows the economic impact of losing just a portion of the water would be well in excess of \$1 billion over fifty years with the benefits continuing into perpetuity. Riley noted the project is absolutely feasible, with project construction capable of beginning as early as 2025. He noted that the canal would be designed and constructed to protect water in the entire basin. Riley also provided the committee with a letter from Director Jim Macy, NDEE, verifying that a portion of the project eligibility for ARPA funds.

During questioning, Riley addressed several questions from committee members.

How long to complete the project? Riley responded that it will be 18 -36 months to engineer and bid, with construction taking 5-7 years, with the capability of using the project in a decade.

Why do we need the project now? Riley responded that we need to build the project because Colorado is accelerating their efforts to use the water we're working to protect. The reliability of SP Flows will continue to diminish. Nebraska already relies on flows that we may not be able to protect even with the project. Colorado wants to have the absolute minimum required come to Nebraska.

Does the \$500 million cover construction and engineering cost? Riley noted that the estimate is for construction, engineering, and land purchase expenses, but emphasized that costs will likely increase the longer we wait.

Will this provide us additional water? Riley outlined that it protects what we currently have. Colorado is currently diverting water that would be junior to the canal project which means there are times when more water would be flowing into Nebraska than currently. He further highlighted how the project would establish the ability to manage water better in time and place.

What impact will this have to compliance with ESA? Riley noted we have good agreement in place between FWS, CO, and WY to manage resources, outlining that this project will help to strengthen and complement those existing activities.

How many jobs would be created building the canal? Riley noted that has not been calculated, but there would be a benefit.

Is it unusual to wait decades before provisions of a compact are enforced? Riley responded that other Compacts have also taken decades to fully implement and enforce and pointed out the Compact is clear on Nebraska's rights for the project.

Is there language that Colorado uses in water rights that you can use water as long as Nebraska doesn't engage in provisions of compact? Riley noted that up until the 1980s Colorado included a paragraph with issued water rights outlining the risk that those rights would be turned off, but only if Nebraska pursued article 6 of compact (builds the canal project).

Is the canal going to be the only project, or would reservoirs also be required? Riley noted the project includes a system of reservoirs to redistribute time and place for other water uses and the \$500 million includes construction of reservoir system.

Is there a compact with CO and WY for protecting North Platte flows? Riley noted there is an existing agreement that protects North Platte flows.

Who will be responsible for maintaining canal on Colorado side? Riley responded that Nebraska would be responsible for operation and maintenance of the canal.

What involvement will NRDs have in the project? Riley responded that this will be a state water right and the state will decide how and why the water is distributed. He further noted that NeDNR will work closely with NRDs, and all other stakeholders in developing the distribution plan.

Do we have obligations to keep the riverbed wet, or can actions divert 500 cfs and leave river dry? Riley noted there may be a stretch that has less water, but that could be used downstream where there's greater demand for endangered species and other demands. It was discussed that Colorado currently has no obligation to keep water in the river.

Kent Miller, General Manager Twin Platte NRD, testified in support on behalf of TPNRD and NARD. His provided testimony included the following:

For the last 40 years, beginning in the 1980s, the Twin Platte NRD has been promoting that Nebraska utilize the provisions of Article VI of the South Platte River Compact and to build the South Divide Canal, also referred to as the Perkins County Canal.

The majority of the South Platte River in Nebraska is within the Twin Platte Natural Resources District. We have been observing the developments occurring in the Front Range of Colorado and their desperate need for water. The past opportunities the front range of Colorado had from the Colorado River, on the west slope, are going away or are gone.

We enthusiastically applaud and thank Governor Ricketts for proposing and funding the Perkins County Canal Project. This is the right time and Nebraska cannot wait any longer. It is essential to the economic prosperity,

health, and welfare of the people of the State of Nebraska, and to the environmental health of the entire Platte River Basin across Nebraska to protect Nebraska's full entitlement to the flows of the South Platte River as provided for in the South Platte River Compact.

Colorado cannot stop Nebraska from building the Perkins County Canal Project and Nebraska must build the Perkins County Canal Project now.

We have heard time and time again from Colorado folks at conferences, and in conversations, they are working to dry the South Platte River up at the Nebraska state line. And the only protection Nebraska has are the provisions in the South Platte River Compact.

In the Colorado Legislature, just last week, Senate Bill SB22-126 was introduced, requiring the Colorado Water Conservation Board to prioritize water storage in the South Platte River Basin.

The Twin Platte Natural Resources District has extensive requirements in our Integrated Management Plan required by the Legislature in 2004 for conjunctive management of ground water and surface water for the Over Appropriated Upper Platte River Basin in Nebraska. These regulatory burdens will increase if South Platte River flows into Nebraska from the South Platte River continue to decrease.

Nebraska must protect the flows we are now receiving.

Sen. Bostelman asked what would NRDs involvement would be in the project? Miller noted that NRDs would be available with boots on the ground and are ready to partner, but ultimately this would be a state-led project.

Lyndon Vogt, General Manager CPNRD, testified in support on behalf of CPNRD. He outlined the CPNRD has spent millions of local tax dollars to protect and preserve the Platte River. We have worked diligently to keep the state in compliance with Nebraska's New Depletion Plan and to meet the requirements of LB962 which requires the CPNRD to return the Platte River flows to their 1997 level, and we hold an instream flow right to protect certain aquatic and bird species from being harmed by low flows during the most critical times of the year.

The State of Nebraska is a signatory to the Platte River Recovery Implementation Program (PRRIP). This action requires Nebraska to supply all the water to address endangers species in the critical habitat area of the Platte River which reaches from Elm Creek to Chapman. To reach the amount of water required by United States Fish and Wildlife Service, approximately 125,000 ac/ft, thinking outside the box is required.

The only additional water that is available comes from retiming excess flows or purchasing water from existing users. This action results in drying up irrigated acres, which is never popular and comes with a negative economic impact to the area. CPNRD has diligently worked with all our partners to assist Nebraska in being successful in their responsibilities to the PRRIP.

LB962 was passed by the Nebraska Legislature in 2003. This action designated the Platte River above Elm Creek as over appropriated and required the five effected natural resources districts to return the Platte River flows back to 1997 levels. CPNRD is required to return 18,500 ac/ft of water to the river. Fortunately, we have been able to partner with surface water irrigation districts to manage their surface water and groundwater supplies for the benefit of stream flows and retire a number of groundwater irrigated acres that were voluntarily brought to us by irrigators. We have reached this goal through management actions instead of additional regulations. The problem is we do not have water available for additional economic growth unless it is purchased from an existing water user through retirements.

CPNRD has held instream flow rights since July 25, 1990. These rights were approved by NeDNR and were established to protect Platte River flows for fish and wildlife use. The instream flow amounts vary from 500 cfs to 1500 cfs depending on time of year, location and purpose. Numerous studies were completed at a considerable cost to justify the need for these beneficial instream flows.

Vogt noted that 500 cfs from the project does not sound like a lot, but to put it in perspective it is equivalent to 18,000 acre-feet every 18 days. The CPNRD has spent over \$20 million meeting LB962 requirements of retuning the river back to 1997 levels or 18,500 acre-feet total.

If we convert 140 acres from irrigated to dryland it cost can exceed \$2,500 per acre and we gain approximately 100 acre-feet of water back to the river and that's if it is in the 85% depletion area or above. This also has a negative effect on the local economy.

Also, any erosion of existing flows on the South Platte River must be made up by retiring existing uses in Nebraska, which sets us up for conflicts between Nebraska users.

Vogt touched on three very important programs and projects the CPNRD has in place that all depend on Platte River flows for their continued success. We have spent millions of local tax dollars to protect the current uses of water just within the CPNRD. Any actions that reduce current flows will have long lasting negative effects on the municipalities that depend on groundwater recharge from the river, associated industry and irrigated crop production. These negative effects will reach well beyond the boundaries of the CPNRD and will be perpetual.

Protecting current Platte River flows or claiming our right to additional flows will assist with compliance concerns of PRRIP, over-appropriated designations, and future economic growth. If Nebraska is not willing to pursue the water spelled out in the compact, we are setting ourselves up for in-state water conflicts and very limited growth opportunities.

John Winkler, General Manager Papio NRD, testified in support noting that this effort to protect water supply would be beneficial to communities in eastern Nebraska, including Omaha and Lincoln. Winkler outlined that under the South Platte Compact, the State of Nebraska can protect the historic inflows to the state **IF** it builds the "Perkins County" canal.

If it does not build the canal, these historic inflows will be reduced by 200,000 to 300,000 acre-feet annually. Consequently, Nebraska's water supply will decrease, and the effects of that reduced supply will ripple down the Platte Valley all the way to Lincoln, Omaha and the Missouri River. Providing water for all uses, including fish and wildlife, will become more challenging and expensive for all taxpayers.

Winkler noted it is imperative that we protect and enhance the resiliency of the water supply in the Lower Platte River corridor where nearly 70% of the state's population resides, this effort to protect our supply of water would be beneficial to the City of Omaha and City of Lincoln who relies partially or completely on the Platte River Basin for its water supply.

Mike Drain, CNPPID, testified in support noting that the South Platte provides a reliable base that Lake McConaughy supplements. He outlined that every ac/ft not provided by the South Platte is an ac/ft that Lake McConaughy must make up.

Don Batie, producer from Lexington, testified in support on behalf of Nebraska Farm Bureau, Nebraska Corn Growers, Dairy Association, and Nebraska Soybean Association. His testimony noted that this investment is important for the future of Ag and the environment. He provided an example of the value of water in California, noting that irrigators pay \$2,000 for ac/ft for irrigation water, noting at those prices, Nebraska would recoup our investment every day. He outlined that the cooperative agreement currently requires us to meet different flows at different times for endangered species and the retiming and management of this project would be beneficial in further addressing those requirements.

Joseph Citta, NPPD, testified in support noting that water is critical to providing low-cost power to Nebraska. In addition to power generation, NPPD diversions also provide environmental benefits.

Jerry Kuenning, Nebraska Cattlemen, testified in support noting that adequate water for cattle production is critical. His testimony noted that 16 miles of the canal were previously hand dug. He noted that living in western Nebraska and monitoring Colorado news, it's clear their focus is always on finding more water.

Elizabeth Elliot, Lincoln Transportation and Utilities, testified in support noting that protecting water for communities is critical. She noted that 2012 was a brief glimpse at impacts of reduced Platte River flows. She told the committee the South Platte provides 7% of Lincoln's water and Lincoln believes the canal will assist in keeping water flow at its current level.

Scott Merritt, Nebraska Water Resources Association, testified in support noting the project is critical to maintain water rights and ensure Nebraska has water to meet all the state's future needs.

Opponents

Al Davis, Nebraska Sierra Club, testified in opposition telling the committee they believe the Platte River is a fragile ecosystem that has already been disturbed by mankind. He testified that restricting flows will interfere with natural systems and wildlife will pay the price for a project that is only intended to grow more corn and soybeans.

Davis suggested some of the money instead be used to retire irrigated acres in over appropriated areas of the state. He also outlined several other social programs they would like to see the money used for. Davis claimed the project will only benefit ag to grow more corn and soybeans.

Sen. Cavanaugh asked if it's true that if we build this or not, Colorado could appropriate all the water? Davis responded that he's not convinced that's the case. He suggested Nebraska should just convince Colorado to guarantee 500 cfs without constructing the canal.

Neutral

John Hansen, Nebraska Farmers Union, testified in neutral noting there has not been enough time for his board to discuss where they would land, but he has concern over the use of eminent domain.

Melissa Mosier, Audubon Nebraska, testified in neutral capacity noting that securing flow for the Platte is a priority, but ecosystems are important and ecological impacts need to be considered. She asked that it be considered how design and management will impact a changing climate, how will it impact sediment, and how will it impact high and low flows.

Katie Torpry, Nature Conservancy, testified in neutral capacity noting there is too much uncertainty that will require study and modeling. River flowing in free range state is important and changing timing of flows may change ecological impacts. She raised concern over the need for a reservoir, suggesting that water should be kept in the river. She also raised concern over what impacts the project will have on climatic conditions.

In closing, Speaker Hilgers noted the key takeaway should be that this project has statewide importance. He noted there have been multiple commitments to prioritize this bill.

Sen. Wayne asked if anything less than \$500 million would be considered, or if an amendment to require negotiation over the next two years that a new compact be negotiated? Speaker Hilgers responded that this is a real ask for a real project. We have the legal resources and the funding right now, if anyone would want to come to table to negotiate, if that were the goal, it would be Colorado. Speaker Hilgers reiterated that this bill gives NeDNR the authority to construct and manage the project, the bill in front of appropriations is the mechanism to provide funding.

There were nine proponent letters and one opponent letter submitted for the record.

LB 1023e - Adopt the Lake Development Act and the Water Recreation Enhancement Act. Hilgers. McDonnell Priority.

Senators gave final approval to LB 1023e on April 12th, 2022, by a 38-6-5 vote. The bill was approved by Governor Ricketts on April 18th. The bill included the emergency clause, so it became effective upon approval by the governor.

The bill enacts the Jobs and Economic Development Initiative Act (referred to as the JEDI Act) and Water Recreation Enhancement Act to implement the findings of the Statewide Tourism And Recreational Water Access and Resource Sustainability (STAR WARS) special committee of the Legislature.

Previously, senators advanced LB 1023 to Final Reading by a 29-4-16 vote after adopting AM 2300, offered by Senator Mike Hilgers, by a 32-2-15 vote. The amendment strikes all provisions of the bill and replaces it with new language.

During Select File debate, several senators raised concerns about public access, use of tax dollars to support private sector development, use of eminent domain, impacts to wellfields, and questioning the project's actual flood control benefits. Senator Machaela Cavanaugh introduced an amendment, AM 2546, to remove the lake provision in LB 1023 but lost on a 6-25 vote.

Senator Machaela Cavanaugh was successful in getting a conflict-of-interest provision added to the bill with AM 2496 by a 25-2-22 vote. The amendment prohibits the Director of Natural Resources or any employee of the Department of Natural Resources from having a financial interest, either personally or through an immediate family member, in any purchase, sale, or lease of real property relating to the construction or development of the lake or in any contract entered into by the department relating to the construction, development, or management of the lake.

The amendment also prohibits a member of the Game and Parks Commission or any employee of the commission from having a financial interest, either personally or through an immediate family member, in any purchase, sale, or lease of real property relating to a project authorized in this section or in any contract entered into by the commission relating to a project authorized in the bill.

In the amendment, immediate family member is defined to mean a spouse, child, sibling, parent, grandparent, or grandchild.

The Legislature advanced LB 1023 to Select File on March 9th by a 29-4-16 vote after adopting the committee amendment (AM 1914) by a 30-2-17 vote. Voting no on advancing the bill included Senators Albrecht, Friesen, Hunt, and Moser. This amendment is now replaced with AM 2300.

The Natural Resources Committee advanced LB 1023 to General File with AM 1914 on February 28th by a 5-0-3 vote, with Senators John Cavanaugh, Moser and Wayne abstaining.

The bill outlines duties for two state agencies to carry out projects recommended by the special committee created by the Legislature last year.

The first, which is to be built and managed by the state Department of Natural Resources, is a proposed lake of at least 3,600 surface acres in or near Sarpy County and within the Platte River's floodplain. No dam would be built on the main channel of the Platte River, and no city or village would be flooded in order to build the lake.

The Nebraska Game and Parks Commission is to carry out the other recommended projects, including new and expanded marinas at Lake McConaughy and Lewis and Clark Lake and an event center and lodge at Niobrara State Park.

The funding is included in the appropriations bills, which Governor Ricketts initial budget proposed \$200 million for the projects. Of that total, he said, approximately \$20 million would be for hydrological and other studies related to lake construction and \$40 million would be set aside for the project's future costs.

Senator Anna Wishart said the Appropriations Committee’s proposed budget would appropriate \$1 million to an independent study that would determine whether the proposed lake would affect water supplies for Lincoln and Omaha.

Related to lake development, the amendment (AM 2300) adopted on Select File strikes the original amendment, renames the Lake Development Act as the Jobs and Economic Development Initiative Act (referred to as the JEDI Act) and incorporates the following new language:

Location of the Lake:

1. Build a lake of approximately three thousand six hundred surface acres, or greater, in or near a county having a population of at least one hundred thousand but not more than three hundred thousand inhabitants.
2. Build the lake without a dam of a Platte River channel and without negatively impacting any existing municipalities, their surrounding communities, or any economic development already occurring in such areas.
3. The lake’s primary purpose would provide flood control, recreation and economic development.
4. Preference shall be given to the area of the Platte River that was flooded in 2019.
5. Once the location is identified, the land could never be annexed.

Declares the following in the Public Interest:

1. To build a lake in the location identified.
2. Private parties contribute to the cost of construction and development
3. The state (a) manages construction and development of the lake, (b) maintains oversight, and (c) retains ownership of the lake.
4. The lake would be developed free from control of political subdivision or municipalities.

Nebraska Department of Natural Resources (NDNR) is granted all power necessary to carry out the JEDI Act:

1. To purchase, sell or lease land.
2. To enter contracts for construction, management, legal, audit and other consulting services.
3. To enter into agreements with NRDs to accomplish the purposes of the act. In such agreement, the NRD may use its full power granted under law.
4. Granted authority to designate the land selected for the lake, and the land near the lake, as the Lake Development District.
5. NDNR shall give preference to contracting with a nonprofit corporation.

Nonprofit Corporation makeup:

1. A Nebraska nonprofit corporation whose board of directors include at least four directors who are appointed by the Governor with the approval of a majority of the Legislature, one representative of the Game and Parks Commission who is a nonvoting, ex officio member of such board of directors, and one member of the Legislature who is appointed by the Executive Board of the Legislative Council and who is a nonvoting, ex officio member of such board of directors.
2. All such directors must agree to be bound by the conflict-of-interest provisions proposed in the law.
3. Any such nonprofit corporation shall be bound by the Open Meetings Act.
4. Shall publicly let contracts valued more than twenty-five thousand dollars.
5. Contract proposals which provide for a public-private partnership with the state in constructing, developing, or managing the lake.

The proposal prohibits annexing of any land within the Lake Development District and adds the emergency clause.

Related to the original Water Recreation Enhancement Act proposed in the bill, the amendment (AM 2300) adopted on Select File struck the original amendment and incorporated the following new language.

Declares a public interest and authorizes the Nebraska Game and Parks Commission to administer and carry out:

1. Marina construction projects to expand water access at Lake McConaughy and Lewis & Clark Recreation area.

2. Construction of an event center and lodge at Niobrara State Park.
3. Enter into public-private partnerships to carry out the purposes of the act.

The Game and Parks Commission is granted all power necessary to carry out the purposes of the Water Recreation Enhancement Act, including, but not limited to, the power to:

1. Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the commission may require in the performance of its duties; and
2. Enter into public-private partnerships to carry out the purposes of the act.

The bill also declares it the intent of the Legislature that the Game and Parks Commission engage local stakeholders as the commission carries out the projects authorized.

The bill also outlines it is the intent of the Legislature to encourage political subdivisions that hold a Federal Energy Regulatory Commission license and that own land in and around the projects authorized in this section to enter into contracts with public and private entities for the use, lease, and purchase of such land whenever possible in order to increase economic development and recreational opportunities, particularly when covenants, easements, and other instruments can ensure such economic development complies with the rules and regulations of the Federal Energy Regulatory Commission. This would be the Central Nebraska Public Power District that owns, operates and manages Lake McConaughy.

The original bill proposed the Lake Development Act and Water Recreation Enhancement Act to implement the findings of the Statewide Tourism And Recreational Water Access and Resource Sustainability (STAR WARS) special committee of the Legislature.

The projects identified by the committee included in the bill were:

1. Create the Lake Development Act - AM 1914 renames it the Jobs and Economic Development Initiative Act (JEDI Act) – to build a minimum 3,600-acre lake near Sarpy County that does not include a dam.
2. Create the Water Recreation Enhancement Act to expand water access and recreational opportunities at Lake McConaughy State Recreation Area, the Lewis and Clark State Recreation Area and Niobrara State Park. Also provides for construction of a new event center and lodge at Niobrara State Park.

The original provisions of LB 1023 and any amendments were all deleted and replaced with AM 2300.

Although not specifically detailed in the bill or committee amendment, the press conference on the projects outlined the following:

- Lake McConaughy -- The committee is proposing to build the first Marina at Lake McConaughy, noting the Marina would be constructed to accommodate the up to 65' fluctuations in lake levels. The proposal also includes widening of roads and creating an entrance and additional placemaking.
- Lewis and Clark – The proposal would include replacement of a boat access facility on the west end of Lewis and Clark Lake previously destroyed during flooding. It was also discussed that the existing Lewis and Clark Lake 121 boat slip is insufficient and is currently being outcompeted by South Dakota. The committee is proposing a significant expansion to over 600 slips with additional amenities at the marina.
- Niobrara State Park - A proposal for construction of a Center and Lodge at Niobrara State Park Center.

The Natural Resources Committee held the hearing for LB 1023 on Feb. 10th, 2022.

Speaker Hilgers opened on the bill and provided a summary of the process the STAR WARS committee utilized to arrive at the proposed projects. The speaker noted there are two moving pieces working toward making these projects a reality. The first is the financial component, which is moving through the budget process. LB 1023 is

the second piece that creates the mechanism to implement private/public partnerships to implement the projects. The Speaker noted there are two trains on the track and they both need to get to the finish line.

Speaker Hilgers noted that an amendment will be coming to clarify some of the issues in the bill and call for additional studies on the lake project's impact to the Lincoln and Omaha wellfields. He stressed that we do not want to build a project that might harm public drinking water supplies. He noted that individuals will be coming up in the neutral capacity to further outline these concerns.

Proponents

Jim Swenson, Deputy Director NPGC, testified that NGPC supports provisions of the bill that include updates to NGPC managed facilities, noting they provide enhancements that are requested by park visitors. He noted these are projects that have been identified during their prior long-range planning efforts. He provided an example of revenue generated from marina at Lewis & Clark Lake and how the facility at Niobrara could have the potential to be self-sustaining.

Deb Schilz, representing city of Ogalala and Lake McConaughy advisory committee, testified that issues of overcrowding and shortage of staff have made it difficult to provide safe and pleasant experience for guests. The advisory committee was rejuvenated to find solutions to these issues. The lake use continues to increase, with sales tax revenue increases in 2020 of 1.5%, 2020 was highest lodging tax revenue, 2021 saw 14% increase and 2022 is tracking above 2021 figure, and they are expecting another record year. She noted that 75-80% of visitors come from front range of Colorado. She noted development from this bill is crucial to continued success and would create new opportunities. They would like to see the ability for land around the lake to be privately developed.

Dale Schroeder, representing Keith County Commissioners, testified in support. His testimony highlighted that the county and lake area is in a unique position to grow, and the proposed projects would assist those growth efforts.

Ken Schilz, Keith County area Development, testified in support. He noted that the lake Mac area is an economic driver for not only the region but the state itself.

Eunice Palu, resident of Knox County, testified in support on behalf of Friends of Knox County. She noted Knox County is one of the best kept secrets of the state and home to Lewis & Clark Lake and Niobrara State Park. She noted that due to the tourism visitors, there is a built-in base of repeat visitors that the county can market to. She said there are more people buying land in Knox County because they can work anywhere and want to hunt, fish and spend time outdoors.

Eric Schroeder, regular visitor to Lewis & Clark Lake, testified in support. He said the key is to seek economic growth by maintaining the natural beauty of the area. He noted the goal is to elevate the playing field to invest in these areas in Nebraska like other states have on their sides of the lake.

Kelly Hanvey, Director of Knox County, testified in support. She noted these projects will be huge for the Lewis & Clark and also Knox County. She said expanding the marina would bring more private development to the area with restaurants and shopping. She noted visitors will seek the world-class hunting and outfitting and the Eagle View Lodge event center will open the area up for conferences, weddings, reunions and more.

Dan Broz, Lewis & Clark Lake homeowner, testified in support. He noted his business has been very successful, and has offices in Norfolk, Lincoln and at his house on the Lewis & Clark Lake. He questioned how to attract more people to the state and the importance of money, opportunity and quality of life. He noted that quality of life brings those people Nebraska to enjoy the recreation that the bill is seeking to expand.

Mona Weatherwax, Niobrara Clerk Treasurer speaking on behalf of the Niobrara Village Board of Trustees, testified in support. She noted the village is committed to revitalization of the downtown with more greenspaces, walking and housing to support Niobrara State Park. She said the community lives by four seasons – Turkey, Duck, Deer and Fishing, and perhaps with this bill, they could add two more seasons – conference and wedding. She

noted the new river access is also essential because they lost access in 2011 flood and are now losing boat dock access due to sedimentation.

Holt Robinette, Niobrara resident representing Niobrara Promoters, testified in support. He said Niobrara is a hidden gem of Nebraska and the people are ready for the proposed improvements and stand together. He noted the community shows grit after flooding and embraces change and the wheels of change are in motion for the community. He noted the proposed dock and fish cleaning station would be a game-changer, and a large event center would be a recipe for success.

Traci Jeffery, representing Norfolk Area Business and Nebraska Tourism, testified in support. We have promoted our regional tourist attractions including Knox County. The Missouri river has many miles of river to explore, and the beautiful bluffs provide a scenic background. The tourism foundation is strong, but we need more resources to draw more visitors to our state. We need to continue to provide reasons for people to experience our attractions.

JoAnne Schlotman, Travel Counsel Representative for the Ponca Tribe, testified in support. She noted the area needs to grow and it won't unless money is invested. She said there is a lot of history and culture that goes unnoticed and if more people visited, they could share Chief Standing Bear's story. She noted that the Ponca Tribe is very interested in being partners on the project.

Margaret Sandoz, superintendent of Niobrara Public Schools and a Niobrara resident, testified in support. She said throughout my years, she has worked at the park and met many people from around the country and that tourism and recreation are the major survival for the community. She noted the school has a partnership with the park including building a privy as part of a class and helping with trail maintenance.

Jonathan Jank, president and CEO of Seward County Chamber, testified in support on behalf of the Nebraska Economic Development Association (NEDA). He said NEDA recognizes the critical role that water plays in our lives and communities. He said the communities can proactively capitalize on changes from the pandemic like people choosing to live in new places and work anywhere.

Bruce Bohrer, Lincoln Chamber Commerce, testified in support. He noted Nebraska has tremendous water resources and the rivers and lakes make Nebraska attractive to live, work and raise a family. He said they want to help advance big ideas like this and are keenly interested in drinking water solutions for Lincoln.

Opponents

Al Davis, Nebraska Sierra Club, testified in opposition. He noted the Sierra Club wants to focus on protecting and improving wild spaces and said the STARWARS Committee is more focused on water sports than improving the natural areas of these recreation areas. He said the construction of new marina at Lake McConaughy runs counter to trying to control too many visitors. He said that Lake McConaughy continues to silt in and these may become stranded assets in 50 years.

Davis claimed the sandpit between Omaha and Lincoln without berms or levies around it will be subject to flood water and rough fish infestation when the river floods. He said there are other areas to use the money like finishing the Cowboy Trail and/or purchasing lands between the state parks on the Platte River to create a natural experience between the three parks. He said these are far from natural projects and very costly.

Neutral

John Hansen, Nebraska Farmers Union (NFU), testified in the neutral. He noted there is merit in building and enhancing Nebraska's existing projects. He noted that NFU draws the line where the state creates a publicly financed sandpit that will be used for a lot of commercial development. He said there is also concern about a lot of houses that are not tied to sewer systems and could have a lot of septic tanks in sandy soils with high waters. He noted that South Dakota has put a lot more investment in their side of the lake and Nebraska is three steps behind and not competitive. He noted that investing in those existing areas and northeast Nebraska communities makes the most sense.

Phil Young, cabin owner at Beacon View east of Camp Ashland, testified in neutral. He noted under the proposal his property would be located between the Platte River and the proposed lake project. He questioned how this project address flood control for the cabin owners in the area. Young also questioned what will happen with Highway 6 and cabin owners' access to Gretna and Omaha. He noted the cabin owners would like to be included on future meetings as the discussion moves forward.

Dan Bundy, landowner near proposed lake, testified in neutral. He noted his concern with eminent domain and how his property would be valued if taken by eminent domain. Based on the conceptual rendering, he believes that most of his property would be under water. He wanted to remind the committee that his land is not for sale. He noted additional concerns with the proposed lake being overtaken in a flood, water quality, maintenance, roads, law enforcement.

Elizabeth Elliot, Director of Lincoln Transportation and Utilities District, testified in neutral. She said she understands that this will benefit Lincoln with tourism but has concerns that it doesn't address Lincoln's wellfield and drinking water concerns. She noted a project this large and complex requires more studies to understand the impact and more studies are needed to ensure Lincoln's water won't be impacted negatively.

Rick Kubat, Omaha Metropolitan Utilities District (MUD), testified in the neutral. He noted that the Lower Platte River serves Omaha's public water needs as does the Missouri River. He said building a reservoir in the Lower Platte River area is multi-step process and the committee should first be looking to ensure that Omaha and Lincoln's public drinking water needs can be served. He thanks Speaker Hilgers for working with MUD and the City of Lincoln to add other independent studies to the bill to make sure there is no adverse impacts to the Omaha and Lincoln water supplies.

In closing, Speaker Hilgers noted the amendments will include funding to study the hydrology and environmental impacts of development of the lake. He noted that this is a significant investment, but 90% or more of the cost will be funded by private investment.

LB 1102 - Adopt the Nebraska Environmental Response Act and change provisions relating to enforcement of environmental protection. Bostelman. Speaker Priority Bill.

Senators gave final approval to LB 1102 on April 12th, 2022, by a 46-0-3 vote. They also approved the appropriations bill, LB 1102A, by a 48-0-1 vote. The bill was approved by Governor Ricketts on April 18th.

Previously, the Legislature advanced LB 1102 to Final Reading by a voice vote on April 7th after adopting a clarifying amendment (AM 2470) by a 32-0-17 vote. The amendment clarified several sections of the bill.

On March 11th, the Legislature advanced LB 1102 to Select File by a 40-0-9 vote after adopting the committee amendment (AM 1893) by a 40-0-9 vote. The corresponding funding bill, LB 1102A, provides \$300,000 from the Environmental Response Cash Fund for FY 2022-23 to the Department of Environment and Energy to carry out the act. No expenditures can be made from this fund for salaries or per diems. Senators approved the funding by a 38-0-11 vote on General File.

The Natural Resources Committee advanced LB 1102 on February 23rd with AM 1893 on a 5-0-2 vote. The amendment addressed several concerns that came up in the committee hearing, including:

1. Clarifies "release" in conformity with applicable federal and state environmental standards.
2. Changes responsible "party" to responsible "person".
3. Adds plant and animal life to property for purposes of harmful effects.
4. Transfers \$300,000 to NDEE to the Nebraska Environmental Response Cash Fund to allocate some resources for cleanup if needed.
5. Removes Director's authority to waive cleanup requirements for third-party volunteer cleanup.

The bill creates an environmental response cash fund and response act. Pollutant is defined under the act as one or more substances or combinations of substances that alter the natural physical, chemical, or biological properties of

any air, land or waters of the state which is harmful, detrimental, or injurious to property or the public health, safety, or welfare. Whenever a pollutant is released, a person responsible for the release shall be responsible for the cleanup of the release.

If the state responds to a release, a person responsible for the release shall be liable to the state for the reasonable cleanup costs incurred by the state. Administrative penalties assessed by the Director of NDEE shall not exceed \$5,000 per day per violation. If the director finds that any person has performed or failed to perform any act that presents or may present a substantial harm to the environment, the director may issue a cease-and-desist order.

The Natural Resources Committee held the hearing for LB 1102 on Feb. 3rd.

Opening on the bill, Sen. Bostelman outlined the bill noting that it introduces two new tools modeled off existing laws in Kansas and Missouri. Sen. Bostleman provided an amendment to provide \$300,000 in start-up funding for the program. The fee and fines would take over funding later.

Proponents

Jim Macy, NDEE, outlined provisions of the bill. He noted it would help make sure responsible parties pay for cleanups rather than Nebraska taxpayers. The proposed lien for unpaid cleanup costs would better ensure recovery of taxpayer funds while cease and desist order would put quick stops to events and would avoid further environmental harm.

During questioning, Macy was asked if this would just be for point source pollution and if CAFOs would be included? Macy outlines this would be for a bad actor that isn't complying with environmental laws under NDEE authority, including CAFOs.

Macy was asked if this bill would have resulted in a different situation in Mead? Macy responded this doesn't look at the past, only looks to the future. It's more of a timing issue, with this bill if we have a bad actor not complying with law this would allow us to say stop and then clean it up. He noted NDEE always had the authority to act, and always had tools in the toolbox, but it has been a time issue, and this would get cleanup completed quicker.

Al Davis, Sierra Club, testified that they support putting more teeth into the current law. His testimony outlined the issues at the AltEn ethanol plant. He questioned why NDEE didn't act on AltEn sooner, rather than waiting until after it made the front page of the paper. His testimony asked why NDEE didn't ask for this authority years ago.

Davis further expressed concern over the lack of action by NDEE and outlined that the bill gives the NDEE director the authority to act, but that it does not require or mean that the Director will take action. He suggested the bill has too much permissive language and needs more teeth requiring the director to act.

Opponents

Amy Svoboda testified that the bill provides a good framework but as written she opposes this bill. Her testimony recommended a number of amendments to the bill: 1) The bill needs a cleanup standard; 2) the need to include recovery costs of the impacts to human health, plants and animals; 4) expand the definition of the responsible party or person to include current and past owner and person who generated the pollutant; and 5) eliminate the ability of the director to waive requirements and cleanup standards.

Neutral

Kenneth Winston, Interfaith Power & Light and Bold, support the concepts in the bill. However, they are concerned about lack of definition of responsible person. They would also like to have a public input process provision added when there is a violation for the local people in the area can have input.

Closing on the bill, Sen. Bostelman thanked the testifiers and noted they'd be working to address the concerns raised. He also noted that responsible person may already be defined in the NEPA act.

Letters submitted included one in support and one in opposition.

LB 1144e - Change provisions relating to the Nebraska Telecommunications Regulation Act and the Nebraska Broadband Bridge Act. Friesen.

Senators gave final approval to LB 1144e on April 13th, 2022, by a 46-0-3 vote. They also approved the appropriations bill, LB 1144A, by a 45-0-4 vote. The bill was approved by Governor Ricketts on April 19th.

The bill provides modifications and incentives for enhanced broadband service across Nebraska. The appropriations bill adds \$3,280,310 from federal funds for FY2022-23 and \$3,166,760 from federal funds for FY2023-24 to the Public Service Commission to aid in carrying out provisions of the bill.

Previously, senators advanced LB 1144 to Final Reading on April 8th by a voice vote after adopting an amendment, AM 2757, offered by Senator Flood by a 29-0-20 vote. The bill as amended includes provisions of LB 761, the Precision Agriculture Infrastructure Act.

The amendment clarifies that any political subdivision of the state that allocates funds received from the American Rescue Plan Act of 2021 (ARPA) for eligible broadband infrastructure projects may coordinate with the commission by mutual consent to administer such federal funds in a manner consistent with the Nebraska Broadband Bridge Act. The amendment also provides some penalties on providers that fails to provide services as they proposed.

Senators advanced LB 1144 to Select File on March 28th by a 37-0-12 vote after adopting the committee amendment (AM 2107) by a 37-0-12 vote. The committee amendment incorporates six other bills dealing with broadband including an amended version of LB 761, the Precision Agriculture Infrastructure Act.

The original bill makes two changes to the Broadband Bridge Act enacted in 2021. First, the required match for projects under the Act are reduced from 50% of project costs to 25%. Second, currently applications for proposed projects are to be filed with the Public Service Commission by July 1. This requirement is amended to provide applications be filed by October 1, with grant awards to be made no later than the following January 31. Other bills incorporated into LB 1144 include LB 914, LB 1021, LB 1214 and LB 1234.

The amended version of LB 1144 does the following related to LB 761, the Precision Agriculture Infrastructure Act:

- The act is to be administered by the Nebraska Public Service Commission (NPSC). LB 761 proposed the Nebraska Department of Ag oversee the program.
- The term adequate precision agricultural connectivity means a download speed of at least 100 megabits per second and an upload speed of at least 20 megabits per second.
- The Precision Agriculture Infrastructure Grant Program is established with the purpose to provide precision agriculture connectivity to accelerate rural economic development and provide high-speed Internet connectivity to farm sites in unserved areas of the state.
- The NPSC shall utilize funding available through the Broadband, Equity, Access and Deployment Program. Funding under the program shall not exceed \$2 million per year.
- Grant applications may be made by a provider, agricultural cooperative, agronomist, or agricultural producer. Grant funding may be utilized to provide:
 - (1) adequate precision agriculture connectivity;
 - (2) on-farm traceability solutions;
 - (3) products that improve soil health, water management tools, and seeds that lower water, carbon, and nitrate footprint; and
 - (4) products using autonomous solutions in agricultural equipment.

- One-half of available grant funds shall be utilized for precision agriculture connectivity purposes and one-half of funding shall be utilized on-farm traceability solutions, soil health, water and seed technologies solutions, and autonomous equipment solutions.
- Successful grant applicants must complete a project within 12 months of an award with one 6-month extension allowed upon a showing of good cause. If an applicant fails to provide adequate precision agriculture connectivity, the grant application shall be repaid.

The committee amendment adds the Emergency Clause to most of the bill as amended. However, the emergency clause does not apply to the Precision Agriculture Infrastructure Grant Program.

Section Two – Bills that have been Indefinitely Postponed

All bills not passed by the end of the session, including carry-over bills, were indefinitely postponed at the end of the 2022 Legislative Session. Some bills were indefinitely postponed before the session ended. Bills indefinitely postponed of interest to natural resources districts included the following:

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

Senators debated LR 11 CA on General File on May 5th, 2021. After several hours of debate, the measure failed to advance following a 23-19 vote, two votes short of the number required to advance to the next round of debate. On a side note, a proposed constitutional amendment requires a three-fifths Final Reading vote of the elected members (30) to place it on the general election ballot and a four-fifths vote (40) to place it on a primary or special election ballot. The proposal was not debated further, and the bill was indefinitely postponed at the end of the session.

During debate, proponents outlined the need for a complete overhaul of Nebraska’s dated taxing system. Proponents said the new system would be a tax benefit to everyone, would promote saving and investments, and would generate the same amount of revenue as the current tax system.

Opponents expressed concern over the impact the new tax would have on several Nebraska industries. Opponents also raised concern over how the measure could change taxpayer behavior and it was highlighted that a majority of Nebraskans would pay more in taxes under the proposed consumption tax system.

Sen. Blood introduced an amendment on the floor that would have replaced the proposal and required the state to fully fund the unfunded and underfunded mandates it has imposed on political subdivisions. The amendment failed on a vote of 4-30.

Previously, the Revenue Committee reported LR 11 CA to General File on March 31 following a 6-2 vote.

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

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

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

The Revenue Committee accepted testimony on LR 11CA on February 3rd, 2021.

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

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

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

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

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

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

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

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

(See LB 408 for the companion legislation)

The Revenue Committee accepted testimony on LR 22CA on January 27th, 2021.

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

Proponents

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

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

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

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

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

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

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

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

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

Trent Loos, Sherman County rancher, testified in support. He told the committee this is his fifth year testifying about over burdening property tax. He noted his property taxes went from \$4,800 in 2010 to \$9,800 in 2020. He noted that the first \$115 every cattleman puts into a calf is for property tax. He testified that he has looked at how the school is spending the money and believes that the teachers are not adequately paid to inspire students, and that the administration is top heavy and that needs to be fixed.

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

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

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

Opponents

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

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

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

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

Neutral

There was no neutral testimony.

Several position letters in support and opposition were submitted.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

LB 52 - Provide for immunity for injury or death resulting from COVID-19 exposure. Lathrop.

Under the proposal, no person shall be liable in any civil action for any injury or death resulting from an alleged exposure to COVID-19 if such exposure occurred after the effective date of this act.

For purposes of the bill, (a) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom; and (b) Person means (a) any natural person, sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, business trust, estate, trust, unincorporated association, or joint venture, (b) the State of Nebraska and any political subdivision of the state, (c) any public or private school, college, university, institution of higher education, religious organization, or charitable organization, or (d) any other legal or commercial entity.

The Judiciary Committee accepted testimony on LB 52 and LB 139 jointly on February 18th, 2021.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

LB 54 - Change immunity for intentional torts under the Political Subdivisions Tort Claims Act and the State Tort Claims Act. Lathrop.

The Legislature advanced LB 54 to Select File on May 11, 2021, on a 25-13 vote after adopting AM 1268 by a 33-1 vote. The bill was not debated again and was indefinitely postponed at the end of the session.

The Judiciary Committee reported the bill to General File on May 10th with committee amendment AM 1268. The amendment (AM 1268) narrows the scope of the proposed exception in LB 54 by replacing the original proposed language with new language that allows claims for intentional torts where the political subdivision (or state agency)

failed to use reasonable care to control someone under their charge or protect a person in their care or custody from intentional torts by non-employees.

The bill proposes that the Political Subdivisions Tort Claims Act does not apply to claims arising from such an act that is the direct result of the negligent failure of a political subdivision or an employee of a political subdivision to protect a person to whom the political subdivision or employee owes a duty of care.

The Judiciary Committee accepted testimony on LB 54 and LB 71 at a joint hearing on February 18th, 2021.

Sen. Lathrop opened on LB 54 by providing a background on a recent court case in Nebraska. The case involved two inmates that were placed in a cell together. The inmates got into a dispute and one strangled the other. The court concluded there was no liability as there was no intentional action by the state that caused the death. Sen. Lathrop believes the prison personnel and the state should be responsible as they should have suspected the inmates did not get along.

The effect of the decision goes over to all others - example in schools where they don't do anything to stop bullying; nursing homes that have a worker that abuses patients. He reiterated the provisions in the bill would make government responsible for injury between two parties under their control.

In his opening on LB 71, Sen. Wayne cited a situation where Omaha Police failed to arrest and jail an individual that was a threat to his girlfriend. The police did not have a cause of action to arrest but should have incarcerated him anyway, so he did not cause harm. The police detained and questioned him but later released him. The individual later went to his girlfriend's house and shot her.

He noted the difference between his and Lathrop's approach is his bill provides a five-year look-back.

Proponents

Lorrie Woods testified as an individual. Her special needs daughter was sexually assaulted at school. The class was under-staffed, and four students were left alone. Another special needs student sexually assaulted her daughter. The court ruled the school was not responsible.

Eric Brown, Injury and Workers Comp Lawyer. He had a similar case that ended up being an negotiated settlement. He expressed the need for a law change to protect individuals from being placed in similar situations.

Opponents

Ryan Wiesen testified in opposition on both bills on behalf of the city of Omaha, City of Lincoln and the League of Municipalities. He noted the intent of sovereign immunity is to protect taxpayers from criminal acts of people they have no control over.

Wiesen noted there needs to be protection for police officers. Law enforcement officers cannot arrest and incarcerate individuals that have not committed a crime. Nor can police officers read the minds of individuals that may later commit a crime.

James Smith testified in opposition of both LB 54 and LB 71 on behalf of the Nebraska Attorney General's Office. He noted there is no cap on monetary damages for state tort claims and spoke about the adverse impact on Nebraska taxpayers. He claimed the bill would make taxpayers responsible for crimes committed by criminals. He noted that duty of care is not defined and claimed the bill should precisely define duty of care.

Numerous letters in opposition of the bills were submitted for the record and for the hearing.

Neutral

No Neutral testimony was provided.

During closing Sen. Lathrop claimed that state and local government need to be responsible for individuals they have under their control. He also noted he only introduced the bill to be a part of the conversation. He claimed that while everybody in the state was represented, not one person came in and said there has been a claim, noting not one testifier could even reference a letter or threat from a lawyer. He commented that Government should only be involved when there is a problem. He closed by noting if this is an insurance issue, then maybe supporters should be at the banking committee.

Sen. Wayne closed on LB 71 by admitting there is a case that he is involved in that the bill may be involved in and under the rules, he does not have to file a conflict unless the bill reaches the floor. He mentioned that he was going after any bill the Attorney General has.

LB 71 - Change provisions relating to intentional tort claims under the Political Subdivisions Tort Claims Act and State Tort Claims Act. Wayne.

The bill would allow claims based on acts committed by a third party as a result of negligence by a political subdivision or an employee of a political subdivision. Allows for the refiling of certain claims that had already been dismissed.

The Judiciary Committee accepted testimony on LB 54 and LB 71 at a joint hearing on February 18th.

Sen. Lathrop opened on LB 54 by providing a background on a recent court case in Nebraska. The case involved two inmates that were placed in a cell together. The inmates got into a dispute and one strangled the other. The court concluded there was no liability as there was no intentional action by the state that caused the death. Sen. Lathrop believes the prison personnel and the state should be responsible as they should have suspected the inmates did not get along.

The effect of the decision goes over to all others - example in schools where they don't do anything to stop bullying; nursing homes that have a worker that abuses patients. He reiterated the provisions in the bill would make government responsible for injury between two parties under their control.

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He noted the difference between his and Lathrop's approach is his bill provides a five-year look-back.

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Eric Brown, Injury and Workers Comp Lawyer. He had another similar case that ended up being a negotiated settlement as the previous court case ruled in favor of the school. Need a law change to protect individual from being placed in similar situations.

Opponents

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Numerous letters in opposition of the bills were submitted for the record.

Neutral

No Neutral testimony was provided.

During closing Sen. Lathrop claimed the state and local government need to be responsible for individuals they have under their control.

Sen. Wayne closed by admitting there is a case that he is involved in that the bill may be involved in and under the rules, he does not have to file a conflict unless the bill reaches the floor. He mentioned that he was going after any bill the Attorney General has.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

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

The Government Committee accepted testimony on LB 112 on January 27th, 2021.

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

Proponents

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

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

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

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

Opponents

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

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

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

Neutral

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

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

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

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

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

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

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

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

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

The Revenue Committee accepted testimony on LB 133 on February 3rd, 2021.

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

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

Proponents

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

Opponents

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

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

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

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

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

Neutral

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

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

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

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

Position letters were submitted by 56 proponents and 14 opponents.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

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

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

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

The Revenue Committee accepted testimony on LB 176 on February 4th, 2021.

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

Proponents

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

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

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

There was no opposition and no neutral testimony.

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

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

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

The Revenue Committee reported LB 178 to General File on March 2, 2021, with AM 387 following a 6-1-1 vote. The proposal was not debated further, and the bill was indefinitely postponed at the end of the session.

The amendment (AM 387) reduces the percentage of the turnback from 36.36%, 54.54%, 72.72% over the first three years to 36.36% the first year and 50% every year thereafter.

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

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

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

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

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

It is the intent that funds received under the section be used to defer increases in sewer and water rates. Each political subdivision receiving funds under this section shall include, in its budget statement, the amount of funds received under this section and the percentage by which its sewer and water rates would have increased if not for the receipt of such funds.

The Revenue Committee accepted testimony on LB 178 on February 19th.

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

Proponents

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

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

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

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

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

NARD submitted a letter in support of the bill. In addition to protecting water quality and quantity, Nebraska's NRDs operate and provide safe drinking water for 15 rural water systems in Nebraska. This includes more than 2,300 miles of buried water lines, serving over 19,300 people across the state. Primarily, these serve smaller

communities that cannot afford to operate systems independently. They also serve many rural customers in between the communities that do not have access to drinking water.

There was no testimony in opposition or neutral on the bill. Over a dozen letters of support were submitted in support for the measure.

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

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

The Natural Resources Committee reported on April 12th that LB 190 has been indefinitely postponed. Provisions of LB 190 were incorporated into LB 507 with AM 256 and passed into law.

That bill, LB 507, was advanced to General File with the amendment AM 256 on February 23rd. It was introduced by Natural Resources Committee Chair Bostelman and addresses contamination concerns at the AltEN Ethanol plant near Mead by prohibiting the use of treated seed corn in the production of agricultural ethyl alcohol if the byproduct generated is deemed unsafe for livestock consumption or land application.

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

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

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

Proponents

Scott Smathers testified in support on behalf of the Natural Resources Commission. Smathers distributed a handout showing the funding history of the fund. He provided examples of past attempts to pull dollars from the fund. Written testimony in support was submitted by Nebraska State Irrigation Association. Position letters in support were submitted by NPPD, MUD and CNPPID.

Opponents

There was no opponent testimony.

Neutral

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

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

LB 212 - Prohibit charging members of the Legislature fees for public record requests. Cavanaugh, M.

The bill proposes that no fee shall be charged for public records requests for a request made by a member of the Legislature in the member's official capacity.

If the request was made by a member of the Legislature in the member's official capacity, the entire request shall be fulfilled within 15 business days after the member's response to the custodian's written explanation unless the member negotiates with the custodian to narrow or simplify the request, withdraws the request, or agrees to a longer period of time.

The existing 10 business-day time frame would remain for other requests.

The Executive Board accepted testimony on LB 212 on February 25th, 2021.

Opening on the bill, Sen. Cavanaugh noted it's hard for legislators to do their job while being charged these fees. She offered an amendment and told the committee that the bill has bipartisan support.

Proponents

There was no proponent testimony.

Opponents

There was no opposition testimony, however three position letters in opposition were submitted for the record by the Nebraska County Attorneys, Nebraska Public Power District and OPPD.

Neutral

Amara Block, General Counsel for Dept. of Admin Services, testified in a neutral capacity. Block provided an overview of how timing for public records requests work currently, she expressed concern over the 15-day time requirement and provided an example of how a 3,000-page record requests can take much more than 15 days. She also addressed the language requiring legislators not be charged for their request, noting they've never charged a senator or other individual for a public record request.

A letter in the neutral capacity was submitted by NACO.

During closing, Sen. Cavanaugh noted that she felt the proposed amendment would address the opposition letters. She commented that while she has not been charged fees, she wants to ensure that fees aren't ever charged.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

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

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

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

The Government Committee accepted testimony on LB 213 on January 28th, 2021.

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

Proponents

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

Opponents

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

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

Neutral

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

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

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

No position letters were noted.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

The Government Committee reported LB 242 to General File on February 17th, 2021, with AM 242 following a 7-0-1 vote. The proposal was not debated further, and the bill was indefinitely postponed at the end of the session.

The Committee Amendment (AM 233) removes provisions relating to the County Bridge Match Program and the proposed new County Bridge Incentive Program from the bill.

With the amendment, the bill proposes to allow counties to use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for a project, in whole or in part, to repair, retrofit, reconstruct, or replace any bridge.

The original bill referencing to the County Bridge Incentive Program and County Bridge Match Program will be eliminated upon adoption of the committee amendment.

The Government, Military & Veterans Affairs Committee accepted testimony on LB 242 on February 4th, 2021.

Sen. Brandt opened by offering AM 63, which replaces the bill. He noted the amendment addresses concerns raised by NDOT and eliminates the reference to the County Bridge Match Program. The amendment allows the county to use design-build and adopt a resolution which provides for project payment on a set schedule over a period of time that extends beyond the completion of construction.

He commented that this allows the construction to start sooner rather than saving funds over a period of years to pay for the bridge at one time. He also stressed that inflation costs on bridges exceed the average rate of inflation. He outlined the need for the bill by noting that 2% of all county bridges across the state are closed due to necessary repairs or replacement.

Proponents

Rick Vest testified in support on behalf of the Lancaster County Board of Commissioners. He commented that this bill provides counties a tool to address closed and damaged bridges without raising property taxes. He noted that the bill grants counties use of the same authority that was used for financing the south Lincoln beltway.

Jon Cannon testified in support on behalf of NACO. He commented that the bill benefits all counties across Nebraska. He provided a committee with an example cost for county bridge repair, noting shorter bridges average \$250K and longer bridges average \$750K in cost.

Todd Wiltgen testified in support on behalf of the Lincoln Chamber of Commerce. He noted that this would allow counties to better address repairs during emergency situations.

Matthew Manning owner of a construction company offering design-build services testified in support of the bill. He told the committee there are 20 to 30 bridge contractors that actively work in Nebraska and that most of them can support financing county bridge projects. He commented that contractors can offer and provide services that will help counties get projects done quickly and more economically.

The Nebraska Corn Growers Association submitted written testimony in support. The Nebraska Cooperative Council submitted a letter in support.

Opponents

There was no opposition testimony.

Neutral

Dallas Jones testified in a neutral capacity on behalf of the Lincoln Independent Business Association. He commented that LIBA fully supports investment in infrastructure, but they have concerns over potential unintended consequences. He expressed concern that the bill would effectively allow political subdivisions to bond without a vote of the people. He also expressed concern that the interest rates provided by contractors could be higher than standard bonding rates.

During closing, Sen. Brandt commented that this is not just a bill to benefit Lancaster County, and that it would potentially benefit all 93 counties. He also noted that the bill would allow for additional savings by allowing counties to contract for multiple bridges at a time.

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

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

The Banking, Commerce & Insurance Committee accepted testimony on LB 314 on February 1st, 2021.

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

Proponents

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

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

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

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

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

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

Opponents

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

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

Eric Dunning testified in opposition on behalf of Blue Cross Blue Shield of Nebraska. He noted that the company has worked to advance telehealth options and that it is an important component of health care delivery. He noted

that during the pandemic telehealth claims are up as much as 1,900% and much of that is here to stay, noting that is driven by patient demand, not by parity pay.

Position letters were submitted by 30 proponents and 1 opponent.

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

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

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

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

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

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

The Judiciary Committee accepted testimony on LB 370 on March 11th, 2021.

Sen. Sanders opened by noting there has been a recent push for laws that ask for disclosure of names donating to non-profits, and that activists want to target individuals based on their beliefs. She commented that non-profits encourage free speech and the free exchange of ideas and the privacy of individuals expressing that right should be protected. She stressed that the bill does not alter campaign finance. Sen. Sanders also offered an amendment that addresses concerns brought by UNL, Secretary of State, and the State Auditor.

Proponents

Doug Kellogg testified in support on behalf of Americans For Tax Reform. He expressed that the intent of the bill is to ensure personal information is not collected and exposed. The bill protects individual's ability to exercise free speech without fear for repercussions. He outlined examples of efforts from congress and in other states to undermine free speech by targeting donor information. He reiterated that the bill would not change campaign finance laws.

Spike Eickholt testified in support on behalf of ALCU of Nebraska. He provided the committee an overview of past Supreme Court cases that protect the right for individuals to associate in privacy. He noted that the bill is an affirmation of privacy, but still upholds that government can compel for financial disclosures in campaigns.

Karen Bowling testified in support on behalf of the Nebraska Family Alliance. She stressed the need for the privacy protection and provided multiple examples of harassment and attacks targeted against supporters of the NFA.

Americans for Prosperity and the Non-Profit Association of the Midlands both submitted written testimony in support of the bill.

Opponents

Korby Gilbertson testified in opposition on behalf of Media of Nebraska. She commented that 501(C)(3) and (4)'s blur the lines between education and political action. She told the committee there are organizations operating as political organizations under the guise of charities and expressed concern that this bill would broaden those efforts.

Neutral

Russ Karpisek testified in a neutral capacity on behalf of the State Auditor. He testified that the auditor's office can currently audit non-profits that receive public monies but expressed concern that the bill as written would eliminate that ability. He noted that the proposed amendment works to address those concerns.

Position letters were submitted by 5 proponents, 1 opponent, and 1 neutral.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

The Natural Resources Committee reported on April 12, 2022, that LB 399 has been indefinitely postponed. The bill proposed to spell out the "Nebraska Safe Drinking Water Act" rather than cite the same section of statute for compliance of plans and specifications of public water systems. This was a placeholder bill.

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

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

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

Senators debated LB 408 on General File the week of April 22, 2021. Following 8 hours of debate and 21 amendments being filed on the bill, proponents of the bill fell short of the 33 votes needed for Cloture, effectively ending any additional action on the bill for the session. The vote on Cloture was 29 Yes, 8 No, 11 Present and not voting, 1 Excused and not voting. The bill was not debated further and was indefinitely postponed at the end of the session.

During floor debate, opponents of the bill voiced concern over the usurping of local control and several senators referenced the fiscal responsibility being demonstrated by locally elected officials. Opponents of the bill also referred to the \$1.45 billion in property tax relief being provided in the budget.

Proponents of the bill repeatedly referenced large increases in property taxes levied by some political subdivisions, in particular community colleges. Some proponents of the bill suggested removing school districts and certain cities and communities and targeting budget restraints to specific regional taxing districts as a compromise, though a deal could not be reached and the bill failed to advance.

Previously, the Revenue Committee reported LB 408 to General File on March 2nd with AM 371 following a 7-1 committee vote. Sen. Geist declared the bill as her priority bill for the session. The Committee Amendment (AM

371) becomes the bill to adopt the Property Tax Request Act. Other changes originally proposed in LB 408 are included in the Committee Amendment. The changes from LB 408 with the amendment are outlined below.

- A political subdivision's property tax request in any year shall not exceed its request authority. Request authority shall be equal to the political subdivision's tax request from the prior year multiplied by 103%.
- By a majority vote of a political subdivision's governing board, the political subdivision may exceed the 3% limit for no more than 2 consecutive years. If this situation occurs, the property tax request of the political subdivision shall be reduced to ensure the increase in the property tax request does not exceed 9% over a 3-year period.
- The 3-year period will be measured using the year when the political subdivision exceeds the 3% limit as the first year. If the vote to exceed the 3% limit is for 2 consecutive years, the 3-year period shall be measured twice using each of the 2 consecutive years as the first year of the applicable 3-year period.
- The 3% limit shall not apply to a political subdivision's property tax request that will be derived from the real growth value of the political subdivision.
- A political subdivision that chooses not to increase its property tax request by the full 3% may carry forward one-half of its unused request authority to future years as carryover request authority. Carryover request authority may be used in future years to increase the political subdivision's tax request above the 3% limit.
- The 3% limit shall apply to property tax requests set in 2022 through 2027. The 3% limit shall no longer apply to property tax request set in 2028 and thereafter.
- The presentation required at a budget hearing shall also include information showing the political subdivision is in compliance with the Property Tax Request Act.
- Political subdivision is defined under the proposal as any county, city, village, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college.
- The total amount of property tax revenue raised by a political subdivision in a fiscal year may exceed the limitation in an amount approved by a majority of legal voters. All costs of the election shall be paid by the political subdivision seeking to exceed such limitation.
- The governing body of the political subdivision shall call for the submission of the issue to the voters by passing a resolution, by majority vote of the governing body, calling for exceeding the limit and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the political subdivision. The resolution shall include the amount which would be requested in excess of the limit.
- The limitation would not apply to the amount of property tax revenue needed to pay the principal and interest on bonded indebtedness.
- Further, it would not apply to the amount of property tax revenue raised by a political subdivision in any fiscal year on any real growth value within the political subdivision. Real growth value is defined in the proposal as the increase in real property valuation due to (i) improvements to real property as a result of new construction and additions to existing buildings, (ii) any other improvements to real property which increase the value of such property, and (iii) annexation of property by the political subdivision.

(Companion legislation to LR 22 CA)

The Revenue Committee accepted testimony on LB 408 on January 27th, 2021.

In his opening remarks, Sen. Briese noted that Nebraskans are angry and that high taxes are choking off growth in rural communities. It is difficult to recruit people to the state and keep them to grow the state because of high taxes. There needs to be an all of the above approach and limiting the growth of taxes is one way to start that. Pertaining to LR 22CA, he trusts Nebraskans to do the right thing and make the right decision, but this statutory version allows adjustments for ups and downs in budgets and accommodates concerns.

Proponents

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

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

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

Opponents

Dennis Meyer, Lancaster Co Budget/Fiscal Officer, testified in opposition. He said that the county is open to discussion but worries this legislation is a quick and easy fix without looking at the whole process. There were years the county took less to drive the levies down and not all political subdivisions are raising taxes for no reason. He noted that infrastructure issues are huge, and 3 percent would make projects slower or even nonexistent.

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

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

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

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

John Spatz, Nebraska Association of School Boards, testified in opposition. He said this legislation takes away a local board's ability to manage their own budget, and local board members already have a vested interest to keep the budget in check, pointing out that 75 percent of Nebraska school board members have some dependency on the

ag industry. Since 2011, on average collectively the schools have spent slightly less than the state. Nebraska ranks 49th in the nation for state school support and is the 2nd highest in the nation for the resources being invested in the classroom, where you see the highest rate of return.

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

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

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

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

Don Wesley, Greater Nebraska Cities, testified in opposition. Wesley said direct borrowing is not the same as a voter-approved bond issue. Direct borrowing can be quicker and less expensive than voter-approved bond issue. For local control using direct borrowing might be advantageous to the budget for that local subdivision.

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

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

Neutral

There was no neutral testimony.

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

LB 449 - Appropriate funds to the Department of Environment and Energy. Wishart.

The bill proposes to appropriate \$100,000 annually from the General Fund for FY2021-22 and FY2022-23, to the Department of Environment and Energy, for the Low-Income Weatherization Assistance Program, to aid in carrying out energy efficiency audits and weatherization improvements.

Provisions of LB449 were amended into LB 380 by AM 393 and passed and approved by the governor on April, 26, 2021. The bill was indefinitely postponed at the end of the session.

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

The Natural Resources Committee reported on April 12, 2022, that LB 483 has been indefinitely postponed. The bill proposed that the University of Nebraska shall develop an evidence based, data-driven, strategic action plan to provide methods for adapting to and mitigating the impacts of extreme weather events or climate change.

Under LB 1014e, which has been passed and signed by the Governor Ricketts, \$150,000 in ARPA funds were included for the University of Nebraska Institute of Agriculture and Natural Resources to update the Assessing Climate Change report.

The action plan proposed under LB 483 proposed to include the following:

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

The process for developing the action plan shall include:

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

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

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

The Natural Resources Committee accepted testimony on LB 483 on February 11th, 2021.

Opening on the bill, Senator Cavanaugh noted this is a continuation from efforts in 2016. He distributed handouts that portrayed the continuous increase in temperature, noting UNL predicts a 5-9-degree temperature increase in coming years, and stressed that it must be addressed. He told the committee it's not the intent to have another study, but rather have a real road map to bring up an evidence-based, data-driven strategic plan to provide methods for adapting to and mitigating the impacts of extreme weather events. He stressed that changes in weather are affecting our economy.

Proponents

Al Davis testified in support on behalf of the Nebraska Sierra Club. He referenced a 2013 study completed by UNL that demonstrated grim results due to climate change, he referenced projections in that study that say by 2075 North Platte will have climate like that of Lubbock Texas. He stressed that natural disasters and economic collapse are a real threat if we do nothing.

John Hansen testified on behalf of Nebraska Farmers Union. He noted that UNL is a leader in drought and climate planning and have a lot of expertise and that should be utilized to minimize adverse impacts and take advantage of opportunities that come with it.

Ken Winston testified in support for Nebraska Interfaith Power and Light. He told the committee that climate change is the most important moral issue today and that we have faith and spiritual obligation to address it since its greatest impact on low income and vulnerable populations. University resources could be utilized and could help people of the state adapt to changes and help prepare for severe weather events. He noted they also support similar efforts like the healthy soil task force.

Jesse Starita testified in support on behalf of himself. He told the committee we are already on a dangerous path and spoke to the dire implications of not taking action. He noted that the bill contains no mention of regulations but focuses on the opportunities.

Written testimony in support of the bill was provided by St. Paul Climate Justice Team, City of Lincoln, the Nature Conservancy and a couple of individuals.

Opponents

Mark Whitehead testified in opposition on behalf of the Nebraska Petroleum Marketers Association. He noted that they're not testifying to offer an opinion or to debate climate, rather their opposition is due to the funding mechanism in the bill. He provided the committee with the history and structure of the Petroleum Release Remedial Action Collection Fund and stressed their opposition to using the fund as a funding source for other purposes.

During closing Sen. Cavanaugh noted he was pleased to see everyone in agreement and see that the only opposition was on how to pay for it. He further referenced previous studies and how their projections have already been proven conservative. He stressed that it's not a question of whether climate change is happening, rather it's a question of if we are going to do anything about it. He also noted that he is actively exploring other funding mechanisms.

There were a number of position letters submitted for the record.

LB 576 - Appropriate funds to the University of Nebraska. Bostar.

The bill appropriates \$50,000 annually from the General Fund for FY2021-22 and FY2022-23 to the Institute of Agriculture and Natural Resources and the Cooperative Extension Program for research on climate change and produce an updated version of the Assessing Climate Change report released in 2014. The Legislature intends for such report to be delivered electronically to the Governor and the Legislature by December 1, 2022.

The Appropriations Committee accepted testimony on LB 576 on February 16th, 2021.

The Appropriations Committee accepted testimony on LB 576 on the day that rolling blackouts were occurring in Nebraska and other mid-western states do to the shortage of power throughout the Southwest Power Pool service area. Many wind and solar generation systems failed during the cold snap and that shifted much of the discussion during the hearing about policies on power generation.

Sen. Bostar opened with claims that there are updated climate models and Nebraska needs to take the new data into account. He outlined that the biggest impacts are going to be industries, and in Nebraska the biggest impact is to agriculture. He noted that the updated report will not include a plan but will update the data specific to Nebraska so local and state policy makers can make decisions. He stated that Nebraska is behind other states that update the reports annually.

Sen. Hilkelman asked what we could have done to prepare for the cold streak, specifically would we have stopped building wind generation that doesn't work in the cold?

Sen. Erdman asked if we get this updated report, would we be able to predict the cold weather that happened this week? Sen. Bostar acknowledged that the data can't predict specific events.

Proponents

Martha Shulski, State Climatologist for UNL, testified in support of the bill. She testified that we have more severe climate problems in Nebraska, noting the floods of 2019 as an example. She stressed the need to keep up on current climate trends for earlier warning systems and managing risk. She noted the Climate Science department is assisting the City of Lincoln, so they do not run out of water. She claimed to be working with the Department of Natural Resources and NRDs to develop plans to mitigate the impacts of climate change.

Shulski further claimed that the current cold streak is a pattern from climate change, outlining that due to climate change, events are now magnified from the events in the past. She told the committee that the February weather is 5 degrees colder than it was 30 years ago. The arctic is warming so the change in the jet stream is causing the cold to shift over the last 30 years.

Sen. Erdman commented that there used to be an ice cap in Nebraska and asked what human activity changed that? Shulski noted it was a shift in the axis of the earth.

Sen. Stinner asked if we would have acted on the report in 2014, would we have put \$6 million in the emergency fund rather than \$4 million? Are we really talking about putting more funds into risk management? Noting he's not really interested in updating a study as he is doing disaster planning. Shulski noted additional funds are needed for disaster planning, but the report would show other programs that need to be funded and other policy changes.

Stonie Cooper, Mesonet Manager for the Climate office, testified in support and noted that the new data needs to be incorporated into the report.

Ken Winston, Nebraska Interfaith Power and Light, testified in support and claimed new information would help us be prepared for floods and drought. It would help farmers plant different crops that fit our new climate. He also noted the new data would show there is a lot of low-income people in Nebraska that could use assistance for housing and nutrition.

In his closing, Sen. Bostar claimed it is imperative as state lawmakers to get all the important information needed for making policy decisions.

There were two letters of support and two letters of opposition submitted for the record.

The committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

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

The Natural Resources Committee reported on April 12, 2022, that LB 589 has been indefinitely postponed. The bill proposed to separate the right to use water from the overlying land for augmentation projects for depletion offset water.

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

The Natural Resources Committee accepted testimony on LB 589 on February 4th, 2021.

In his opening, Senator Groene told the Committee he is here to fix an injustice. He distributed a packet with past court cases, and noted he had a dissertation on water law prepared but that he would spare the committee, though much of his testimony included multiple loose references to past court cases, including multiple references to the difference between common law and statutory law. He also made claims (later disputed) that NCORPE is exempt from common law and the inaccurate claim that the supreme court has ruled when for a public purpose the right to

use water isn't tied to the overlying land. He referenced other augmentation projects, such as Tri-Basin NRD and noted they don't own the overlying land, though it was noted they do lease the land.

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

During questioning Senator Cavanaugh asked if it's accurate that the NRDs don't want to sell it, but you think the citizens of Lincoln county want to sell it? Groene responded by saying in the past there was a majority of the board members that would try to get to the point of where they could sell the land. Cavanaugh followed up with the question of if we were to pass this it wouldn't force the sell, it would just give them the opportunity, but they wouldn't want to? Groene commented that 2 of them would, and through process of elections we could get something done. Cavanaugh responded with the question of couldn't an election remedy this now if existing law allows it? Groene responded with, no they can't, because it's not clear and they can't read lawsuits like I do, further commenting that the average citizen can't ascertain case law like he can.

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

Proponents

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

Opponents

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

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

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

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

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

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

The State and its natural resources districts have waged many legal battles in recent years – battles at taxpayer expense – both state and property taxpayers. The augmentation projects in the Republican Basin have already been litigated to the Nebraska Supreme Court multiple times. The Court has ruled on these cases and the law is settled, which provides that important certainty to all water users.

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

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

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

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

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

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

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

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

Following committee questions, Dr. Fanning provided additional overview of the current agreement between Nebraska and Kansas. Noting that Nebraska is currently getting 1:1 credit for water pumped, and also as part of the

agreement Kansas is getting added flexibility. He noted that Kansas has had some changes in leadership and have indicated that they would maybe want to renegotiate the way we're operating now, and anything jeopardizing the augmentation projects adds further uncertainty.

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

Neutral

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

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

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

The Natural Resources Committee reported on April 12, 2022, that LB 591 had been indefinitely postponed. The bill would have required permits for augmentation projects operated by natural resources districts.

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

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

The Natural Resources Committee accepted testimony on LB 591 on February 10th, 2021.

During his opening Senator Groene expressed his desire to get the state involved in the permitting process for augmentation.

Proponents

There were no proponents for the bill.

Opponents

Don Blankenau testified in opposition on behalf of NARD. He outlined four primary reasons NRDs oppose the bill. First, the bill is both anti-agriculture and anti-municipality. Under 591, augmentation water discharged to a stream - either from surface or ground water sources - would be "appropriated" and protected from being used by irrigators and municipalities. The word "appropriation" or "appropriated" has specific meaning under Nebraska law that gives the holder of the appropriation exclusive rights to the water subject to the prior appropriation doctrine.

The point and goal of many augmentation projects is the opposite. Those projects allow farmers and cities to withdraw and use water at times when they would otherwise be prohibited from so doing. In other words, augmentation projects help existing appropriators by providing water during times of need. For example, NCORPE provides augmentation water during certain years to the Republican River Basin expressly to allow both surface and ground water users to take water when they would otherwise be shutdown. Had NCORPE been required to operate under this bill, thousands of water users would have been shut off and the State of Nebraska would likely have been subject to yet another suit by Kansas. Kansas might have been happy with this bill but the costs to Nebraska's water users and taxpayers would have been enormous.

Second, to the extent NRDs develop augmentation projects to protect and deliver water from the point of discharge to a specific location using natural streams, the law already requires NRDs to obtain a permit from the Department

of Natural Resources ("DNR"). Under Neb. Rev. Stat. § 46-252, any person, including an NRD, who wishes to convey water from one point to another using a natural stream and have that water protected from use along the way, needs a permit from DNR. Simply put, that permitting requirement is already in place and treats NRDs just like any other water user.

Third, from a water management perspective, the "permit" required by 591 is unnecessary. If the source of the augmentation water is ground water, the regulatory body is the NRD. If an NRD develops the augmentation project, they would do so within the scope of their Integrated Management Plan ("IMP"), which, as we discussed last week at the hearing on 589, is a planning document, jointly developed with the Department of Natural Resources - the state authority for the administration of surface water rights. Under this bill, a permit would be required by the NRD to use the groundwater it regulates within the scope of its State approved IMP.

By contrast, if the NRD wished to develop an augmentation project using surface water as the source of water, the law already requires the NRD to obtain a permit from DNR - just like any other surface water user. In fact, there is a pending application before DNR right now for an augmentation project that uses excess surface water for its source. So, whether the source of water is ground water or surface water, the management implications are already carefully vetted by the appropriate regulatory bodies.

The fourth reason NRDs oppose this legislation: Pointless bureaucracy. This bill, without identifying any actual management reason for a permit or any criteria by which it may be granted or denied, simply requires the applicant to blindly jump through a permitting hoop. Projects that may cost many millions of dollars and years to plan could be trapped for many more years in an utterly undefined permitting labyrinth without any criteria as to what state regulators are to review. It is truly a case of government for the sake of government at the expense of the taxpayers.

In sum, this bill represents a fatal misunderstanding of what augmentation projects are and what they seek to accomplish. It is anti-farmer, anti-municipality, and wraps potentially urgent water augmentation projects in government red tape without any purpose. As testified last week, NARD believes that any legislation impacting augmentation projects should be developed with all stakeholders first agreeing that there is a problem that needs to be fixed, and next, what that fix needs to be. This legislation simply seeks to fix a non-existent problem with a destructive non-solution.

During questioning, Sen. Gragert asked about impacts to the surrounding aquifer, Blankenau noted that the NRDs worked with DNR to complete modeling to ensure pumping from the location wouldn't have long term consequences and only proceeded after concluding it would be beneficial, he also pointed out that water levels and potential impacts are continuously monitored.

Sen. Bostelman addressed the history of decreasing streamflow in the Republican River. Blankenau outlined that prior to the NRDs managing the groundwater, it was the position of every governor and the federal government to encourage wells to be drilled, he also pointed out the impact terraces have had.

Tom Riley, Director of the Department of Natural Resources, also testified in opposition. He noted the bill would limit the use of down-stream appropriators. He mentioned the process outlined in the bill is vague and very different from the current permitting processes. He told the committee it would be better to study a process over the interim.

Letters in opposition were submitted by NWRA and the URNRD.

There was no neutral testimony.

LB 605 - Create the Outdoor Recreation and Education Study Committee of the Legislature. Wishart.

The bill proposes to create the Outdoor Recreation and Education Study Committee of the Legislature to conduct an evaluation of outdoor recreational and educational opportunities in Nebraska.

The purpose of the committee would be to complete an appraisal of the state's outdoor recreation and education potential and prioritize the following goals:

- (a) Supporting the outdoor recreation economy of Nebraska and working toward equitable and inclusive access to the outdoors,
- (b) creating and developing an inventory of existing public and private resources promoting outdoor recreation and education,
- (c) coordinating outdoor recreation and education policy and management among federal, state, and local governmental entities,
- (d) assisting in promoting and marketing opportunities and events for outdoor recreation and education,
- (e) developing strategies to recruit and grow outdoor recreation businesses, to promote tourism, and to enhance recreation-related employment in Nebraska,
- (f) supporting outdoor and 14 community-based learning opportunities as a standard feature of education,
- (g) promoting education and the use of outdoor recreational assets to enhance public health,
- (i) collecting data on the impact of outdoor recreation and education in the state and the accessibility of natural resources for underserved populations, and
- (j) recommending initiatives to increase access to outdoor recreational amenities and experiences as well as to increase youth time spent outdoors during the school day, before and after school, and during the summer.

The committee should utilize research conducted by the Department of Natural Resources, the State Department of Education, the Nebraska Tourism Commission, the state's natural resources districts, Nebraska postsecondary educational institutions, the Department of Economic Development, additional public and private sector entities experienced in outdoor recreation and education, and any other entity whose research the committee deems useful.

Weighting criteria should first be established in order to identify research needed as well as to establish statewide policy recommendations and identify projects, activities, and programs. To facilitate the creation of criteria to establish priorities, a collaborative effort of experts representing outdoor recreation and education in the state is necessary to ensure a fair and balanced outdoor recreation and education evaluation.

The nine Legislative members would include:

- Two members appointed by the chairperson of the Appropriations Committee.
- Two members appointed by the chairperson of the Education Committee.
- One member appointed by the chairperson of the Health and Human Services Committee.
- Two members appointed by the chairperson of the Natural Resources Committee.
- One member appointed by the chairperson of the Agriculture Committee.
- One member appointed by the chairperson of the Urban Affairs Committee.

The members shall be appointed within thirty days after the effective date of this act and shall begin serving immediately following notice of appointment. Members shall elect a chairperson and vice chairperson. The Director of Research shall assign an employee of the office of Legislative Research to assist the committee to fulfill its duties. The committee may utilize legal counsel and other staff from existing legislative staff and request additional advisory support from appropriate federal or state agencies and from private entities.

The committee may accept grants, donations, gifts, or contributions from public or private sources to carry out its duties and purpose. The committee may convene in person or virtually to conduct its business as deemed necessary.

The committee shall bring together a diverse group of outdoor recreation and education stakeholders and interests in Nebraska to identify short term and long-term statewide goals to improve outdoor recreation and education in the state.

On or before January 31, 2022, the committee shall develop and provide a report electronically to the Legislature which contains the following: (1) A listing of policies, programs, projects, and activities to meet the goals described

in act, (2) research, data, and modeling needed to assist the state in meeting such goals, and (3) recommendations for the prioritization of policies, programs, projects, and activities to be funded.

The Executive Board accepted testimony on LB 605 on February 24th, 2021.

Opening on the bill, Sen. Wishart outlined the bill and addressed the need to expand opportunities for all residents to have access to the outdoors. One issue she emphasized is kayaking and public access points to the river. She also mentioned a potential amendment that would add NGPC to the list the committee should utilize for research.

Proponents

Dustin Allemann testified in support on behalf of the Nebraska Sportsmen Association. His testimony noted they want more access to private lands. He commented that the bill provides an opportunity to connect landowners with hunters.

NARD provided testimony in support of the bill. All 23 natural resources districts are involved with a variety of projects and programs to educate both youth and adults about conservation and natural resources. Many districts sponsor or participate in natural resources festivals, teacher workshops, classroom presentations, and more. Here are some highlights:

- More than 80 recreational sites across the state. These incorporate recreational opportunities with our multi-purpose flood control structures, such as camping, fishing and hiking. There are also over 200 miles of recreational trails operated and maintained by NRDs.
- Environmental education programs for youth including, but not limited to, Outdoor Education Days coordinated with local schools, range and land judging competitions, and FFA environmental sciences programs.
- Several districts have incorporated outdoor education facilities at, or adjacent to, their local offices. These include the Lower Loup, Lower Platte South, Lower Platte North, Lower Republican, Middle Niobrara, North Platte and Papio Missouri River NRDs. These are open to the public and are used by local schools, civic groups and the general public.
- We also work with communities to improve recreational and outdoor education opportunities for residents. This helps retain and recruit work forces to communities. A recent example is the Lower Elkhorn NRD partnering with the City of Norfolk to redevelop the downtown area and incorporate outdoor recreation and education components into the project.

We are willing to work with the Legislature on a comprehensive study to identify short-term and long-term statewide goals to improve outdoor recreation and education in the state.

Bill Haikins testified as an individual outdoorsman. He commented on the need to educate urban youth about the outdoors and how to interact and engage with rural landowners.

Letters of support were submitted by the Nebraska Travel Association, Sierra Club, Nebraska Golf Association, Lincoln Parks and Recreation.

There was no neutral or opposition testimony.

The Executive Board reported no action on the bill and the bill was indefinitely postponed at the end of the session.

LB 622 - Limit the growth of real property valuations and provide for adjustments to assessed values. Friesen.

The bill proposes to limit the growth of real property values to not exceed three percent per year.

For nonagricultural real property for any year shall not be more than three percent greater than the total assessed value of all such property in the prior year, excluding any new growth occurring since the prior year's assessment. If the rate of growth exceeds three percent, the Tax Commissioner shall calculate an adjustment ratio to uniformly and proportionately adjust the assessed value of all such property so that the limit is not exceeded.

For agriculture lands, the limit is a three percent increase in values. If the rate of growth exceeds three percent, the Tax Commissioner shall calculate an adjustment ratio to uniformly and proportionately adjust the assessed value of all such property so that the limit is not exceeded.

The Revenue Committee accepted testimony on LB 622 on February 17th, 2021.

In his opening, Sen. Friesen noted that his goal was to limit growth in property valuations. He gave an example of Hall county where commercial properties increased 150-200% in value in one year – The owners were not arguing the value, but the rapid increase in the value in one year rather than spreading the increase over time. It makes it difficult for the property owners to make the adjustment all in one year.

Proponents

There were no proponents. Written testimony in support of the bill was submitted by the Nebraska Federation of Independent Business and the Nebraska Bankers Association.

Opponents

Jon Cannon, NACO, testified in opposition outlining the unintended consequences of the bill. He noted when you ratchet down values artificially, it magnifies the problem as not all commercial properties are changed every year. This would result in some commercial properties that would go down artificially every year.

Connie Knoche, Open Sky Institute, testified that the bill would reduce revenue for schools and other government. For example, 192 school districts would have seen reductions in value if the bill were in effect in 2019. She also noted Ag values went down in 2019 and commercial went up. The bill would lower values for commercial and shift the taxes back to ag.

Craig Keebler, NACO, noted there are some properties that have doubled in value because they have not been reviewed in a while.

Kyle Fairbairn testified in opposition on behalf of the Greater Nebraska School Association, Nebraska Council of School Administrators and the Nebraska School Board Association. He outlined concern that the bill would force 155 school districts to increase their levy.

Lynn Rex testified on behalf of the League of Municipalities. She expressed concern over unintended consequences and the risk of lost revenue for local governments.

Neutral

There was no neutral testimony.

In his closing, Sen. Friesen noted that it was not intended to be a property tax relief bill, as there are other ways to do that. The issue is trying to address the under-valuing of commercial property. If they are under by 150-200%, the problem may be bigger than some think.

Two position letters in support of the bill and two letters in opposition of the bill were submitted for the record.

The Committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

LB 703 – A bill to appropriate federal funds to the University of Nebraska for an agricultural innovation facility. Williams.

The bill proposes to appropriate \$25M in Federal ARPA Funds in FY2022-23 to the University of Nebraska for the establishment of an agricultural innovation facility at the Nebraska Innovation Campus. The committee reported no action on the bill. However provisions of the bill were included in the committee amendment to LB 1014e and passed. The bill was indefinitely postponed at the end of the session.

The bill requires the University of Nebraska to provide \$25M in matching funds from private or other sources for the purpose of establishing the agricultural innovation facility.

The bill includes an emergency clause.

The Appropriations Committee held the hearing for LB 703 on Feb. 17th, 2022.

Opening on the bill, Sen. Williams expressed that this opportunity would bring huge long-term benefits by strengthening agriculture and Nebraska's overall economy. He outlined that USDA is making a \$140 million investment at Innovation Campus and that this bill will fund a companion facility. He noted the companion facility would be a partnership between UNL, USDA and the Private Sector. Private donations would provide an additional \$25 million in funding.

Sen. Williams outlined that the USDA recognizes the value of expanding scientific knowledge and the USDA has looked at Innovation Campus as a world class facility and is set to make the \$140 million investment to construct a 120,000 sq/ft. facility that will house 42 federal scientists and 100 support scientists. He further expressed that it makes sense for Nebraska to have a complimentary project to magnify the benefits for Nebraska. He noted the companion facility would be an 80,000 sq/ft building.

Proponents

Ted Carter, President of the University of Nebraska, testified in support. He noted he was using this opportunity to express support for all 8 bills that direct ARPA funds to the University of Nebraska. Carter expressed that these funds offer the state a rare opportunity to not only recover from the pandemic, but to grow the state's economy for the future. He noted that the University grows the state's economy by \$5.8 billion every year, providing the equivalent of a 9:1 value to the state.

Mike Boehm, Vice Chancellor Institute of Agriculture and Natural Resources, also testified in support. He outlined that to remain competitive, Nebraska's ag industry must adapt and implement new tools. He noted that the facility will accelerate the transition of innovative ideas into real world projects. Boehm stressed that USDA's National center in partnership with the companion facility is a next generation platform that draws together scientists with entrepreneurs and start-ups.

Boehm provided an overview of the facility, noting the 1st floor will enable collaboration and provide support for startups. The buildings 2-4th floors will contain science and student facilities that will be used to develop field deployable prototypes. He outlined that extension would work hand in hand with partners to provide quick real-world adoption. He outlined that the estimated economic impact would be \$1 billion annually and create 3,200 high paying jobs.

Lisa Lunz, Farmer from Dixon County, testified in support. She expressed support for the public private partnership. She outlined how university technology has benefited her farming operation. She noted that this investment will incubate startups that enhance the ability for farms to produce more food with less resources.

Michael Jung, Burlington Capital International, testified in support. He noted his organization has been involved in the ag space and they continue to explore ag-tech related opportunities. He expressed that when evaluating the tech space, ag tech is severely lacking other sectors, and it is not attracting the investment and attention it should. He

noted that the states leading in ag tech are outside of the Midwest. Jung expressed that Nebraska should be leading and this proposed facility will allow Nebraska to take the lead in driving ag tech innovation.

There was no opposition or neutral testimony. There were eleven letters in support and one in opposition.

In his closing, Sen. Williams expressed that he is proud of the University and what they mean to our state. He outlined the lengthy process that went in to getting USDA to fund a \$140 million building. He told the committee now is the opportunity to utilize the companion building to capitalize and put research done by USDA into real world uses here in Nebraska.

LB 743 - Change provisions relating to when closed sessions may be held under the Open Meetings Act. Erdman.

The bill proposes to add subcommittees of public bodies to hold closed sessions. The bill also eliminated the term “but shall not be limited to” for reasons to hold a closed session. That makes closed sessions limited to the following:

- (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;
- (b) Discussion regarding deployment of security personnel or devices;
- (c) Investigative proceedings regarding allegations of criminal misconduct;
- (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;
- (e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or
- (f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms-length.

The Government Committee held the hearing for LB 743 on Feb. 9th, 2022.

In his opening, Sen. Erdman noted that he is bringing the bill because the Nebraska Brand Commission had several closed meetings with a subcommittee that were not open to the public. He noted the public wanted to attend and the Brand Committee did not allow them to participate. He noted there are six purposes for having a closed meeting and even if it’s a subcommittee it should be open unless it has to do with one of these six things.

Proponents

There were no proponents for the bill.

Opponents

Shelley Sahling-Zart, Lincoln Electric System and Nebraska Power Association, testified in opposition. She noted her first major concern is that the bill removes “Shall not be limited to.” She noted, her board discusses information that should not be shared at a such as preventing terrorism, economic development, confidential market pricing information, negotiations on proprietary information, etc. She noted this is not listed in the statutory examples provided but are valid items to call for a closed session.

Lynn Rex, League of Nebraska Municipalities, testified in opposition. She noted there are only two reasons for closed session – to protect the public interest or the prevention of needless injury of a person. She said the list of

reasons for closed session is so extraordinary for all the different public bodies and it's important not to limit it to specific items, because they could not all be captured in the statute. She noted the statutes were drafted this way to provide examples, but not an exhaustive list. The League and other governmental units work with the Attorney General's office on making sure compliance with the Open Meeting Act is achieved.

Beth Bazyn Ferrell, NACO, testified in opposition. She noted counties have similar reasons as other governmental units to go into closed session. She noted that NACO appreciates the flexibility that is in statute now to allow for all the reasons needed for a closed session.

John Spatz, Nebraska Association of School Boards, testified in opposition. He noted there are a handful of reasons school boards might go to closed session that are not specific in statute and include – administrative contracts, selling land, confidential student information, legal discussions, and more.

Two opposition letters were submitted. There was no testimony in the neutral.

In closing, Sen. Erdman said he would work with those opposed to bring the bill back in a form that makes sense for everyone. He noted he has tried many times to get enforcement on the Open Meetings Act and has been unsuccessful.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 746 - Eliminate the requirement that the Director of Natural Resources be a professional engineer. Friesen.

The Natural Resources Committee reported on April 12, 2022, that LB 746 has been indefinitely postponed. The bill proposed to eliminate the professional engineer requirement for the position of the Director of Natural Resources. The bill proposed to retain language requiring five years' experience in irrigation work.

The Natural Resources Committee held a hearing for the bill on Jan. 20th, 2022.

Sen. Friesen opened the hearing by outlining the role of the Director and summarizing the benefits of expanding the candidate pool. During questioning Sen. Groene stated he feels this requirement is a firewall to keep the position from being political.

Proponents

NARD presented testimony in support of the bill. Testimony thanked Sen. Friesen for introducing the bill and expressed that the legislation is not targeting any current or past directors. The NRDs have an excellent positive working relationship with the current director, and we look forward to many years of his continued leadership.

Instead, NARD supports striking the professional engineer requirement as a qualification for the Director position to help ensure that when future openings occur, the best overall candidate at the time can be appointed for the expanded duties the department has.

The requirement that the DNR Director be an engineer has its roots in the early 20th century when the duties of the DNR were performed by the Department of Roads and Irrigation. At that time, the director not only supervised construction of roads across Nebraska but also approved construction of surface-water projects. When those agencies were separated back in the early 1900s, the engineering requirement was retained for Department of Water Resources, but not the Department of Roads (named at the time).

The role of the DNR director today is significantly different. The Department of Water Resources was merged with the Natural Resources Commission and their duties have been combined. Under the current role, the director must cultivate partnerships with stakeholders that represent recreation, domestic, municipal, irrigation, industrial, manufacturing, agriculture, aquaculture, livestock, fish and wildlife interest.

While accomplishing that task, the director also must keep Nebraska in compliance with state laws and interstate compacts, which are legal in nature and not necessarily engineering specific. Additionally, the director oversees the Natural Resources Commission, administers state funds, and leads a large team of professionals.

A person that can balance of all those interests and tasks needs to have a multitude of skill sets that do not limit it to an engineering license. The engineering duties in the department can be hired by the agency director.

Like at the DNR, directors of other state agencies also make regulatory decisions based on highly technical data and information. Examples include the Department of Environment and Energy and the Game and Parks Commission. Despite the technical nature of the decisions directors at these agencies face, the directors are not required to hold any professional degree or license. Directors of these agencies are selected based on their individual experience and qualifications.

For the reasons outlined, NARD supports expanding the pool of future candidates and giving the governor the opportunity to appoint individuals that at the time best meet all the skill sets demanded of the job. If there are engineers that have these skill sets, nothing will prevent them from open competition for the job.

A larger candidate pool and open competition always brings out the best candidates.

A letter in support of the bill was submitted for the record from the Nebraska Cattlemen.

Opponents

Michael Drain, Compliance Manager and Engineer with CNPPID, testified on behalf of CNPPID. His testimony claimed the director's most important functions are surface water appropriations and being quasi-judicial fact finder and that as an engineer the position is held to standards that provide assurance the director is making good decisions. He noted that KS, WY and CO have similar requirements. He also claimed that when departments were merged to create DNR, opposition was overcome by a compromise that the engineer requirement be maintained.

Michael Jess, former DNR Director, testified in opposition on behalf of the Nebraska State Irrigation Association (NSIA). He outlined that the responsibilities of the position are technical in nature. He also noted that KS, WY, and CO have similar requirements. His testimony claimed that there's been no difficulty filling the position with the requirement.

Jeff Schafer, NPPD Water Resources Advisor and former engineer for DNR, testified in opposition on behalf of NPPD. His testimony outlined that the department continues to undertake responsibilities including engineering and the requirement is important to NPPD.

Jeanne McClure testified in opposition on behalf of the American Council of Engineering Companies of Nebraska. His testimony mentioned the possibility of unintended consequences for removing the professional engineer requirement. It's a requirement that requires rigorous standards and protects the health and safety of Nebraska.

Andrew Dunkley, testified in opposition on behalf of Farm Bureau. Andrew noted it's an important topic and members of Farm Bureau want the best person for the job especially for our water. Andrew mentioned state policy passed in 2019 included that the director be a licensed engineer or licensed hydrologist. We want to be involved in any discussion moving forward of widening the role or how we approach management going forward.

Neutral

Jon Wilbek, testified on behalf of the Nebraska Board of Engineers and Architects. He provided the committee with an overview of the Nebraska Engineers and Architects Regulation Act that governs the practice of engineering in the state of Nebraska, noting the requirements are in place to safeguard life, health, property, and promote the public welfare through licensing and enforcement of state statutes.

In closing, Sen. Friesen noted that it was mostly engineers that testified in opposition. He said he is not opposed to the director being an engineer, so long as it's the best person for the job. He noted that in today's world it could be that an individual with a law degree that may be best suited for the position, again noting that by expanding the candidate pool it ensures that the best person for the job can be appointed by the governor.

LB 761 - Adopt the Precision Agriculture Infrastructure Grant Act and state intent regarding appropriation of federal funds. Dorn.

The original bill proposed to appropriate \$10M in Federal ARPA Funds in FY 2022-23 to the Nebraska Department of Agriculture to form the newly created Precision Agriculture Infrastructure Grant Program. The bill was revised and amended into LB 1144 which was passed and approved by the governor. The bill was indefinitely postponed at the end of the session.

The Transportation Committee held the hearing for LB 761 on Feb. 15th, 2022.

Opening on the bill, Sen. Dorn expressed that Nebraska is in danger of losing our role as a leader in Ag if we don't adapt and change the status quo. He noted this bill is a nudge to allow Nebraska to continue our agriculture dominancy. He outlined that the broadband focus has been in towns and there is a need to focus the bridge program more on reaching farms and helping the state's top industry. He offered an amendment to provide a definition of farm sight, noting it is already defined in statute, but the amendment clarifies the bill.

Proponents

Julie Bushell, president of Page Wireless, testified in support. She noted the bill will accelerate precision agriculture and would put power back in the hands of Nebraska producers. She expressed stakeholders, including seed companies and retailers, are willing to pay premiums for ag products grown and tracked in a sustainable way. She further outlined that to achieve these greater premiums and profits, Nebraska producers need connectivity. Bushell expressed that for real-world agriculture applications, upload speeds are just as important as download speeds, and that a 50/50 Mbps speed requirement would be a better benchmark for ag. She expressed that this grant funding will assist with servicing producers and on farm applications.

Brandon Hunnicutt, producer from Goehner, testified in support on behalf of the Ag Leaders Working Group. His testimony outlined those producers continue to adopt technology, but connectivity often becomes a limiting factor. He expressed that efficiency improvements offered by these tools is often focused on protecting Natural Resources, but they come at a cost. He provided the committee with an example of irrigation management tools and sensors that are contributing to 2-5 acre/inch reduction in annual water use. Hunnicutt noted we're in the beginning stages of learning how to measure carbon and carbon capture, but sensors and the ability to upload data will play a key role in that.

Opposition

Tip O'Neill, Nebraska Telecommunications Association, provided testimony in opposition. He expressed concern over the bill creating a different standard for broadband speed than what is required in the previously passed Bridge Act, which requires 100/100 Mbps speeds. He noted this bill would allow for funding of lower speeds of 50/50 Mbps and would create inconsistencies. He also expressed that they feel the Public Service Commission should be the entity managing any funds. He noted that guidance for ARPA funds requires service speeds of 100/20 Mbps. O'Neil also expressed concern that there is no clawback provision in the bill should applicants fail to meet speeds required.

There was no neutral testimony. Letters were submitted for the record by 1 supporter and 1 in the neutral capacity.

In his closing, Sen. Dorn expressed that this bill focused on how we can make the technology available to farms.

LB 775 - Prohibit land disposal of wind turbine blades and their component parts. Brewer.

The Natural Resources Committee reported on April 12, 2022, that LB 746 has been indefinitely postponed. The bill would prohibit land disposal of wind turbine blades and the component parts of wind turbine blades.

The Natural Resources Committee accepted testimony on Jan. 19th, 2022.

Tony Baker, legislative staff, introduced the bill on behalf of Sen. Brewer. He testified that rainwater should not filter through fiberglass and other chemicals wind turbines are constructed of. He asked the committee to put an x on the map of where the wind turbine graveyard would be and watch what would happen. He noted that turbine blades need to be replaced every 10 years and we are just starting to reach the 10-year limit on many of the turbines. During questioning it was asked if there are any sites that take blades now – it was discussed that the landfill at David City had previously but is no longer accepting blades.

There were no proponents for the bill.

Opponents

Richard Lombardi testified in opposition on behalf of Advanced Power Alliance, a regional trade association of wind, solar and battery developers. He testified that the bill would amount to making an act of commerce illegal. He testified that wind turbines don't pollute water, don't pollute air, don't use water, in fact 90% of wind turbines are recyclable or repurposed. Blades are an area they are working to reduce waste and repurpose with additional developments coming. He noted that this industry is an economic driver and discriminating against industry by limiting access to landfills would not be good policy.

Al Davis testified in opposition on behalf of the Nebraska Sierra Club. The wind industry is misunderstood, and this is just an attempt to throw sand in the face of the industry. He noted that it is known that Sen. Brewer is against wind energy and this is his attempt to limit it.

There was no Neutral testimony.

In closing, Senator Brewer acknowledged Lombardi's effort in trying to find a solution to recycling the turbine blades so we don't have to worry about the problem.

LB 778 - Adopt the Government Neutrality in Contracting Act. Brewer.

The bill proposes that unless otherwise required by federal law, a governmental unit shall ensure that any requests for proposals or bid specifications for a public contract or the procurement procedures for a public contract do not contain:

- (1) A term that requires, prohibits, encourages, or discourages bidders, public contractors, or subcontractors from entering into or adhering to a collective-bargaining agreement relating to construction.
- (2) A term that discriminates against bidders, public contractors, or subcontractors based on status as a party or nonparty to, or the willingness or refusal to enter into, a collective-bargaining agreement relating to construction under the public contract; or
- (3) Contract award pass or fail scoring criteria regarding a bidder's hiring requirements, labor assignments, local headquarters, political affiliation, political activity, or demographic makeup.

The Government Committee accepted testimony on LB 778 on Jan. 27th, 2022.

Proponents

Several organizations and associations both local and national testified in support of the bill, including the Association of General Contractors Highway Chapter, Association of General Contractors Building Chapter, Merit

Shop Association - Cornhusker Building Chapter, Lincoln Independent Business Association, and several other Merit Shop representatives.

Testimony outlined the need to promote a level playing field and ensuring all contractors are eligible for projects with a fair and open bidding process. Proponents noted that neighboring states, including SD, IA, KS, and MO all currently ban Project Labor Agreements (PLA). Proponents noted the bill doesn't ban PLA, it only prevents government contracts from mandating that PLA be used. Proponents expressed concern over the trend of the current federal administration favoring PLA.

Opponents

Susan Martin, Nebraska State CIO, provided testimony in opposition to prohibiting government mandate agreements. Use of PLA can ensure on time and on budget project completion through streamlined contracting process. PLA create level playing fields by standardizing labor. There is nothing in state law that encourages or discourages use of PLA's now. The bill would place union contractors at an unfair advantage and the decision to use PLA should remain with the government agency.

Jon Nebel, IEWW22, testified that PLA would prioritize that Nebraskans get the jobs over those from out of state.

There was no neutral testimony.

Closing on the bill, Sen. Brewer noted the intent of the bill is not to benefit contractors or workers from out of state, or to put local labor at a disadvantage. The intent is to spend tax dollars on a level playing field.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 787 - Redefine a term and change applicability provisions under the Nebraska Budget Act. Groene.

The Government Committee reported LB 787 to General File on Feb. 15, 2022, following an 8-0 committee vote. The measure was not advanced further, and the bill was indefinitely postponed at the end of the session.

The bill would require a joint entity created pursuant to the Interlocal Cooperation Act that receives tax funds generated under section 2-3226.05 from the parties to the interlocal agreement shall be subject to the Nebraska Budget Act regardless of whether or not such joint entity will have a property tax request or receive state aid.

The Government Committee held the hearing for LB 787 on Feb. 9th, 2022.

In his opening, Sen. Groene said he considers this a correction bill from previous legislation. Groene noted his constituents can't find budgets related to the NCORPE project. He said that the state auditor expects budgets from government entities, but the interlocal agreements are left out. He said, the state auditor asked NCORPE for their budget and they said they don't have to provide it because of a loophole that they don't levy a tax. Groene noted this bill would make NCORPE subject to a budget hearing, so it is accountable to the taxpayers.

Proponents

Chris Bruns, Lincoln County Commissioner, testified in support. Bruns noted that his board values transparency and accountability for taxpayers. He said this bill takes care of a loophole to force NCORPE to hold a budget hearing.

Opponents

There was no opposition testimony.

Neutral

Nate Jenkins, Assistant Manager of the Upper Republican NRD, testified in the neutral. Jenkins pointed out, after discussing this with the Auditor's office, that the budget form does not apply to NCORPE because they do not have a tax base or levy a tax. However, each of the individual districts participating in NCORPE levy the tax against their respective tax base to collect the amount of funding needed. In the case of funding for the operations of NCORPE, there are four hearings, one at each local NRD office.

He suggested that if individuals want the specific NCORPE budget, all they have to do is ask for it and it will be provided. Also, the current budget form does not apply because there are no taxes levied by NCORPE.

In his closing, Sen. Groene said most interlocals have no employees, so this is unique. He noted that NCORPE is a unique project that has unique expenses and a payroll. He said when he is a private citizen again, he wants to be able to go to a budget hearing.

LB 806 - Change provisions relating to drainage of land by landowner. Bostelman.

The Natural Resources Committee advanced LB 806 to General File on Feb. 23, 2022, with AM 1979 following a 6-0 vote. The measure was not advanced further, and the bill was indefinitely postponed at the end of the session.

The committee amendment clarified the difference between the practice of constructing an open ditch or tile drain for aiding in natural water drainage from constructing a drainage system constructed with a pump or powered system that can potentially increase drainage flow to the point of causing harm to a neighboring property.

When constructing an open ditch tile drain system to drain lands, the bill proposed that a landowner shall not drain land if any increase in water flow by such drainage would cause any other person to suffer injury or harm.

Current law allows for the drainage to harm others if such drain or ditch is wholly on the owner's land, he shall not be liable in damages therefore to any person or corporation. The bill eliminates this exception.

The Natural Resources Committee held the hearing for LB 806 on Jan. 28th, 2022.

Senator Bostelman reported he brought the bill to the committee to address tile drain issues where water is being drained to a sump-pump system and then pumping the water out, causing some damage to downstream landowners. The intention is to address these specific situations.

Proponents

Don Blankenau testified in support on his own behalf. He has been involved with many of these disputes over the years on both sides of the issue. This bill amends a statute that is 111 years old. The problem with the statute is that it lacks a predictability outcome. The way the court interprets the law is that you can drain property in a fashion that the damage is insignificant to your neighbor's property. That definition is left up to the judges to determine what is significant and what isn't. The decisions by courts are all over the board and not consistent.

The state agencies and NRDs do not have jurisdiction in these matters to resolve the issues, so the individuals must either negotiate something or go to court.

The law change would encourage landowners to resolve the issues locally rather than take them to court. This also puts Nebraska in line with other states for a way to resolve drainage disputes.

Drainage is still permitted with this bill as long as you don't harm your neighbor's property.

Lumir Jedlicka, a farmer from Schuyler, testified in support of the bill. He started farming in 1971, has served as a director on the Lower Platte North NRD board and served on the Nebraska Water Task Force. He has been involved in almost all areas of Nebraska water problems. He noted fifty to sixty years ago, the land in his area was

leveled to gravity irrigate. Now there are center pivots on most of the land. Because of the leveling there are water seepage issues and tiling is necessary to de-water the area. Many of these tiling systems have been put in place to drain off water, but it creates problems for downstream landowners.

He noted that the pumping systems used in these situations should be classified as wells and permitted.

Joe Heavican, a farmer from Rodgers, testified in support. There are two pumping stations upstream from him pumping non-stop. The pumps run even when the center pivot on the same land is running. The ditch cannot handle the flow and the water is going out onto his field making it too wet to farm. He has a wheat field that was flooded out because of the pumping. He has talked to federal, state and local entities and found out there is nothing they can do to remedy the situation. A legislative remedy must be found to address the situation.

There were no opponents or neutral testifiers.

Senator Bostelman waived closing.

LB 813 - State intent regarding funding for development and improvements along the national rail-trail route. Hilkemann.

The bill states the intent of the Legislature that funds be transferred and appropriated to the Game and Parks Commission for trail development and improvement along the designated national rail-trail route through the State of Nebraska. No specific dollar amount or trail was listed in the bill.

However, LB 1014 included a \$8.3 million transfer from the Cash Reserve Fund to a newly created cash fund, the Trail Development and Maintenance Fund. This funding would be utilized by the Game and Parks Commission to provide a grant to a Natural Resources District to facilitate the completion of the Missouri-Pacific (MO-PAC) trail between Lincoln and Omaha. This bill has been signed into law.

The Natural Resources Committee held the hearing on LB 813 on Feb. 1st, 2022.

Opening on the bill, Sen. Hilkemann provided a copy of a map of the nation's first cross country multi-use trail. He noted this is an iconic piece of American infrastructure and this funding would allow Nebraska to complete the states portion. The Cowboy Trail is complete with limestone between Norfolk and Valentine, but a majority of the rest of trail remains uncompleted. Sen. Hilkemann further noted the E-biking trend will exponentially increase use along trails. It was discussed that the funding request in the bill was left open ended so the committee could explore the most appropriate funding options.

Proponents

Julie Harris, Bike Walk Nebraska, outlined a 2018 NGPC survey that showed 42% of Nebraskans said trails were the most important amenity. Trails are economic drivers and bring business to communities along trails. It was discussed we are eight miles shy of completing the MOPAC trail. Finishing that trail would unlock 100's of miles of trails that travel through Southeast and Eastern Nebraska. While testifying, Harris noted Cass Co. has endorsed completing the MOPAC trail using a route along the public right of way. She also noted \$18 million would finish the Cowboy Trail.

Judy Gaiashkios, Nebraska Commission of Indian Affairs and Great American Rail Trails testified that completing the trails would be a great boom for small towns and would expand eco-tourism.

Jason Buss, Trails Volunteer with the Nebraska Trails Foundation, testified that this bill is critical to complete the 93 miles of Cowboy Trail and to finish an 8 mile stretch of the MOPAC trail. He noted it will cost approximately \$8 million to complete the stretch of the MOPAC.

The Committee had questions about the cost of \$1 million per mile. Buss noted the high costs account for drainage and other work that would need to be completed, further outlining that completion of this stretch costs much more than other trails that have been built because there is not an existing trail bed.

Michelle Striker, NGPC, testified that the estimate for completion of the Cowboy Trail includes construction and repair costs. Her testimony reiterated the positive economic impact of trails.

There were 23 online letters submitted in support of the bill. No opposition or neutral testimony was provided.

Sen. Hilkemann closed by noting the state's investment will spur further private investment.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 924 - Include cities of the first class as grant recipients under the Waste Reduction and Recycling Incentive Act. Brewer.

The Natural Resources Committee reported on April 12th that LB 924 has been indefinitely postponed. Provisions of the bill were incorporated into LB 809 via AM 2004 and passed.

The bill proposed to expand grants under the Waste Reduction and Recycling Incentive Fund to cities of the first class for deconstruction costs related to the recovery and processing of recyclable or reusable material from abandoned buildings. Current law limits the program to cities of the second class, villages, and counties of five thousand or fewer population.

In his opening, Senator Brewer mentioned the bill was introduced on behalf of the City of Chadron that does not currently qualify for the fund. He worked with the Nebraska League of Municipalities and the City of Chadron during the interim on the development of the bill.

Proponents

Lash Chaffin, Nebraska League of Municipalities, testified in support of the bill. The use of the fund is to save some of the historical or unique items that could be of value and used again somewhere else in the community. Several communities have used the program in the past and it saves putting everything in a landfill.

Communities that want to use the program have to apply and not all get funded. There are multiple other things that can be funded such as cardboard recycling bailers, recycling containers, etc.

There were no opponents or neutral testifiers.

In closing, Senator Brewer noted there would be an impact on funding, but it wouldn't have a significant impact to the program.

LB 953 - Change provisions relating to open burning permits and provide limitations on liability and nuisance relating to land-management burning. Cavanaugh, J.

The bill proposed to change open burning permit provisions to allow permits to be issued electronically.

Additionally, the bill proposed that no landowner, tenant, or other landowner's agent of the land where land-management burning occurs shall be personally liable for damages caused by land-management burning conducted in accordance with permit requirements, except in cases of willful misconduct or gross negligence.

Under the measure evidence that a fire from a land-management burn has spread outside of the authorized burn area on the day of the land-management burn or continued to smolder resulting in a subsequent wildfire does not, without further evidence, constitute gross negligence.

The bill also proposed that a fire chief of a local department, or such chief's designee, shall not be liable for damages caused by a land-management burning simply for issuing such land-management burning permit or assisting with a properly permitted land-management burning for training purposes.

Under the proposal, land-management burning shall be considered in the public interest and shall not be considered a nuisance if conducted in accordance with required permitting law and any applicable state or local air pollution law, rule, or regulation.

The Judiciary Committee held a hearing on Jan. 21st, 2022.

In his opening, Senator Cavanaugh expressed interest in healthy grasslands and preventing the loss of grasslands and habitat from Cedar trees and other invasive species. He supports controlled burns as it improves the land. The liability issue keeps many landowners from participating.

Proponents

Alicia Hardin testified in support on behalf of the Nebraska Game and Parks Commission. Support controlled burns to improve grassland and bird habitat. This legislation helps alleviate landowners concern about liability, which will result in more improved habitat.

Mark Roblee testified in support for the Curtis, NE Volunteer Fire Department. He noted the area has a large invasive species problem, and the prescribed fires help clean up the problem. He noted that years ago this was not the case as we did not have experience with controlled prescribed fire. Over the years, they have worked with professional burn bosses and landowners to develop plans to control the burn. It has been very successful to help clean up many of the pastures which improves the grasslands and habitat.

Jerry McDonald, testified in support for Pheasants Forever. He explained that PF has been involved with prescribed burns since 2008. There are four key areas for a successful burn and PF has addressed three of them. 1) Training - PF has created volunteer training programs; 2) Access to People – PF has created 11 Burn Associations across Nebraska that have successfully burned over 80,000 acres; 3) Access to Equipment – PF has provided local organizations with the right equipment to use at controlled burns; and 4) Liability - This is where we need help to protect landowners and encourage more grassland improvement.

Scott Schout – A Technical Support Provider for NRCS that writes burn plans for landowners appeared in support as an individual. He noted most plans are about 30 pages long and include, but are not limited to; location, wind direction, control plan which includes ignition sequence, number of people available to help control the burn, a list of equipment available for control. The biggest issue for landowners is the liability.

Eric Hansen testified in support on behalf of the Nebraska Cattlemen. He noted years he spent controlling cedars on his ranch by mechanical means and was against controlled fires. He has learned that controlled prescribed burns work not only to control cedars but improves grasslands. The liability issue is a concern which keeps many landowners from engaging in the practice of controlled burns.

Jay Ferris, testified in support on behalf of Nebraska Farm Bureau and noted the benefits of controlled burns.

James Lowery II – rancher in Garfield County testified as an individual and encouraged the use of controlled burns on school lands.

Opponents

John Lindsay represented the Nebraska Association of Trial Attorney's in opposition to the bill. He noted that he was very impressed with the professional burn people involved at the hearing. They show that they are very careful with the controlled burns they do. If they do a good job, they should not need this broad liability protection. We don't want the legislature to relax laws to encourage less focus on controlling the burns.

Neutral

Jerry Stilmock, Nebraska State Volunteer Firefighters Association. Not sure what immunity is applied in the bill to the local volunteer fire department and firefighters. There are many levels of liability exposure in many other statutes.

Dirac Twidwell, Assistant Professor, Rangeland Ecology talked about the cedar infestation in the central plains.

Shelly Kelly testified on behalf of the Sandhills Task Force. She raised concern about the inability to purchase liability insurance for controlled burns.

In his closing, Senator Cavanaugh thanked everyone for testifying and bringing attention to this very important land management tool of prescribed burns. He mentioned the willingness to work on some language to alleviate concerns.

The committee did not report any action on the bill, and it was indefinitely postponed at the end of the session.

LB 978 - Provide powers and duties relating to the treatment of dredged and fill material under the Environmental Protection Act. Hughes.

The Natural Resources Committee reported on April 12th that LB 978 has been indefinitely postponed. However, provisions of the bill were incorporated into LB 809 via AM 2004 and passed.

The bill proposed to add power and duties of the Environmental Protection Act to the Department of Environment and Energy to prohibiting or permitting the discharge of dredged or fill material into waters of the United States, commonly referred to as the 404 permitting process.

Under the proposal, the department would receive and initiate complaints, hold hearings, and institute legal proceedings in the name of the state for the control, prevention, or abatement of the discharge of dredged and fill material into waters of the United States. The department will recover penalties, in accordance with the Environmental Protection Act.

The bill allows the council to establish fees to be collected by the Department for applications, determinations, permits, licenses, or similar authorizations for the discharge of dredged and fill material under section 404 of the Clean Water Act, as amended. The fees shall be sufficient to pay the department for the direct and indirect costs of administering a permitting program under section 404 of the Clean Water Act.

The bill proposes the Dredge and Fill Cash Fund. The department shall remit all fees collected and money received by the department in the form of gifts, grants, reimbursements, or monetary transfers from any source intended to be used for the purposes of the fund, to the State Treasurer for credit to the fund. The fund shall be used to pay the reasonable direct and indirect costs required to develop and administer a program to regulate discharges of dredged and fill material under section 404 of the Clean Water Act, as amended. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The bill adds that any person who knowingly or willfully violates any law, rule, regulation, permit, license, or permit or license condition or limitation for the discharge of dredged and fill material under section 404 of the Clean Water Act shall be guilty of Class IV Felony.

Finally, the bill adds property where dredged or fill material is being discharged to the list of purposes for the department to enter and inspect property with consent.

The Natural Resources Committee accepted testimony on LB 978 on Jan. 26th, 2022.

Opening on the bill Sen. Hughes outlined the struggles and delays permit seekers have faced in receiving 404 permits. The bill would allow the state to apply for assuming the permit responsibilities which could result in time and money savings.

Proponents

Director Macy testified in support on behalf of the Department of Environment and Energy. During testimony Macy noted the state already completes a review process so they have a good understanding of the 404 process. The Dept. has been working to determine the workload and resources needed to complete the 404 permitting process, noting that Nebraska averages 875 permits annually.

By taking on the 404 process the state could reduce overlap and use process improvements to streamline permit issuance while also maintaining environmental protection. The Dept. estimates about 2 years to implement the program. It was noted that the state would hold the permitting process to a timeline. The program would be fee based with the fees being based on the complexity of the permit. The NDEE will utilize a couple yearlong stakeholder process to determine program costs and fees.

Macy noted the Nebraska program would be subject to annual review and audits to ensure compliance with the federal requirements.

Several individuals and organizations testified in support of the bill, including: Joseph Citta, on behalf of NPPD and the Nebraska Power Association; The American Council of Environmental Engineers; The Association of Nebraska Contractors; and Tim McCoy, on behalf of the Nebraska Game and Parks Commission. Proponents' testimony outlined the lengthy timelines and expenses that have occurred under the current permitting process. Testimony outlined the savings a more efficient permitting process could provide.

Opposition

George Cunningham, Sierra Club and Nebraska Wildlife Federation, testified in opposition. He expressed concern that the program would only require permits for WOTUS and would exclude Waters of the State. He also expressed concern over the lack of transparency from the NDEE about the process of exploring the program.

Sen. Hughes closed by mentioning the State of Nebraska does have jurisdiction over waters of the state.

LB 981 - Revive the Trail Development Assistance Act and state intent to transfer funds. Hilkemann. Hilkemann Priority

The Natural Resources Committee advanced LB 981 to General File on Feb. 23rd with AM 1993 following a 7-0 vote. The measure was not advanced further, and the bill was indefinitely postponed at the end of the session.

However, LB 1014 included a \$8.3 million transfer from the Cash Reserve Fund to a newly created cash fund, the Trail Development and Maintenance Fund. This funding would be utilized by the Game and Parks Commission to provide a grant to a Natural Resources District to facilitate the completion of the Missouri-Pacific (MO-PAC) trail between Lincoln and Omaha. This bill has been signed into law.

Under LB 981, the bill proposed to revive the Trail Development Assistance Act which previously terminated on January 1, 2010. The amendment appropriates \$750,000 from the General Fund for the program in fiscal years 2022-23 and 2023-24 and limits permanent and temporary salaries and per diems from funds appropriated to not exceed \$91,140 for each fiscal year.

The bill originally called for includes intent to transfer \$15 million from the General Fund to the Trail Development Assistance Fund in FY 2022-2023 and that NGPC would be authorized to use \$750,000 annually beginning in FY 2022-2023 for ongoing maintenance of designated rail-trails. This is eliminated and replaced with the AM 1993.

The fund is administered by NGPC and shall be used to assist in the purchase, development, and maintenance of recreational trails in the state.

The Natural Resource Committee accepted testimony on LB 981 on Jan. 26th, 2022.

Sen. Hilkemann opened by promoting the economic impact of the cowboy trail. Noting that the trail can't be neglected and currently there is no money for maintenance.

Proponents

Julie Harris, Bike Walk Nebraska, testified that Nebraska is leaving buckets of money on the table by not maintaining the trail. The trail would benefit all communities along the trail, citing a UNL study that the Nacho Ride resulted in \$63K being spent annually. The trail needs a lot of work and state funding would help generate private investment.

Jason Buss, Nebraska Trails Foundation, testified that their surveys indicate trails are the #1 thing Nebraskans want to see in the state. The trail is currently 51% complete across Nebraska and private groups are working to maintain the trail but they are unable to keep up without state support.

Michelle Striker, NGPC, noted there are 91 miles left to finish. Currently 1 full time employee and 2 seasonal staff work to maintain the trail. The funds would allow for an additional 2 seasonal employees to be added to keep up with the work of weed control. Funds would also assist with marketing and economic development events.

George Cunningham, Sierra Club and Nebraska Wildlife Federation, testified that this is a wise use of state funds and their organization believe the funding should be higher.

There was no opposition or neutral testimony, and thirty-five comments of support were submitted for the record.

LB 1048 - Appropriate federal funds to the University of Nebraska to evaluate the chemicals released and pollution caused by ethanol production facilities. Blood.

The bill proposed \$10M in Federal ARPA Funds for FY2022-23 be appropriated to the University of Nebraska Medical Center for purposes of evaluating the adverse long-term environmental, ecological, and human health effects of the chemicals released the AltEn Ethanol Plant in Mead.

Although the bill was indefinitely postponed, LB 1068, provided \$1 million from Federal Funds in FY 2022-23 to the University of Nebraska for such research. LB 1068 was signed into law on April 18, 2022.

In her opening, Senator Blood mentioned this bill is just one piece to the puzzle as a result of AltEn. Blood gave a brief summary of AltEn and their use of pesticide-coated seed and the environmental contamination that has occurred with the AltEn Plant. The University has been researching AltEn for 2 years and this would extend the funding to allow the University to continue their research. The results of the survey would help guide cleanup efforts and help identify the health impacts that have occurred because of exposure to contaminants from AltEn. This is our most catastrophic environmental crisis.

Proponents

Janece Mollhoff, a resident who lives downstream of AltEn testified in support. She noted it is unknown what chemicals we have been exposed to and it is critical the State of Nebraska funds as the future of ag and water quality in this state is dependent on accurate research. She stressed the testing and number of hours needed to go through medical records will require thousands of hours of work. She raised concerns that contamination from AltEn could affect the two largest cities in the state.

Al Davis, Nebraska Sierra Club. The bio products of AltEn produced a toxic wet cake. Residents near the plant complained of the smell near the plant. Numerous animals were found dead in and around the AltEn plant. The scope of the damage is incalculable. The damage is not isolated, and the Lincoln wellfield is downstream of where the plant is located. The problem can be linked to regulators who did not address violations and it is the state's responsibility to clean this mess up.

Eleanor Rogan, Professor of College of Public Health at UNMC, testified as a private citizen and not representing University of Nebraska. Since last spring she has been the coordinator of the research of the AltEn plant and reviewed her initial findings from testing and surveys from citizens in the area.

She outlined the wet cake and wastewater is highly contaminated from pesticide coated seed corn. These neurologic toxins not only affect insects but aquatic life and people. Part of our assessment is a survey of the residents around AltEn and what health impacts may be a result of the exposure to AltEn contaminants.

In the individual surveys, she noted respondents were eager to participate in the survey and over 50 surveys were received within the first few days. The follow-up research will focus on collecting blood and urine samples to determine if there are detectable levels of toxins from AltEn in individuals' blood/urine. Additionally, a medical register will be developed for people who wish to enroll for 10 years. Exposure to these toxins can take years to appear. Through this work they will be developing a model to assess environmental contaminations if they were to happen again. Currently, the staff working on this research are volunteering their time to work on this project and money is just being used to run lab tests.

She stressed that if we wait until we see people getting sick, particularly infants and children, we will have a much bigger problem to address. If we can get ahead of it, it won't be as severe.

Dr. John Schalles, biology professor at Creighton University, testified in support as an individual. He is volunteering his time to the research team working to understand the scale and impacts of the AltEn plant. The funding proposed in the bill would provide the longer-term funding for the investigative science to look at individuals who live in the area and who worked at this site.

This is a problem larger than Mead. He specifically mentioned that Todd Valley is a really good reservoir with sandy soil located in the Mead area. The environmental contamination from this disaster is a threat to the water in that area.

Shannon Bartelt-Hunt, professor of civil engineering at UNL, testified in support as a private citizen and not UNL. She has participated with others doing initial research in the area. Based on the data currently collected, they know the pesticides and fungicide present at AltEn were highly concentrated. They also know these products were applied to the land in the area. These toxins are being carried by air, wind, and water.

Currently the extent of the contaminants and how they have been redistributed is not completely understood. They have been collecting samples to evaluate the contamination in the area and have detected 11 chemicals from air samples, 7 in groundwater and 13 in surface water. These chemicals have been detected as late as November 2021. Some of the chemicals are the original insecticides and fungicides present in the wet cake. The bill would allow them to continue this research to protect the people nearby.

Dr. Judy Wu-smart, Extension Educator and Director of Bee Lab at UNL, testified as an individual and not UNL. Summarized an infographic of how neonicotinoids affect insects and animals and how they are exposed at different rates. What organisms are at the highest risk of being exposed and are most sensitive to the toxins they are exposed to. If an animal isn't directly impacted, it will be indirectly impacted with the disruption of the food web. The cleanup needs to continue to happen on site but the ecological impact reaches much further than the AltEn site itself. Dead animals are being found 6 miles away.

Ken Winston, representing BOLD Alliance, testified in support. He noted they hosted two town hall meetings in Mead last year. One of the characteristics of those events is it's not just the citizens of Mead, but also the people in the surrounding area are concerned about the issue. The residents are very frustrated because this happened in the

first place but the lack of oversight from state regulators and lack of information they have been provided. Residents are afraid to drink the water. He noted BOLD Alliance has offered free water filtration systems and 70 people have accepted the offer.

He also pointed out most of the work at BOLD Alliance is focused on stopping pollution before it happens. It's important to protect people and the environment. The message that all the problems at AltEn are being taken care of is just not true. There is still contaminated wet cake and wastewater. The wet cake is currently being covered up and not disposed of. Currently the remediation plans have some groundwater monitoring but not nearly enough to address this situation. A lot of the plans are site specific and address things onsite but don't do anything to address contamination off site. We need to determine if the water supply of Lincoln and Omaha has been impacted.

There was no opposition or neutral testimony.

In closing, Senator Blood highlighted that all the researchers have gotten together because of compassion for residents of Nebraska and the collateral damage from the disaster at AltEn. We've heard story after story of dead animals and health issues with people and although it is starting to smell better there is nothing being done to keep that contamination from going into the groundwater. This isn't just an ask for research. She claimed some people in Nebraska want to sweep this under a rug and that is not fine. Some people are going to have health issues and we need to get in front of this. Nebraskans deserve better.

The committee received twelve letters of support and two in opposition.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 1074 - Create the Surface Water Irrigation Infrastructure Fund and provide for a transfer from the Cash Reserve Fund. Bostelman.

The bill proposed to create a \$50M transfer in FY2022-23 to a new Cash Fund titled the Surface Water Irrigation Infrastructure Fund to be administered by the Department of Natural Resources. Provisions of the bill were included in an amendment to LB 1013e.

Under the proposal the Department shall establish procedures and criteria for awarding grants to irrigation districts.

The funds could be used by irrigation districts for repair or construction of any headgate, flume, diversion structure, check valve, or any other physical structure used for irrigation projects. Grant funds could not exceed \$5M per applicant. Applicants would be required to provide matching funds equal to 10% of the grant award.

The Appropriations Committee held the hearing on LB 1074 on Feb. 1st, 2022.

Sen. Bostelman opened on the bill by stating this is a request for a one-time cash fund transfer. Following the Gering-Ft. Laramie-Goshen tunnel collapse in 2019, LR 340 was passed to study irrigation infrastructure needs statewide. The interim study resulted in a survey of irrigation districts that demonstrated around \$150 million in infrastructure needs. Some of the systems are nearly 100 years old.

During questioning, Sen. Clements asked if the study assessed why they don't have the funds. Sen. Bostelman noted many are small and don't have the ability to collect enough fees to address the needs.

Sen. Dorn asked if the funds were just for repair of existing facilities, or if expanding and extending of systems would be funded. Sen. Bostelman noted he believes this is just to keep existing systems from falling apart.

Sen. Erdman noted this is a great bill that is severely needed. He remarked that the Bureau of Reclamation built many of these projects and have not supported local districts with operation and maintenance funding.

Proponents

Jeff Buettner, testified in support on behalf of CNPPID and Nebraska State Irrigation Association (NSIA). His testimony noted that this addresses a long-standing need for funding. He outlined the state has approximately 60 irrigation projects, of which a large number were built early in the 20th century. Acres served by these projects range from a couple thousand acres to over 100,000 acres.

The projects rely on fees charged to the users and the irrigation districts do not have property taxing authority. He noted some projects also have recharge, habitat, and recreation benefits. There is the need for state funding to assist with maintaining and modernizing infrastructure.

Lee Orton, NSIA, testified in support noting that surface water is only a small portion of irrigated acres in the state but is critically important. These systems were the first source of irrigation before the recognition of groundwater irrigation in the 1950's. He provided a list of organizations responsible for surface water and a map of where they are located and over one-half of them are west of Lake McConaughy. Investment in these projects benefits all Nebraskans through recharge and return flows. He outlined that there are demonstrated costs more than \$113 million and that funds needed are not available through users. He presented a recommended amendment to the committee.

Brad Edgerton, Frenchman Cambridge and NSIA, provided an overview of the Frenchman Cambridge Project. He noted users are paying federal government for construction costs of projects, and these will not be paid off until 2040. Users are also responsible for paying federal government for operation and maintenance on three dams, but they can't pay those costs today so they will start payments in 2041. He provided the committee with a summary of all fees currently paid by users.

Closing on the bill, Sen. Bostelman noted he grew up in an area with canals and ditches and they were in bad shape then. He noted this is not just about the livelihoods for those that rely on the systems, but it's also about the water savings for the state.

Online letters were submitted by 10 proponents. There was no opposition or neutral testimony provided.

The Committee reported no action on the bill and the bill was indefinitely postponed at the end of the session.

LB 1081 - Provide for a grant program for the design, construction, and implementation of water transport infrastructure under the Department of Natural Resources and state intent to appropriate federal funds. Bostar.

The Natural Resources Committee reported on April 12th that LB 1081 has been indefinitely postponed. The bill proposed to appropriate \$200M of Federal ARPA Funds to the Department of Natural Resources in FY2021-22 to award grants for the design, construction, and implementation of water supply projects.

Under LB 1014e, which has been passed and signed by the Governor Ricketts, there was \$20 million in ARPA funds to provide a grant to a city of the primary class that utilizes more than thirty million gallons per day of water to be used for the design, construction, and implementation of additional water supply projects.

Eligibility would have been limited to a municipality that utilizes more than 30M gallons of water per day. Eligible projects include, but are not limited to, a water treatment plant, land acquisition, permitting, a wellfield, pumping, and transportation of water over twenty-five miles for the purpose of providing potable water to the municipality.

The Natural Resources Committee held the hearing for LB 1081 on Feb. 16th, 2022.

Opening on the bill, Sen. Bostar outlined provisions of the bill and expressed that securing a 2nd water source for the city is a critical need. He expressed that as recent as 2019, a near crisis was faced when floodwaters threatened the sole water source. He noted that it's critical that ARPA resources be used for infrastructure where they can do the most good. He told the committee Lincoln currently supplies water to 292,000 residents and that number is projected to grow to 470,000 by 2060.

Proponents

Elizabeth Elliott, testified in support on behalf of Lincoln Transportation and Utilities. She noted Lincoln is exploring options for a second source for the city's water supply. Currently there are 2 options, including a link to the Metropolitan Utilities District's connection to the Missouri River, while the second would be building an independent direct connection to the Missouri River. She noted the estimated cost of these projects range from \$350 million, up to \$800 million.

Elliott expressed that a second source will not only support the growing city, but it will also promote economic development along the supply line and also assist small communities. She further noted the bill would protect communities and irrigators along the river, noting the city could make a call on river that would adversely impact ag producers, she expressed that a second source would mitigate that impact.

During questioning, Elliott was asked details about the potential route and opportunities for serving communities and rural water lines along the route. She noted that those are potential opportunities, but it's too early in the process to know the details.

Lash Chaffin, testified in support on behalf of the League of Municipalities. His testimony reiterated the benefits to the city of Lincoln. He told the committee there are many places across the state where source water is becoming increasingly difficult to find, in particular it's difficult to find water that meets EPA standards.

There were 2 letters submitted in support for the record.

Opponents

There was no opposition testimony.

Neutral

Jack Russell, LIBA, testified in a neutral capacity. He noted the positive potential a second source would have for the community and businesses that operate in Lincoln. He noted LIBA doesn't have enough information to know which of the options they support, but the bill is an important first step in identifying the best potential 2nd source.

Closing on the bill, Sen. Bostar reiterated how important a new water source is to the city of Lincoln. He told the committee there are projections that within 10 years, Lincoln could be facing water restrictions. Addressing an earlier question, he noted that despite whatever option is pursued, there would be an opportunity to explore options for a regional water supply.

LB 1135 - Change provision relating to conservation or preservation easements and property tax exemptions relating to such easements. Murman.

The bill proposed that conservation or preservation easements are not authorized to be recorded if such conservation or preservation easement has not been approved by the appropriate governing body as defined under section 76-2.112.

The bill extends the governing bodies comment period for conservation easements from 60 to 90 days. If comments are not received from the governing body the easement shall be denied. Notice of approval or denial by the governing body shall be sent to the owner of the land and the holder of the conservation or preservation easement within seven days.

Proposed a new process of appeal following denial. Protests may be made to the county board of equalization within thirty days after the notice is sent. The final action of the county board of equalization may be appealed to the Tax Equalization and Review Commission within thirty days after the county board of equalization's final decision.

Additionally, the bill allows for an easement to be released by the holder without approval of the governing body that approved it.

The bill eliminates language allowing a conservation or preservation easement to run with the land and be perpetual. Under the bill, the duration of the easement shall be stated and cannot exceed 99-years. At the transfer of ownership, or within 6-months of stated easement end, the holder may extend the duration, but approval by the appropriate governing body is required.

Lastly, the bill adds language to exclude conservation or preservation easements held by educational, religious, charitable, or cemetery organizations from property tax exemption.

The Judiciary Committee held the hearing for LB 1135 on Feb. 11th, 2022.

In his opening, Sen. Murman noted that President Biden's 30x30 "America the Beautiful" Plan means acquiring land twice the size of Texas in the next eight years. He noted that 97% of Nebraska is privately owned and is concerned how that 30 percent goal will impact landowners. He said the acquisition of land for conservation could take away more of Nebraska's tax base and devastate food production. He noted that 67 of the 93 counties have shown opposition to the 30x30 plan. He said that the default term on easements is perpetual, so an expiration date of 99 years will allow future generations to have flexibility with the land.

Proponents

Elaine Menzel, NACO, testified in support. She distributed an amendment that they would like to add would allow county boards to review existing easements.

Wayne Johnson, Clay County Board of Supervisors, testified in support. He noted his board has unanimous support. He said the loss of revenue from the Meat Animal Research Center (36,000 acres) and the Fish and Wildlife Rainwater Basin (7,000 acres) is a loss of revenue for Clay County. He said that property is perpetual easements decreases the land's taxable value. He noting a property in Clay County that went from \$5,500/acre to \$1,400/acre after a perpetual easement was applied.

Ruth Sorensen, Property Tax Administrator for the Nebraska Department of Revenue, testified in support. She noted the Governor's executive order required the department to host workshops to help counties understand easement impacts and continue to work on identifying existing easements in place.

Tanya Storer, Cherry County Commissioner, testified in support. She noted that perpetual easements create a negative servitude which conflicts with common law. She said perpetuity takes the freedom away from future generation and buries it with the dead owner. She noted perpetuity strips the rights of counties and states to weigh in on future land-use decisions.

Trent Loos, rancher from Hazard, testified in support. He noted he has been speaking to audiences in 41 states about 30x30. He said this bill is essential because the federal government doesn't outline how they plan to conserve lands. He noted this is a matter of national security with people outside Nebraska owning land and it will erode our property rights.

Dale Schroeder, Keith County Commissioner, testified in support. He noted Nebraska already struggles with property taxes and the state needs to maintain the local control. He noted that if conservation easements continue to take land out of production, it will reduce income for the No. 1 industry in Nebraska.

Kathy Wilmont testified in support. She noted the "Green Mafia" wants easements and she's concerned about their permanency. She noted that she farms the land that her great grandparents homesteaded and if they had an easement, she wouldn't be able to make decisions. She asked that the committee limit the length of easements and allow the county to make the decision locally what people can do with their land.

Debbie Borg, 5th generation farmer from Allen, testified in support. She noted the need to keep property in private hands with people who care about the land. She said this bill allows for local control and local oversight of the private land.

Opponents

David Sands, Nebraska Land Trust, testified in opposition. He provided an example of a ranch in the Pine Ridge that benefited from an easement. He noted the bill adds up to intrusion on property rights and taking away people's decision to create easements on their land. He noted there are some counties that are fine with easements like Sioux County, because they understand people are coming off the front range and try to buy small areas of ranches and people in the Pine ridge do not want to see the property broken up like that.

Don Blankenau testified in opposition on behalf of NARD. A summary of his testimony follows.

NARD understands that LB 1135 and the Nebraska Department of Revenue's interpretation of what is a "conservation or preservation easement" is intended to create some sort of protection from federal intrusion to private property rights under President Biden's 30 x 30 provision contained in Executive Order 14008. Unfortunately, LB 1135 and the interpretation of the Department of Revenue do nothing to avert federal intrusion and instead simply interfere with voluntary transactions and on-farm management decision.

The Department of Revenue's interpretation, and what is being attempted by this bill, is wrong as a matter of law. No Nebraska court nor any court in any other jurisdiction has ever held that moving a "water right" creates a conservation easement. Under Nebraska law, all landowners have a qualified right to access and use the ground water under their land. That "qualified right" is subject to the landowner receiving a permit to construct a well and receiving the certification of acres to use ground water from their natural resources district. The certification of acres is essentially a license to access and use the groundwater and are thereafter subject to additional limitations on the use of the water.

Landowners also routinely relinquish their certified acres on one tract of land in exchange for the authorization to use water on another tract of land through an NRD transfer process. This is similar to landowners moving surface water rights around their property through an application process to the Nebraska Department of Natural Resources. And perhaps most importantly, both NRDs and the DNR have entered into agreements retire uses to ensure state compliance with interstate agreements. Under this bill, those retired water uses would suddenly be viewed as temporary conservation easements.

Moving the use of water from one location to another or retiring uses altogether, is something that Nebraskans have done for over a century without any required county approval. By imposing this new administrative burden on landowners, counties would be forced to insert themselves into consensual water management agreements and the personal decisions of farm management.

Moreover, the bill imposes new obligations on landowners and NRDs to somehow manage these water use changes for the snapback of certified acres to their original locations at some point in the indeterminate future. Obviously, the potential loss or gain of water to any tract of land under the guise of an easement would confound land values and cast a shadow on all land sales.

However well-intended, LB 1135 is simply bad policy that is premised on a misunderstanding of Nebraska water law. It needlessly interferes with voluntary transactions and on-farm management practices and does nothing to fend off any feared federal intrusions.

Dale Williamson, Fillmore County farmer, testified in opposition. He noted that he has an easement on wetlands that he tried to farm unsuccessfully. Now it is planted to grass with a fence around it in the Rainwater Basin and it benefits him and the wildlife. He commented on Don Blankenau's testimony noting that was true and the bill needed to be killed.

Larry Ruth, Lower Platte South NRD, testified in opposition. He provided examples of easements around Lincoln and Lancaster County including the Saline Wetlands that are preserved for wildlife.

John Denton, Ducks Unlimited, testified in opposition. He noted that easements are the backbone of DU's ability to provide wildlife habitat and landowners often approach the organization unsolicited to put in an easements. He noted that permanent decisions are made all the time with power lines, drainage, oil/gas, etc. He noted that sometimes land values go up after an easement because of the enhanced wildlife and recreation areas on the property.

Scott Smathers, Nebraska Sportsmen Foundation, testified in opposition. He noted easements are a tool for landowners and people should be able to decide what they want to do with their property. He said if he bought the land, he should get to decide what happens to it, not his children.

Jocelyn Golden, Assistant Attorney with the City of Lincoln, testified in opposition. She noted that Lincoln and other municipalities benefit from easements for a variety of purposes – prevention of flooding and storm water control, open greenspace, protection of wildlife and more. She noted that these easements preserve floodplains, which benefit property owners and limits flood damage.

Dean Fedde, Sarpy County farm owner, testified in opposition. He noted that urban sprawl is taking over the area and more than 10,000 acres of farmland has been lost to development in the last decade in Sarpy County. He noted that his property includes 84 tillable acres, 74 woodland acres and a one-acre homestead and in 2010 his family accepted a permanent conservation easement to protect it for agriculture and future generations.

Jarel Videska, Sarpy County farmer, testified in opposition. He noted his family purchases 123 acres that already had a conservation easement from the previous owners. He noted the previous owners lived out of state, but lived on the property as children and were nature lovers so they put an easement on it. He noted he is fine with the easement and all he has to do is keep it as cropland and sustainably manage the timber.

Al Davis, Nebraska Sierra Club, testified in opposition. He noted this bill restricts the right of farmers and ranchers on their own land and said that it is an egregious invasion of personal property rights. He said county officials shouldn't be allowed to meddle in people's rights. He noted that easements are a tool used to protect wildlife and natural spaces and allows beginning farmers and ranchers to get started.

Kimberly Stuhr, Friends of the Niobrara, testified in opposition. She noted that easements are truly the only way to protect unique and beautiful places. She noted that if a place is worth preserving now then it wouldn't be any different in 99 years. He noted that in 99 years, she could see great pressure to line the river with cabins and retail stores. She noted that Sarpy County's goal is to develop everything and that the county did have some of the best soils in the world that are being lost.

Katie Torpy, Nature Conservancy, testified in opposition. She noted that a commitment to conservation overwhelming transcends Nebraskans differences. She noted this bill weakens one of the tools that best accomplishes preserving water and land. She noted easements ensure that land will always be available and keeps land parcels together.

Kristal Stoner, Audubon Nebraska, testified in opposition. She noted there is value in easements as a voluntary program and practical tool. She noted that easements ensure grasslands remain intact for cattle and bird, and wetlands continue to filter our drinking water and benefit waterfowl. She said 0.35 percent of the state is under conservation easements and decisions should remain in the hands of private owners to make these decisions.

Vern Jantzen, Plymouth farmer and Nebraska Farmers Union, testified in opposition. He said the NFU advocates for voluntary programs to protect soil and water. He noted that easements preserve and protect environmentally sensitive areas on farms and ranches and are voluntary, adding that they are not being overused or abused.

Neutral

Kyle Kyuwen, Clay County, testified in the neutral. He noted that he would testify in support, but 99 years is too long for an easement. He said that placing an end date on easements allows the landowner to step back and look to see if the easement needs reevaluated or discontinued. He said that human rights are with us until death and we should not be making decisions for future generation beyond on our death.

In his closing, Sen. Murman noted that the vast amount of land and water that will be set aside in 30x30 is concerning. He said the 30 percent is likely just the beginning. He noted the bill leaves easements in place, but allows local control and decision making for future generations.

There were 22 proponent letters, 11 opponent letters and two neutral letter submitted.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 1146 - Change provisions relating to the Interlocal Cooperation Act. Friesen.

The bill adds language to require that only members of the governing bodies of public agencies party to an agreement under the interlocal cooperation act comprise the membership of any such separate legal or administrative entity.

No joint entity proposed for creation by agreement pursuant to section 13-804 shall be authorized and effective until such agreement is first approved by the eligible voters of the public agencies of this state which are party to such agreement; and no joint entity shall issue bonds under this section for any building or infrastructure project proposed by such joint entity until such proposed project is first approved by the eligible voters of the public agencies.

The Government Committee held the hearing for LB 1146 on Feb. 11th, 2022.

In his opening, Sen. Friesen, District 34, noted the bill requires a vote of people to form a joint agency under interlocal act and vote of people for building or structure proposed by agency. He stated an amendment will be offered to limit this bill to only schools and ESUs, which would enforce that you can't build school improvements without a vote from the people to be heard.

Proponents

None

Opponents

Lynn Rex, Nebraska League of Municipalities, testified in opposition. She noted that interlocal agreements put lids on funds in the past and a major concern is only members of the public body can serve, excluding lawyers and CPAs – the kind of people you need on boards. She said a vote of people to form interlocal agreements is problematic because they don't want competition. She noted appreciation for the amendment to ensure it is only for schools.

Chris Dibbern, General Counsel with Nebraska Municipal Power Pool, testified in opposition noting that interlocals are valuable tools and adding a public vote can be expensive and unnecessary.

Chris Connolly, City attorney for Lincoln, testified in opposition. He noted that interlocals can be beneficial, fast, and effective for people and elected officers to come together. He said requiring a vote of people for new interlocal causes tax-payers' needless dollars, and that they do good work and voting for them is useless.

Jack Cheloha, City of Omaha, testified in opposition. He noted that Omaha already has many interlocals and one of them is already with the schools, which includes shared libraries. He noted the city does not want to hinder what is already in place.

Beth Bazyn Ferrell, NACO, testified in opposition. She noted that delays will occur if counties were forced to vote and noted concerns about members that would serve on boards.

Jason Alexander, superintendent of Beatrice Public Schools, testified in opposition. He noted schools have a duty to address current issues from health inspectors. He noted this bill would unnecessarily use taxpayer dollars when there is already strategies in place that improve the public welfare.

Janet Byers, Beatrice Board of Education, testified in opposition. She noted that their current schools have safety issues and they took things into their own hands to correct them. She said the Beatrice community wanted a new school without tax increases. She said if this law would've been in place when Beatrice School had their successful interlocal, nothing would've been accomplished.

Erin Chadwick of Beatrice testified in opposition noting the same concerns as Janet Byers.

Brandon Lavaley, superintendent of Wahoo Public Schools, testified in opposition. He said that constricting interlocal agencies benefits no one.

No neutral testimony was given, and Senator Friesen waived closure.

There were two proponent and three opponent letters submitted for the record.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 1160 - Appropriate federal funds to the Department of Environment and Energy for reverse osmosis systems. Wishart.

The bill proposed to appropriate \$10M in Federal ARPA Funds in FY 2022-23 to the Department of Environment and Energy for the purposes of providing grants for installation of reverse osmosis systems. Provisions of the bill and a \$4M appropriation was included in LB 1014e.

The bill proposed that grants shall be provided to communities with drinking water test levels above 10ppm nitrate and if appropriate, to install reverse osmosis systems if test levels are above 10ppm in private wells.

The Appropriations Committee accepted testimony on LB 1160 on March 3rd, 2022.

In her opening, Senator Wishart noted she brought the bill on behalf of the Ag Leaders Group, which includes the Nebraska Cattlemen, Nebraska Farm Bureau, Nebraska Corn Growers, Dairy Association, and Nebraska Soybean Association.

Senator Wishart stressed this is a short-term solution. Other actions like Senator Gragert's resilient soils and water quality bill (LB 925) and other actions need to be taken to protect supplies long term.

When asked if this bill would cover the cost of repairs and maintenance on existing systems. Senator Wishart responded that repairs and upgrades to existing systems would qualify under this bill.

When asked for a definition of a small community as so noted this is intended for communities outside of Lincoln & Omaha. It would also be available for individual domestic wells.

Proponents

Steve Sunderman from Norfolk testified in support of the bill on behalf of the Ag Leaders Group. He mentioned this is a short-term solution to the water quality problems. He mentioned farming practices have improved and they continue to farm more efficiently.

Farmers are growing more with less water and fewer inputs. Producers continue to explore new technologies to improve the nitrates in our water supply. We continue to look at ways to minimize losses of nitrates in our soil. The

upfront cost for reverse osmosis systems is significant but also noted this does not remedy the nitrate issue rather is a short term solution while we continue to work towards improving practices and adopting technologies to reduce nitrates in groundwater.

Ken Winston, Bold Alliance, testified in support and stressed that protecting water quality is a priority. He noted this is just a short-term step to address the water that has been contaminated by nitrates and more needs to be done to protect water from being contaminated.

Al Davis, NE Sierra Club, echoed comments by Ken Winston and noted this provides a tool for communities to address nitrate issues and provide safe, clean water.

There were no opponents or neutral testimony. Submitted letters included one in opposition and one neutral.

Senator Wishart waived closing.

The Committee reported no action on the measure and the bill was indefinitely postponed at the end of the session.

LB 1262 - Adopt the Recreation Area Assistance Act and state intent regarding appropriation of federal funds. Murman.

The Natural Resources Committee advanced LB 1262 to General File on March 17th by a 5-3 vote with committee amendment, AM 2411. The measure was not advanced further, and the bill has been indefinitely postponed

The amendment deleted language identifying specific project types that may or may not meet recently updated guidelines under ARPA and replaces it with a requirement that it cover projects in recreation areas that comply with the federal American Rescue Plan Act of 2021 (ARPA), which include potential investments in water, sewer, or broadband infrastructure.

The bill proposed to appropriate \$8M in Federal ARPA Funds in FY 2022-23 to the newly created Recreation Area Assistance Fund to be managed by the NGPC for projects at a recreation area surrounding a lake measuring at least 3,000 but not more than 20,000 acres.

The original bill outlined the following specific uses of the fund. The committee amendment struck all of these and replaced it with a requirement that it cover projects in recreation areas that comply with the federal American Rescue Plan Act of 2021 (ARPA), and which include potential investments in water, sewer, or broadband infrastructure.

- (a) Provide new or refurbished boating docks;
- (b) Improve access roads and related infrastructure for the recreation area;
- (c) Improve Internet access and telecommunications service for the recreation area;
- (d) Promote the use of the recreation area and related tourism attractions, including, but not limited to, splash pads, dog parks, and dog runs;
- (e) Create recreational trails;
- (f) Promote fishing and create fish cleaning stations;
- (g) Create tourist attractions;
- (h) Create kayak landings; and
- (i) Create and improve camping and recreational vehicle sites.

Again, all of the above specific uses were eliminated with the committee amendment (AM 2411).

The bill included intent that the money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium.

The Natural Resources Committee held the hearing for LB 1262 on Feb. 3rd, 2022.

Opening on the bill, Sen. Murman noted that there are worthy recreation areas outside of the recommendations brought for the state's largest two lakes by the STAR WARS committee. This bill allows the state's next four largest lakes to receive funding for enhancements. These lakes would include Harlan County, Calamus, Swanson, and Sutherland reservoirs. Projects would make recreation areas more attractive and boost local private businesses.

Proponents

Jim Swenson, Deputy Director of NGPC, testified that enhancement of recreation opportunities brings additional economic activity and that projects proposed are commonly requested by the public. He noted NGPC manages three of the four areas that fall within the parameters of the bill. While the fourth, Harlan County, is managed by the US Army Corp of Engineers the local communities would still benefit. Adding and improving campsites would be a priority of NGPC, and he noted just last year NGPC saw a year over year \$2 million increase in camping revenue.

Scott Smathers, Nebraska Sportsman Foundation, testified that the bill would be beneficial. However, he noted they have concern over the 3,000 acre limitation, does that include land and water? More definition of what will be done at particular recreation areas should also be included. He suggested using ad hoc committees from local areas to identify what projects are really needed.

Emily White, Harlan County Tourism Director, noted that fluctuating levels have left some lake amenities in disrepair around Alma. Covid has impacted the area and small businesses were hit hard. The Corp. runs the lake, and their money doesn't typically cover things along the northwest shores of the lake. She noted they would like to have a dock off of Main Street in Alma. It was highlighted that they had 670,000 visitors in 2019, but they need more campsites, they need a dock, and there's the need for additional non lake activities.

Cynthia Boehler, Harlan County Board of Supervisors, noted COVID negatively affected businesses during tourist season. From Hwy 183 to the first campground there is undeveloped shore that is leased to the city of Alma and there is demand in this area for a larger RV park. She noted there is no public beach and making a beach would be an enhancement. She discussed that the proposal for a large lake in Eastern Nebraska will pull some of the area's visitors away, so there is the need to enhance the area.

No opposition or neutral testimony was provided. Online letters of support were submitted by 9 proponents.

LR 263CA – A constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed. Blood.

State senators advanced LR 263 CA to Select File by a 34-5-10 vote on March 28th, 2022. The measure was not placed on the agenda for Select File debate and the measure was indefinitely postponed at the end of the session. The Government Committee reported LR 263CA to General File on Feb. 3rd following an 8-0 committee vote.

The proposed constitutional amendment would require that the Legislature shall not impose responsibility for a program created after the year 2022 or an increased level of service required under an existing program after the year 2022 on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the cost of such program or increase in level of service.

The reimbursement by the state shall be in the form of a specific appropriation or an increase in state distribution of revenue to such political subdivision.

The Government Committee accepted testimony on LR 263CA on Jan. 28th, 2022.

In her opening, Senator Blood referred to multiple programs required of school districts, counties and other local political subdivisions that were never funded but dumped back on the local government to fund with property taxes.

Proponents

Don Kelly, Chairman of Sarpy County Board of Commissioners, testified in support. He noted over several years, well-meaning programs are imposed to local governments but the ability to pay for the programs is limited by budget limitations. The bill would benefit the legislature by adding funding for services/programs that the legislature puts into practice. He provided a handout to the committee listing out the mandated items on counties.

Connie Knoche, representing Open Sky testified in support. She noted this has contributed to the high reliance on property taxes to fund all these mandates. Nebraska counties only receive 28% of their funding from state while the average is 32% for other states. They would feel more comfortable if the legislature made it that state revenues were also sufficient to meet any future mandates.

David Beck, Rural Businessman in Phelps, Franklin and Webster counties, testified in support. He noted it has been increasingly difficult to make a living and find a place to live in rural areas. Instead of pushing the financial burden to local government he would like to see it funded by the state.

Jon Cannon, representing NACO, testified in support. He said they have been discussing unfunded mandates for many, many years. This is a property tax issue. He noted the counties have accepted the duties pushed back on local government but it has caused a heavy reliance on property taxes. The local counties also have tax limits imposed on them by the state. He said we need to do a better job in balancing new duties with adequate funding from the state.

Kristy Abraham, League of Nebraska Municipalities, testified in support. She noted municipalities have a lot of unfunded mandates from the state. In addition, the local-option sales tax must be refunded when companies become eligible for state incentive programs like the ImagiNE act. This local-option sales tax money was budgeted for other local purposes. Further, in 2011 state aid to municipalities was taken away and the purpose of that money was for the shrinking property tax base because of exemptions given.

Brennen Miller, Lancaster County Board of Commissioners, testified in support. He stated the county must pay for the offices of DHHS employees and legal representation in juvenile court and district court. Counties have to be careful when budgeting because unfunded mandates are a major part of the total local expenditures.

Eric Gerrard, City of Lincoln, testified in support. He noted this would be a big deal for all political subdivisions because it would provide real property tax relief.

Jack Cheloha, City of Omaha, testified in support. He noted that cities must provide tax refunds under state incentive programs. When a company gets an economic incentive from the state for state tax refunds, cities also must refund the local sales tax even though the application for the program is not through the city. This has been between \$8-15 million that the city must refund that is not budgeted for.

LR 264CA – A constitutional amendment to prohibit the imposition of taxes other than retail consumption taxes and excise taxes. Erdman. Co-sponsored by Albrecht, Brewer, Clements, Halloran, McDonnell and Murman. Erdman Priority.

Senator Erdman failed to get enough votes to advance LR 264 CA to Select file on April 5th, losing by a 19-14-13-3 vote. Twenty-five votes were needed. The measure was indefinitely postponed at the end of the session.

The constitutional amendment proposed that on and after January 1, 2024, notwithstanding any other provision of this Constitution to the contrary, no taxes other than retail consumption taxes and excise taxes shall be imposed upon the people of Nebraska.

Last year, Senator Erdman introduced LR 11 which had the same consumption tax limitation, but it did not include excise taxes. The 2021 proposal fared better but still failed to advance from General File, failing on a 23-19-5-2 vote

The Revenue Committee advanced LR 264CA to General File on Feb.24th on a 5-0-3 vote.

Erdman claimed replacing property, income, sales and inheritance taxes with a flat consumption tax — with a rate of approximately 9 percent — would increase economic growth by attracting residents and creating jobs.

Other senators claimed that current tax system is flawed and a simple tax system with a single rate would be best.

Sen. Steve Halloran of Hastings also supported LR264CA, saying the state’s current tax system is flawed. He said lawmakers would create a “nuts and bolts” bill to implement the proposal in the next legislative session if voters approve it.

Sen. Mike Jacobson said he was intrigued by the proposal. He said implementing a consumption tax through legislation, however, rather than a constitutional amendment, would allow lawmakers to change the new system more easily.

Jacobson also raised several questions about how the proposal would be implemented. He questioned, for example, whether the state would assume responsibility for paying off bonds issued by local political subdivisions that could no longer levy their own taxes.

Additionally, he said, the consumption tax rate likely would have to be much higher than 9 percent to raise the same amount of revenue as the current system.

Sen. Tom Brandt of Plymouth said he was concerned that, by approving the proposal, voters would cede control of local political subdivisions, including school districts, to a central state authority. That authority would have to approve local funding requests and could decide to consolidate smaller school districts, he said.

How they voted on LR 264CA:

Yes (19) – Albrecht, Bostelman, Brewer, Briese, Cavanaugh, M, Clements, Geist, Gragert, Halloran, Hansen, B., Hilgers, Hilkeman, Hunt, Lathrop, Lowe, McDonnell, Moser, Murman, Wayne.

No (14) – Aguilar, Blood, Bostar, DeBoer, Dorn, Flood, Friesen, Kolterman, Linehan, McCollister, Pansing Brooks, Slama, Vargas, Williams.

Present - Not Voting (13) – Arch, Brandt, Cavanaugh, J., Erdman, Hansen, M., Hughes, Jacobson, McKinny, Morfeld, Sanders, Stinner, Walz, Wishart.

Excused - Not Voting (3) – Day, Lindstrom, Pahls.

The Revenue Committee held the hearing for LR 264 on Feb. 3rd, 2022.

Senator Erdman noted in his opening, if 264 CA passes most bills in the future will not be needed because we won’t be trying to fix income, sales, inheritance, and property taxes anymore. He claimed it could lead to the Legislature only meeting every other year. He claimed it is a simple fix to a big problem.

Multiple individuals testified in support. Common themes included, but not limited to: Property taxes are too high; Income tax is complicated; Sales tax is not implemented fairly and too many exemptions; Inheritance taxes are too high; Consumption tax is fair, makes people pay that are not paying now, would lower their taxes and improve their quality of life in Nebraska.

Multiple organizations testified in opposition including: The Open Sky Institute; Nebraska Chamber of Commerce; Nebraska Hospital Association; Insurance Federation; Nebraska Farmers Union; Nebraska Grocery Industry

Association, Nebraska Hospitality Association; Nebraska Retailers; Nebraska Architects, Home Builders, Nebraska Real Estate; New Car and Trucks Association; and Wine Institute.

Opposition testimony focused on the negative economic impact and unintended consequences of a consumption tax. Analysis on proposals have shown that the proposed rates would have to be twice as much as proposed to replace the revenue lost. It was also outlined the tax would have to apply to services such as health care and education. A 15 to 20 percent consumption tax rate also would drive retail businesses to neighboring states, emphasizing that 45 percent of our economy within an easy drive to a bordering state.

Online letters were submitted by 75 proponents and 12 opponents.

Section Three – Interim Study Resolutions Introduced in 2022

Interim Studies -- The following is the list of Interim Study Resolutions introduced in 2022 that are of interest to natural resources districts.

A link to all interim studies introduced can be found at: <https://nebraskalegislature.gov/session/interim.php>.

LEGISLATIVE RESOLUTION 330, Introduced by Linehan, 39.

PURPOSE: The purpose of this resolution is to propose an interim study to determine what percentage should be used to forecast revenue when preparing fiscal notes and determine if state agencies or political subdivisions should use the same percentage when preparing their estimates on the fiscal impact of a specific bill.

The study should also examine how the percentage interplays with the Nebraska Economic Forecasting Advisory Board when calculating the increase or decrease in projected revenue.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Appropriations 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 and the Clerk of the Legislature.

LEGISLATIVE RESOLUTION 351, Introduced by Clements, 2.

PURPOSE: The purpose of this resolution is to propose an interim study to evaluate the feasibility of the construction, operation, and maintenance of public river port facilities on Nebraska waterways. This study shall include, but not be limited to:

- (1) Examining the feasibility and logistics of the construction of public port facilities on Nebraska waterways, including the Missouri River;
- (2) Reviewing the public benefits of the operation of public port facilities on Nebraska waterways;
- (3) Determining whether commercial transport of goods along Nebraska waterways generates economic benefits to Nebraska citizens;
- (4) Studying environmental, public safety, and administrative issues associated with the operation of public port facilities;
- (5) Examining funding opportunities to construct and operate public port facilities; and
- (6) Reviewing related state statutes and local ordinances impacting the construction, operation, and maintenance of public port facilities on Nebraska waterways.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Transportation and Telecommunications 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.

LEGISLATIVE RESOLUTION 362 Introduced by McDonnell, 5.

PURPOSE: The purpose of this resolution is to propose an interim study to examine the costs and benefits associated with the usage of permeable surfaces.

This study will determine the water quality and quantity benefits of permeable surfacing and measure the cost of installation and maintenance against the reduced costs for storm water conveyance infrastructure.

This study shall include, but not be limited to:

- (1) Determining what qualifies as a permeable surface;
- (2) Evaluating the cost of installation of permeable surfaces compared to traditional surfaces;
- (3) Evaluating the cost of operation and maintenance associated with permeable surfaces compared to traditional surfaces;
- (4) Determining the environmental impacts of permeable surfaces to water flow and runoff;
- (5) Determining the water quality benefits of permeable surfaces compared to traditional surfaces in terms of pollutant retention and reduction;
- (6) Determining the water quantity benefits of permeable surfaces compared to traditional surfaces in terms of volume and rate of storm water runoff;
- (7) Determining the relative economic benefit in terms of dollar value or a dollars-per-acre metric of water quality and quantity benefits of permeable surfaces compared to traditional surfaces;
- (8) Determining the minimum or maximum size threshold at which the water quality and quantity benefits of permeable surfaces are negligible compared to traditional surfaces; and
- (9) Determining potential statutory changes that balance the costs and benefits associated with the usage of permeable surfaces including potential property tax reduction.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH 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 purpose 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.

LEGISLATIVE RESOLUTION 383, Introduced by Erdman, 47.

PURPOSE: The purpose of this resolution is to propose an interim study to explore best practices for the implementation of a consumption tax in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Revenue 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.

LEGISLATIVE RESOLUTION 402, Introduced by McCollister, 20.

PURPOSE: The purpose of this resolution is to propose an interim study to assess the ranking criteria and practices of the Nebraska Environmental Trust.

The six-member grants committee votes on which projects are eligible for grants with only projects that have at least three of the six members rate the project a perfect score of eleven being eligible for grants. This year the committee deemed eighty-two of the one hundred eighteen projects eligible for grants, an abnormally low amount. Of those eighty-two, seventy-one projects were granted funding, so the trust only spent around fourteen million dollars out of the approximately twenty million dollars allocated to the trust to spend this year.

The funding of only sixty percent of the project applications and expenditure of only sixty-five percent of the funds authorized is unprecedented. The rating of the grants this year also raises a concern as rating scores differed wildly and illogically for projects that had traditionally been funded. One project that had received funding each previous year it had applied was deemed ineligible, with two reviewers rating it an eleven and another rating it a two.

The study is intended to assess the rating criteria of the Nebraska Environmental Trust and any other potential factors that might result in such unprecedented changes.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH 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.

LEGISLATIVE RESOLUTION 421, Introduced by Bostar, 29.

PURPOSE: The purpose of this resolution is to propose an interim study to examine property rights issues. In order to carry out the purpose of this resolution, the committee shall seek the assistance of attorneys with experience in eminent domain.

The right to own property is fundamental to American law. The Fifth Amendment to the United States Constitution provides that private property cannot be taken without due process and that such property can only be taken for a public use with just compensation. Article I, section 3, of the Nebraska Constitution requires due process to take private property and Article I, section 21, requires just compensation for property taken for public use.

Eminent domain is a process by which the government takes property from unwilling property owners and should be used only as a last resort. An easement taken by eminent domain may permanently alter the character of the land and its surroundings, including impacts on natural resources, and may create liabilities which fall on the property owner.

Section 76-710.04 restricts the use of eminent domain for economic development purposes but carves out certain exceptions including exceptions for a pipeline and a transmission line. An easement taken by eminent domain for major infrastructure projects like pipelines may create abandonment, restoration, and reclamation issues. A one-time payment for a permanent easement for a pipeline project that generates income for a private business may not provide just compensation to the property owner as required by the state and federal constitutions.

The use of zoning by local jurisdictions may provide one means of protection for property owners. Limiting easements for property taken for private gain to a term of years or requiring reversion to the property owner upon abandonment may provide other means of protecting property owners.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary 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.