



April 19, 2012

TO: NARD Board of Directors, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: April 19 NARD Sine Die Update

The Nebraska Legislature adjourned Sine Die April 18, 2012 on day 60 of a 60-day session. The next regular session is scheduled to begin January 9, 2013. 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 2012 Legislative Bills of interest to natural resources districts.

The first section lists bills that were passed by the Legislature and approved by Governor Heineman (Pages 1-11). The second section lists bills that have been indefinitely postponed (pages 11-20). The third section lists Interim Study Resolutions that were introduced in 2012 (pages 20-21). A spreadsheet is included in the back of the document for a quick reference to all bills of interest to natural resources districts.

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.

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

LB 391e - Create the Nebraska Invasive Species Council. The bill establishes the Nebraska Invasive Species Council to recommend action to minimize the effects of harmful invasive species in Nebraska. Invasive species is defined in the bill to mean aquatic or terrestrial organisms not native to the region that cause economic or biological harm and are capable of spreading to new areas.

Senator Schilz was successful in getting **AM 2402** adopted to the bill and then re-advanced to Final Reading. Schilz' amendment clarifies that the council created under the bill would not be paid or reimbursed for expenses, requires the Nebraska Game and Parks Commission to provide administrative support to the council, authorizes the council to select a chairperson from its members and clarifies how invasive species may be disposed of. The amendment also clarifies that all voting members are appointed by the Governor and adds the emergency clause.

On General File, senators adopted the committee amendment, **AM 683**, which clarifies that pets are not considered invasive species and also adds a representative of the Nebraska Association of Resources Districts as a voting member of the council. On Select File, senators adopted three amendments offered by Senator Schilz to make some other changes to the bill.

First, **AM 1830** changes the representative of the Nature Conservancy from a voting to a non-voting member of the council. The amendment also adds "an electric generating utility" as a voting member.

Second, **AM 1831** extended a report date by one year. The council would be required to file a report to the Legislature's Agriculture Committee prior to the 2015 legislative session.

Third, **AM 1928** incorporated some of the provisions in **LB 392** to authorize the Nebraska Game and Parks Commission to adopt rules and regulations relating to aquatic invasive species. The amendment, and amended by **AM 2402**, would make it illegal for any person to possess, import, export, purchase, sell, or transport aquatic invasive species except when authorized by commission personnel, the owner or person authorized by the owner when removing an aquatic invasive from a conveyance to be killed or disposed of in a manner determined by the commission. The amendment would authorize NGPC officers to stop and inspect any conveyance vehicle. Conveyance vehicle is defined as a motor vehicle, a vessel, a trailer, or any associated equipment or containers which may contain or carry aquatic invasive species. The amendment also creates a Class III misdemeanor for any person that (a) fails or refuses to submit to an inspection of a conveyance requested by an authorized inspector; or (b) refuses to permit or prevents proper decontamination or treatment of a conveyance as prescribed by the authorized inspector.

The council would be governed by up to a 13-member group, all appointed by the Governor, including: 1) An electric generating utility; 2) the Nebraska Game and Parks Commission; 3) the Department of Agriculture; 4) the Nebraska Forest Service; 5) the University of Nebraska-Lincoln; 6) the Nebraska Cooperative Fish and Wildlife Research Unit of the University of Nebraska; 7) the Nebraska Weed Control Association; 8) the Nebraska Association of Resources Districts; and 9) up to five members at large who shall represent public interests, at least three of which shall represent agricultural land owner interests, as appointed by the Governor.

The bill also includes “non-voting” members to the council including: The Midwest Region of the National Park Service – US Department of Interior; the Animal and Plant Health Inspection Service of the United States Department of Agriculture; the Natural Resources Conservation Service of the United States Department of Agriculture; the United States Geological Survey; and the Nature Conservancy – Nebraska Field Office.

The council would be responsible for developing and updating a statewide adaptive management plan for Nebraska citizens. The plan would address the following: 1) Statewide coordination and intergovernmental cooperation; 2) prioritization of invasive species response and management; 3) early detection and prevention of new invasive species through deliberate or unintentional introduction; 4) inventory and monitoring of invasive species; 5) identification of research and information gaps; 6) public outreach and education; 7) identification of funding and resources available for invasive species prevention, control, and management; and 8) recommendations for legislation regarding invasive species issues. The council would be required to file a report to the Legislature’s Agriculture Committee prior to the 2015 legislative session.

The bill was introduced by Senator Schilz. Senators gave final approval to **LB 391e** by a 43-0-6 vote on March 30, 2012. The bill was approved by the Governor on April 5, 2012, included the emergency clause and became law immediately after the Governor signed it.

LB 473 -- Adopt the Black-Tailed Prairie Dog Management Act. The bill creates the Black-Tailed Prairie Dog Management Act which allows a county to adopt and carry out a coordinated program for the management of black-tailed prairie dogs on property within the county. The bill also authorizes any person to manage prairie dogs on their own property and to prevent the expansion of colonies to adjacent property.

If a landowner allows prairie dog colonies to expand to an adjacent landowner’s property, the bill allows the adjacent landowner to ask the county for corrective action including management and fines to be imposed on the landowner where the prairie dog colony originated.

The committee amendment (**AM 782**), which was adopted on General File, inserts a new subsection that requires elements of the management plan to include a finding of necessity, a listing of methods of management, and to specify that such management plan shall not conflict with any state plan for the management of prairie dogs or the Non-Game and Endangered Species Act, or state or federal recovery plan for the endangered or threatened species. The amendment also asks counties to cooperate and coordinate with state and federal wildlife and land management entities.

The bill was introduced by Senator Louden. Senators gave final approval to **LB 473** by a 32-11-6 vote on March 8, 2012. The bill was approved by the Governor on March 14, 2012.

LB 498 - Change water resources provisions relating to in situ uranium mining. On General File, senators adopted **AM 1581** and **AM 1658**. Originally the bill would have exempted in situ uranium mining in which water is subsequently re-injected into the underlying aquifer from which it was withdrawn from the Industrial Ground Water Regulatory Act and from the definition of consumptive use. The Natural Resources Committee amendment (**AM 1581**) replaced the bill. Current law allows a permit to be amended unless it would increase daily peak withdrawal or the annual volume by more than 25 percent from the amounts allowed in the original permit. The committee amendment made an exception to this rule for applications requesting an increase in the maximum daily volumetric flow rate or annual volume to levels allowed under a Department of Environmental Quality-issued permit.

Senator Louden was successful in adding **AM 1658** to the bill which clarifies that exemptions for NDEQ permits are those granted under the general authorities of NDEQ or the Environmental Quality Council.

The bill was introduced by Senator Louden. Senators gave final approval to **LB 498** by a 49-0 vote on March 1, 2012. The bill was approved by the Governor on March 7, 2012.

LB 526e - Change provisions relating to water transfers. As amended with **AM 1784** and **AM 1992**, the bill allows for an entire surface water irrigation right to be transferred for a non-consumptive use. Current law also allows for a transfer of the full water right if both the current use and the proposed use are for irrigation, the number of acres to be irrigated will not increase after the transfer, and the location of the diversion from the stream will not change.

The committee amendment (**AM 1784**) addressed the concern raised at the hearing that allowing a transfer that is a change in preference of use or point of diversion could possibly harm existing surface water appropriators. The amended language would place conditions on such a transfer, including that the transfer or change in purpose will not diminish the supply of water available or otherwise adversely affect any other water appropriator, adversely affect Nebraska's ability to meet its obligations under a multistate agreement, or result in administration of the prior appropriation system by the Department of Natural Resources, which would not have otherwise occurred.

The bill addresses a situation for natural resources districts that have been leasing surface water rights for stream flow augmentation, but only being credited for the consumptive use portion of the water right. In those cases, districts would pay for the full water right, but would only be credited with less than one-half of the purchased water.

Senator Carlson was successful in adding the emergency clause to the bill with **AM 1992** on General File.

The bill was introduced by Senator Carlson. Senators gave final approval to **LB 526e** by a 47-0-2 vote on March 8, 2012. The bill was approved by the Governor on March 14, 2012.

LB 719 – Change and eliminate provisions of the Records Management Act, transmission of reports, and certain surcharge and convenience fees. The bill serves to expand the public's access to public records to also include electronic information and services through portals. The bill amends several sections of statute deleting references to "gateway" and "electronic network" and replaces them with the term "portal."

Electronic information and services defined in the bill means any data, information, or service that is created, generated, collected, maintained, or distributed in electronic form by a state agency or local agency through transactions with individuals, businesses, and other entities by means of electronic access.

The bill also eliminates outdated sections of law dealing with public bidding statutes, public records, and micrographic production and processing.

The original version of the bill would have allowed for a surcharge or convenience fee imposed by a state official or state agency and required it to be honored by the credit card or charge card company or third-party merchant bank. The committee amendment (**AM 1842**) was adopted on General File which removed the section in the bill regarding surcharge or convenience fees imposed by state agencies.

The bill was introduced by Senator Price. Senators gave final approval to **LB 719** by a 49-0 vote on April 4, 2012. The bill was approved by the Governor on April 10, 2012.

LB 723 – Change provisions relating to small systems under the Nebraska Safe Drinking Water Act. The bill amends the Nebraska Safe Drinking Water Act so that it is in compliance with federal law. There is no longer a reference in federal law to a water system currently defined in Nebraska law as a "small system." Thus, the bill eliminates the definition of "small system" under the Nebraska Safe Drinking Water Act and refers instead to "public water systems serving fewer than 10,000 persons." The bill also maintains a lower fine for administrative violations under the act for public water systems that serve less than 10,000 individuals.

The bill was introduced by Senator Bloomfield. Senators gave final approval to **LB 723** by a 46-0-3 vote on March 8, 2012. The bill was approved by the Governor on March 14, 2012.

LB 743 - Provide for a fee relating to consideration of a variance under the Nebraska Ground Water Management and Protection Act. The bill allows a natural resources district to assess a fee against a person requesting a variance to water use regulations to cover the administrative cost of the variance request, including, but not limited to, costs of copying records, and the cost of publishing a notice in a legal newspaper of general circulation in the county or counties of the district, radio announcements, or other means of communication deemed necessary in the area where the property is located.

Since the interests of adjacent water user(s) may be affected by granting a request for a variance, districts provide a wide variety of public notice methods to give adjacent water user(s) notice of a variance so that they may have an opportunity to participate in the variance hearing if they desire. Unless otherwise provided by law, the NRDs may grant a variance from their rules and regulations based upon a showing of good cause.

The committee amendment, **AM 1825**, was adopted on General File which struck the term "legal expenses" from the bill. The term was eliminated to address concern that districts could charge attorney fees.

The bill was introduced by Senator Schilz on behalf of the Nebraska Association of Resources Districts. Senators gave final approval to **LB 743** by a 49-0 vote on April 4, 2012. The bill was approved by the Governor on April 10, 2012.

LB 760 - Change provisions relating to meetings of the Environmental Quality Council and grants made to political subdivisions. The bill makes two changes to the Environmental Quality Council. First, the bill proposes to eliminate the requirement that the council have four quarterly meetings per year and replaces it with a requirement that they meet at least twice a year.

Second, current law allows that grants to political subdivisions under the control of the department be made in accordance with the priorities of the council. The bill adds language "unless otherwise required by statute" to that requirement.

The bill was introduced by Senator Schilz. Senators gave final approval to **LB 760** by a 46-0-3 vote on March 8, 2012. The bill was approved by the Governor on March 14, 2012.

LB 770 - Change the Nebraska Seed Law. The bill makes a couple of changes under the Nebraska Seed Law. First, the bill eliminated the specific list of noxious weed seeds in statute and allows the Director of Agriculture to designate noxious weed seeds. Current law allows the director to designate a noxious weed under the Noxious Weed Control Act. Second, the bill changed the date of Rules for Testing Seeds adopted by the Association of Official Seed Analysts from January 1, 1997 to January 1, 2012. All seed in Nebraska is required to be labeled on the basis of tests performed by a seed laboratory using such rules.

The bill was introduced by Senator Carlson. Senators gave final approval to **LB 770** by a 49-0 vote on March 1, 2012. The bill was approved by the Governor on March 7, 2012.

LB 782 - Require that reports submitted to the Legislature be submitted electronically. The 368-page bill requires that reports submitted to the Legislature, including reports to Legislative standing committees and the fiscal office, be submitted electronically. The bill also repeals several sections of law requiring the submission of reports that are no longer required.

On General File, the Government Committee amendment (**AM 1901**) made some other changes including allowing the Clerk of the Legislature to establish requirements for the electronic submission, distribution, and format of reports required to be provided to the Legislature. The amendment also allows the clerk to accept a report in written form only upon a showing of good cause and delays the operative date until January 1, 2015 for those sections of the bill dealing with reports filed by lobbyists and principals.

On Select File, an amendment from Senator McCoy (**AM 2393**) was adopted which outlined a few state reports that are more appropriate to be submitted in print form.

The bill was introduced by Senator McCoy and was a Speaker Priority Bill. Senators gave final approval to **LB 782** by a 42-0-7 vote on March 30, 2012. The bill was approved by the Governor on April 5, 2012.

LB 836e - Change provisions relating to deposit and investment of public funds in certificates of deposit and time deposits. The bill authorizes investment or deposit of state or political subdivision funds in FDIC insured "interest-bearing accounts" rather than only "certificates of deposit" or "time deposits" issued by out-of-state depository financial institutions as part of deposit placement services, such as cash sweep programs. On General File, senators adopted the Banking Committee amendment (**AM 1700**) which further clarifies that participation by a bank or savings and loan in a deposit placement service program is not the exclusive method for securing the uninsured portion of an interest-bearing deposit and that such participation is an alternative to the furnishing of securities or the providing of a deposit guaranty bond.

The bill was introduced by Senator Pahls. Senators gave final approval to **LB 836e** by a 49-0 vote on March 1, 2012. The bill was approved by the Governor on March 7, 2012, included the emergency clause and became law immediately after the Governor signed it.

LB 845e - Provide reclamation requirements under the Oil Pipeline Reclamation Act. The bill outlines reclamation requirements for pipeline companies. On General File, senators adopted the Natural Resources Committee Amendment **AM 2146** which deleted a requirement in the bill that a pipeline carrier ensure that all seed mixes used in reclamation are state-certified under Nebraska Seed Law and statutes related to state-certified seeds that may have had unintended consequences for locally-harvested seed.

The bill proposes that a pipeline carrier shall complete final grading, topsoil replacement, installation of erosion control structures, seeding, and mulching within 30 days after backfill except when weather conditions, extenuating circumstances, or unforeseen developments do not permit the work to be done within such 30-day period. The bill also requires a pipeline carrier to use seeding that is genetically appropriate for the surrounding vegetation, methods and mulch as conditions existed or requested by the landowner, and complies with the Nebraska Seed Law and Noxious Weed Control Act.

The bill was introduced by Senator Sullivan and was her priority bill for the session. Senators gave final approval to **LB 845e** by a 46-0-3 vote on April 2, 2012. The bill was approved by the Governor on April 6, 2012, included the emergency clause and became law immediately after the Governor signed it.

LB 849e – Convey the Pibel Lake State Recreation Area to the Lower Loup NRD. The bill authorizes the Game and Parks Commission to convey the Pibel Lake State Recreation Area, situated in Wheeler County, to the Lower Loup Natural Resources District.

On General File, senators adopted **AM 1777** and **AM 1873**. The committee amendment (**AM 1777**) was essentially eliminated because it had an incorrect reference and was replaced by **AM 1873**. Senator Langemeier sponsored **AM 1873** which placed the following operation, maintenance, compliance and enforcement requirements on the Lower Loup NRD after the property is conveyed:

1. The property shall be maintained so as to appear attractive and inviting to the public;
2. Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards;
3. The property shall be kept reasonably open, accessible and safe for public use. Fire prevention and similar activities shall be maintained for proper public safety;
4. Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their estimated lifetime to prevent undue deterioration and to encourage public use, including the maintenance of the area's federally funded public boating access facilities existing on the property, which is specially assigned and required through 2024; and
5. The facility shall be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.

Senators also adopted **AM 2091** on Select File. This amendment, offered by Senator Langemeier, clarifies the term "commission" to mean the "Game and Parks Commission." The Lower Loup NRD has agreed to the language included in the bill.

The bill was introduced by Senator Sullivan. Senators gave final approval to **LB 849e** by a 46-0-3 vote on March 8, 2012. The bill was approved by the Governor on March 14, 2012.

LB 873e -- Extend sunset of the petroleum release remedial action fund. The bill extends the sunset date for the petroleum remedial action program and fund from June 30, 2012 to June 30, 2016.

The bill was introduced by Senator Schilz. Senators gave final approval to **LB 873e** by a 48-0-1 vote on March 1, 2012. The bill was approved by the Governor on March 7, 2012, included the emergency clause and became law immediately after the Governor signed it.

LB 880 - Provide duties relating to reducing costs and adopting modern methods of state and local records management. The bill adds the term "cost-effective, modern" to the record keeping requirements for state agencies, departments, boards, councils, legislative or judicial branches, and political subdivisions. The intent of the bill is to encourage electronic storage of documents and records rather than paper or microfilm.

The bill was introduced by Senator Pahls. Senators gave final approval to **LB 880** by a 45-0-4 vote on April 4, 2012. The bill was approved by the Governor on April 10, 2012.

LB 950 and LB 950Ae - Change crediting provisions relating to reimbursement of certain assistance to natural resources districts as prescribed. The bill provides an additional \$1.4 million to the Water Resources Cash Fund, bringing the total to \$4.7 million. The emergency clause was included in the companion "A" bill.

The Legislature returned **LB 950** to Select File to reduce the additional funding to the Water Resources Cash Fund by \$1 million. Senators adopted Senator Christensen's amendment on Select File (**AM 2714**) to bring the

appropriation to \$4.7 million, still \$1.4 million above the baseline funding. The bill was re-advanced to Final Reading after adopting the amendment.

In earlier states of debate on the bill, amendments adopted to the bill had started at a \$7.2 million increase, later reduced to \$5.7 million before going to Final Reading the first time. The amendment (**AM 2714**) was part of a compromise package with state senators that brought back several bills that included a specific appropriation to reduce spending in the current fiscal year by over \$10 million.

A companion appropriations bill, **LB 950Ae**, was also brought back to Final Reading for a Select File amendment to mirror the \$4.7 million total appropriation and then re-advanced to Final Reading. The “A” bill was approved by a 45-0-4 vote.

The original proposal in the bill was to redirect any payments from the Republican Basin NRDs to the Water Resources Cash Fund rather than the Water Contingency Cash Fund. Again, the amendments adopted eliminated those provisions and made it a direct appropriation instead. The bill is the Natural Resources Committee Priority Bill for the session.

As a side note, the loan was made in 2008 for water leased by the Republican Basin NRDs while the law authorizing the occupation tax was under challenge. The Nebraska Supreme Court ruled in the summer of 2011 that the tax was constitutional. Under existing law, repayment of the funds started after the court decision and a formal repayment schedule is underway with the Department of Natural Resources. The three Republican Basin NRDs are now making installment payments on the \$8.8 million loan, with over \$1 million paid as of January 13, 2012. The loan is scheduled to be paid off by June 30, 2013.

The bill was introduced by Senator Christensen. Senators gave final approval to **LB 950** by a 47-0-2 vote and **LB 950Ae** by a 45-0-4 vote on April 5, 2012. The bills were approved by the Governor on April 11, 2012. The “A” bill included the emergency clause and became law immediately after the Governor signed it.

LB 959 - Provide immunity to employers for job references. The bill provides employers immunity from civil liability in certain cases.

On Select File, the legislature approved an amendment (**AM 2685**), offered by Senator Smith, to clarify that the written performance evaluation must be provided to the employee during the course of his or her employment.

Senators adopted the Business and Labor Committee amendment **AM 2010** to the bill on General File. The original bill would have provided for absolute civil immunity for current and previous employers providing dates of employment, pay level, job description, and wage history information to prospective employers. The amendment replaces the bill and is based on Arkansas law.

The bill, now in its final form, allows a current or former employer to provide certain information to a prospective employer upon written consent of the prospective employee. The consent would be valid for no longer than six months. Information that may be provided includes: Employment date and duration, pay rate and wage history, job description and duties, most recent written performance evaluation, attendance information, drug and alcohol test results, threatening or harassing behavior, and whether the employee is eligible for rehire.

An employer providing this information pursuant to a written consent shall be immune from civil liability and presumed to be acting in good faith. The good faith presumption may be rebutted upon a showing by a preponderance of the evidence that the information was false and known to be false or the employer acted with malice or reckless disregard for the truth. The bill is sponsored by Senator Janssen and is Senator Coash’s Priority Bill for the session.

The bill was introduced by Senator Janssen. Senators gave final approval to **LB 959** by a 45-0-4 vote on April 4, 2012. The bill was approved by the Governor on April 10, 2012.

LB 968, 969 & 131 budget bills approved – Senators gave final approval to three bills comprising the Appropriations Committee budget adjustment package this week. The state budget is structured on a two-year basis, with the budget enacted during legislative sessions held in odd-numbered years. Sessions in even-numbered years are used to make adjustments to the state’s two-year budget. These bills included:

- **LB 131e -- Passed on Final Reading with Emergency Clause by a 43-1-5 vote.**
- **LB 968e -- Passed on Final Reading with Emergency Clause by a 45-2-2 vote.**
- **LB 969e – Passed on Final Reading with Emergency Clause by a 44-3-2 vote.**

There were several amendments to the bills that reduced spending to finance Governor Heineman’s tax relief package in the first year. In future legislative sessions, the tax reduction package will have to be financed by further cuts in spending. The tax reduction package increases the projected budget deficit in the next budget cycle from \$461 to \$556 million.

Governor Heineman’s plan would have originally cost \$327 million over three years. The tax cut plan was reduced to an estimated \$56 million tax cut annually when fully implemented. The amended plan makes income tax cuts, but does not include the reductions in corporate income tax rates or eliminate the inheritance tax. Senators gave first round approval to the Governor’s proposal, **LB 970**, after the budget bills were advanced to Final Reading.

Some of the reduction in budget bills that were adopted to make the tax package work included:

- Reducing the amount of the Ethanol Production Incentive Cash (EPIC) Fund from \$3.8 to \$1 million;
- Transferring \$10 million from the reserve fund to the general fund to cover special education needs; and
- A \$5 million annual reduction in Medicaid.

The main component of the budget is **LB 968e**, which is the deficit appropriation bill. Included is a one-time appropriation of \$51,000 to the Nebraska Game and Parks Commission for operational funding of the Lake Wanahoo recreation area. No other significant budget changes are made to natural resources programs.

Senators also advanced **LB 969e** which authorizes fund transfers. One component of the bill originally included a transfer of up to \$3.8 million from the general fund to the Ethanol Production Incentive Cash (EPIC) Fund. That appropriation authorization was reduced by \$2.8 million to \$1 million based on projected need.

The third bill dealing with appropriations, **LB 131e**, provides additional funding for university projects, transferring \$80 million from the state’s cash reserve fund for capital construction. As amended, the bill authorizes the following transfers:

- \$50 million for a cancer research center at the University of Nebraska Medical Center (UNMC) in Omaha;
- \$15 million for the UNMC College of Nursing and School of Allied Health Professions at the University of Nebraska – Kearney;
- \$10 million from the cash reserve fund to the general fund for a general fund appropriation to K-12 special education;
- \$7.5 million for improvements to the Oak Bowl at Peru State College;
- \$6.7 million for renovation of the Armstrong Gymnasium at Chadron State College; and
- \$800,000 for Centennial Mall renovation in Lincoln.

Governor Heineman approved the budget bills on April 2, 2012. All three included the emergency clause and became law immediately after the Governor signed them.

NOTE: Governor Heineman did line-item veto a state claims bill (**LB 1072**) which made payments for \$2.5 million in claims filed by child welfare providers in the state. The providers filed claims for the money they were owed when Boys and Girls Home's lead contract ended with the Department of Health and Human Services. The Legislature over-rode the veto on a 31-7 vote.

LB 1058 - Change the Employment Security Law and the New Hire Reporting Act. The bill made several changes to Nebraska employment law to conform to changes to the Employment Security Law and allow Nebraska employers to claim the maximum credit allowed against their federal tax liability under the Federal Unemployment Tax Act.

These include setting up a ten-day period for employers to respond to a notice from the Department of Labor that an employee has filed a claim. The bill also allows the labor commissioner the ability to recover a covered unemployment compensation debt against a person's federal income tax refund. The bill also sets up procedures for notification, responses, hearings and appeals.

The bill was introduced by Senator Carlson and was a Business and Labor Committee Priority Bill. Senators gave final approval to **LB 1058** by a 49-0 vote on April 4, 2012. The bill was approved by the Governor on April 10, 2012.

LB 1125e -- Change provisions relating to natural resources district occupation tax. The bill provides a process for natural resources districts to follow when implementing an occupation tax.

On March 14th, the Natural Resources Committee advanced the bill on an 8-0 vote, with Committee Amendment **AM 2378**. The amendment struck the original language of the bill and replaced it with a four-step process for implementing and providing exemptions to the occupation tax on irrigated land. An 8-0 vote was required to make the bill eligible for a Speaker Priority designation. The committee amendment also included the emergency clause.

The committee amendment replaced the original language of the bill and was approved on General File by a 30-0-19 vote. The process for implementing an occupation tax in the bill is as follows:

(A) Acres classified by the county assessor as irrigated shall be subject to such district's occupation tax unless on or before March 1 in each subsequent year, the record owner certifies to the district the non-irrigation status of such acres.

(B) A district may exempt from the occupation tax acres that are enrolled in local, state, or federal temporary irrigation retirement programs that prohibit the application of irrigation water in the year for which the tax is levied.

(C) Except as provided in subdivisions (A) and (B) of this section, a district is prohibited from providing an exemption from, or allowing a request for a local refund of, an occupation tax on irrigated acres regardless of the irrigation source while the record owner maintains irrigated status on such acres in the year for which the tax is levied.

(D) Notwithstanding subdivisions (B) and (C) of this section, the record owner may present evidence of the non-irrigation status of the acres subject to the tax within 12 months after the date the tax was levied and the district may refund amounts collected upon such acres if an occupation tax was not levied by the district the previous year and the district had not adopted an integrated management plan as described in subsection (1) of section 2-3226.01 by March 1 in the current year. Subdivision (D) of this section terminates on October 1, 2012.

While on General File, Senator Christensen filed an amendment to the committee amendment, **AM 2513**, to strike Subsection C. His amendment failed on a 7-18-24 vote. After the amendment failed, Senators adopted the Committee Amendment (**AM 2378**) and advanced the bill to Select File on a 33-0-16 vote.

The original version of the bill would have allowed a landowner to certify the non-irrigation status of his or her acres subject to the occupation tax after the irrigation season was over. The bill was introduced to address a situation in the Lower Republican NRD, when they adopted their Integrated Management Plan authorizing the use of the occupation tax this past summer. In the fall, the district implemented the occupation tax but wanted to allow landowners to certify irrigated acres as non-irrigated and be exempt from the tax.

The way the bill was originally drafted, it could have been interpreted that all districts imposing the tax would have to provide a refund opportunity for irrigated acres well after the irrigation season. Subdivision (D) of the committee amendment provides an avenue for the LRNRD to provide such without interrupting the occupation tax imposed by other districts. Subsection (D) also sunsets October 1, 2012.

The bill was sponsored by Senator Christensen, includes the emergency clause, and was a Speaker Priority Bill.

The bill was introduced by Senator Christensen and was a Speaker Priority Bill. Senators gave final approval to **LB 1125e** by a 49-0 vote on April 11, 2012. The bill was approved by the Governor on April 17, 2012, included the emergency clause and became law immediately after the Governor signed it.

LB 1161e – Provide for study and evaluation of routes for proposed oil pipelines. Senators gave final approval to **LB 1161e** on a 44-5-0 vote after adopting an amendment on Select File to strike all the previous amendments and replace them with a new amendment offered by Senator Langemeier. His amendment, **AM 2788**, was approved and became the bill.

The amendment outlines that the Nebraska Department of Environmental Quality (NDEQ) may collaborate with federal agencies to do an environmental impact statement on an oil pipeline project or to evaluate a proposed route for the stated purpose of being included in a federal agency's environmental review process. If the NDEQ chooses to evaluate the route, the evaluation shall provide for at least one public hearing, and provide opportunities for public review and comment which shall include the environmental, economic, social and other impacts associated with the proposed route.

The amendment clarifies that the NDEQ can utilize the \$2 million approved for the pipeline review in the November 2011 Special Session. Further, it requires a pipeline carrier to reimburse the NDEQ for the cost of the evaluation or review within 60 days if the carrier does not file for a federal permit or does not use the department's evaluation. The evaluation would be sent to the Governor for consideration.

If the Governor would deny the route or if the pipeline company chooses not to submit a route in a timely fashion, then the company would have to apply to the Nebraska Public Service Commission for a permit under the Major Pipeline Sighting Act (LB 1 from the November 2011 Special Session).

The purpose of the bill is to allow NDEQ to be involved with environmental review of a pipeline. The law passed in the special session only allowed for the review of a specific permit that was denied by President Obama after the Nebraska law was adopted. The bill was Senator Smith's Priority Bill for the session.

The bill was introduced by Senator Smith. Senators gave final approval to **LB 1161e** by a 44-5 vote on April 11, 2012. The bill was approved by the Governor on April 17, 2012, included the emergency clause and became law immediately after the Governor signed it.

LR 40 CA -- Constitutional amendment to establish the right to hunt, to fish, and to harvest wildlife. Pirch. Senators gave final approval to **LR 40 CA** on a 41-3-5 vote, sending the constitutional

amendment providing the right to hunt and fish to the voters for consideration at the General Election in November 2012.

The proposed amendment to the state's Constitution would make hunting, fishing and trapping protected rights for Nebraskans subject to laws, rules and regulations. On Select File senators had adopted **AM 1611**, offered by Senator Pirsch, which clarified that the proposed right to hunt and fish shall not be construed to modify any provision of law relating to water rights. The amendment was added after concern was raised that the right to fish could be used to place a higher priority on stream flow and result in regulation of water for such.

Also adopted on Select File was an amendment (**AM 1871**) offered by Senator Langemeier which clarifies that the Game and Park Commission can continue to administer game laws as necessary.

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 2012 Legislative Session. Some bills were indefinitely postponed before the session ended. Bills indefinitely postponed of interest to natural resources districts included the following:

LB 96 – Change state aid to counties. Revenue Committee. The current state aid to counties formula includes a two part formula. In the first part of the formula, the bill proposed to eliminate the guarantee that each county receives \$30,000 in state aid and replaces it with “up to \$30,000”. The second calculation is the remaining portion based upon the ratio of real and personal property in the county to the state total real and personal property. The existing formula guarantees 0.0075 percent minimum of the total funds. The bill proposed to take the minimum to zero.

LB 103 – Change instream flow appropriation process. Schilz. The bill proposed that an instream flow cannot be granted in a fully or over-appropriated basin, but did allow for a transfer of a natural flow appropriation to an instream flow right.

LB 115 – Change limits under the Political Subdivision Tort Claims Act. Council. The bill proposed to extend the time frame from one year to two years for a claim to be filed against a political subdivision under the Political Subdivisions Tort Claims Act.

LB 118 – Eliminate state aid to natural resources districts. Avery. The bill proposed to eliminate state aid to natural resources districts. (NOTE: State aid to natural resources districts, municipalities, counties and natural resources districts was eliminated with the passage of LB 383 in the 2011 Legislative Session. The state aid to NRDs was \$1.4 million annually.)

LB 119 - Change provisions relating to state aid to incorporated municipalities. Avery. The bill proposed to cap state aid to municipalities to \$9,900,000 and only distributed the funds to municipalities that had a non-bond levy that met or exceeded 75 percent of the state average for non-bond levies.

LB 127 - Change input into determinations and management plans for regulation of water. Avery. The bill would have required that natural resources districts consult with the Nebraska Game and Parks Commission when developing an integrated management plan.

LB 173 - Prohibit natural resources district board members from running for or holding more than one office. Avery. The bill proposed to add natural resources districts to the list of higher offices, which would have prohibited natural resources district board members from holding more than one office.

LB 224 - Change provisions relating to recall of certain political subdivision officials. Avery. The bill proposed that locally elected officials may be recalled only for malfeasance in office, misfeasance in office, nonfeasance in office, or conviction of a crime involving an act of dishonesty or a false statement. The bill defined the terms as follows:

Malfeasance in office was defined in the bill as the knowing and intentional commission by a public official of an unlawful or wrongful act in the performance of the duties of such public official which infringes on the rights of any person or entity.

Misfeasance in office was defined in the bill as the negligent performance by a public official of the duties of such public official or the negligent failure by a public official to perform a specific act which is a required part of the duties of such public official.

Nonfeasance in office was defined in the bill as the knowing and intentional failure by a public official to perform a specific act which is a required part of the duties of such public official.

LB 258 - Provide that entry onto land by a land surveyor is not criminal trespass. Krist. The bill proposed to establish several work related duties of a land surveyor that would exempt such person from criminal trespass on private property.

LB 266 - Change the Open Meetings Act relating to closed sessions. Sullivan. The bill proposed to add a non-elected official for the reason of evaluation of job performance as a purpose of having a closed session of a public body.

LB 328 - Provide for amendment of hydropower appropriations as prescribed. Fischer, Langemeier. The bill proposed that an appropriator could apply to the Director of Natural Resources to amend an appropriation of water for any hydropower plant located within the channel of a river in the State of Nebraska to provide that, in addition to the use of water for hydropower generation purposes, the appropriation may also recognize benefits for fish, wildlife, and recreational purposes.

LB 340 - Adopt the Hazardous Liquid Pipeline Notification Act. Dubas. The bill proposed to establish procedures for owning, operating, or managing a pipeline or part of a pipeline in Nebraska. It would have required an application be filed with the Nebraska Public Service Commission by the carrier. The pipeline carrier would have had the burden to establish that the proposed pipeline would serve the public interest. Prior to determining whether to approve an application, the commission would evaluate:

- (a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules and regulations;
- (b) Evidence regarding the environmental, economic and social impacts of the proposed pipeline;
- (c) Evidence regarding the pipeline carrier's efforts to ensure the health, safety or welfare of the residents of the area along the proposed route of the pipeline;
- (d) The impact of the proposed pipeline on the orderly development of the area around the route of the pipeline;
- (e) The views of the governing bodies of the area around the route of the pipeline; and
- (f) Any other relevant factors as determined by the Commission.

LB 392 -- Provide powers and duties relating to aquatic invasive species. Schilz. The bill proposed to establish the Aquatic Invasive Species Program under the Nebraska Game and Parks Commission. The program would have monitored and sampled waters of the state for aquatic invasive species, hired personnel, including, but not limited to, an aquatic invasive species coordinator and temporary staff, and purchased equipment, provided additional enforcement, education, and research relating to control of aquatic species.

The bill would have authorized NGPC officers to stop and inspect any conveyance vehicle. Conveyance vehicle was defined as a motor vehicle, a vessel, a trailer, or any associated equipment or containers which may contain or carry aquatic invasive species. The bill created a Class III misdemeanor for any person that (a) failed or refused to submit to an inspection of a conveyance requested by an authorized inspector or (b) refused to permit or prevented proper decontamination or treatment of a conveyance as prescribed by the authorized inspector.

The program would have been funded by 20 percent of the current boat registration fees and a new \$30 Aquatic Invasive Species Stamp on out-of-state conveyance vehicles entering Nebraska. **(NOTE: Provisions of LB 392 were amended into LB 391e and was signed into law.)**

LB 395 -- Change voting provisions for members of the Nebraska Environmental Trust Board. Schilz.

The bill proposed to make state agency representatives to the NETF Board non-voting members. These included the Director of Environmental Quality, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, and the chief executive officer of the Department of Health and Human Services or his or her designee. The bill also proposed to make the executive director of the NETF a non-voting member.

LB 444 -- Provide methods for notice under the Open Meetings Act. Avery. The bill proposed to define methods in which a public body shall give reasonable advance publicized notice of the time and place of each meeting. These would have included, but not been limited to, publication in a newspaper of general circulation, posting on the public body's website, or posting in a public building in the community.

LB 484 - Exclude certain activities from the definition of excavation under the One-Call Notification System Act. Hadley.

The bill proposed to add an exemption to the one-call system for soil sampling for agricultural nutrient and water management purposes, soil sampling performed to meet requirements of local, state, or federal regulations, soil sampling performed for manure management, and installation of soil moisture monitoring equipment.

LB 487 - Provide for resolution and ordinance power relating to flood protection and water quality enhancement projects. Karpisek.

The bill proposed to change provisions relating to flood protection and water quality enhancement bonds. Under the proposal, prior to the issue of bonds or funds to an NRD that encompasses a city for a project that includes reservoir, water quality or projects greater than 20 acres, a county board, city council, or village board could pass an ordinance stating that it did not approve the construction. The board would hold a public hearing and vote on the resolution or ordinance within 90 days after notice from the NRD of its intent to issue bonds.

LB 527 -- Change tax levy authority of natural resources districts. Carlson.

The bill would have allowed NRDs that had been preliminarily determined to be fully appropriated, but later reversed, to have access to the three-cent levy to administer and implement ground water management activities and integrated management activities. The bill placed a 2016-17 sunset date on the authorization.

LB 529 - Change provisions relating to conservation and preservation easements and the Nebraska Environmental Trust. Carlson.

The bill proposed several changes to filing and obtaining conservation easements.

First, the bill proposed that the proposed holder shall provide written notice of the proposed easement to the governing bodies of all entities levying taxes on the property at the same time the notice of the proposed conservation or preservation easement is given to the affected governing body.

Second, the notice would have been delivered by first-class mail and would include a statement of the fiscal impact of changing the classification of the property or removing it from the tax rolls.

Third, the proposal would have allowed for a county to deny the easement if it was found to be inconsistent with the best interest of the county.

Fourth, if the easement would have been held by a charitable corporation or trust, it would be limited in duration to ten years. Within 90 days of the expiration of such easement, the corporation or trust would be granted a process, including a public hearing, to continue the easement.

Fifth, the Nebraska Environmental Trust Fund board would have been prohibited from holding property in fee or obtaining easements.

Sixth, the NETF would have been limited to no more than ten percent of the grant allocations in any year that would be used by the recipients for land purchases and easements.

LB 533 -- Change membership of the Niobrara Council. Fischer. The bill proposed several changes to the Niobrara Council, including:

- Requiring that a commissioner rather than a representative be the member to the council from each of the county boards of Brown, Cherry, Keya Paha, and Rock counties.
- Elimination of the Governor's authority to appoint a representative of the US Fish and Wildlife Service and replaced it with the regional director of the National Park Service or his or her designee and the US Fish and Wildlife Service regional director or his or her designee. The proposal also required such federal agencies to formally notify the Niobrara Council and the Governor in writing that such appointees may vote on all matters before the council.
- Eliminating the preference that the council meet one a month and left it open to just having regular meetings.
- Eliminating the prohibition of council members to vote on any matter on which he or she participated or voted as a member of a county board, county planning commission, or natural resources district board.

LB 537 – A bill to change provisions relating to budget limitations and property tax levy. Karpisek. The bill would have allowed political subdivisions to adjust their budgets for fiscal years beginning on or after July 1, 2011, for replacing revenue lost due to reductions in state aid.

LB 595 – Create Water Resources Revolving Loan Fund Act. Carlson. The bill would have created the Water Resources Revolving Loan Fund to provide low interest loans to natural resources districts or any joint entity with a joint project which was to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have had oversight over the program and an administrative fee would have been allowed to pay for operational cost of the program.

The loans under the program would have been for activities related to financing or refinancing the costs of eligible projects including:

- (1) Acquisition by purchase or lease of water rights in accordance with Chapter 46, article 6, pertaining to ground water, and Chapter 46, article 2, pertaining to surface water, including storage water rights with respect to a river or any of its tributaries,
- (2) Acquisition by purchase or lease or the administration and management, pursuant to mutual agreement, of canals and other works, including reservoirs, constructed for irrigation from a river or any of its tributaries,
- (3) Vegetation management, including, but not limited to, the removal of invasive species in or near a river or any of its tributaries,
- (4) The augmentation of river flows consistent with the authority granted under Chapter 2, article 32, and

(5) To develop, store or convey water, and to provide, contract for, and furnish water for domestic purposes, agriculture, manufacturing, and any and all other beneficial uses.

The initial funding source for the program would have come from one-half of the repayment of the loan provided by the State of Nebraska to the natural resources districts in the Republican River Basin for water leased in 2007. The other half of the loan would go into the cash reserve fund.

In addition, a provision was included in the bill to allow a transfer from an unidentified source called "Fund XXX" to allow for negotiation on legislative spending cuts and/or other transfers.

LB 596 -- Provide for standing with respect to integrated management plan proceedings. Carlson. The bill would have allowed standing to participate in any legal or administrative proceedings on integrated management plans by any irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that is the owner of an appropriation that relies on water from an affected river basin, sub-basin, or reach that is included in an integrated management plan. The bill was brought forth by Central Nebraska Public Power and Irrigation District after losing a Supreme Court case against the State of Nebraska and NRDs in the Platte River Basin.

LB 626 -- Adopt the Electronics Recycling and Job Creation Act. Mello. The bill proposed to establish an electronics recycling program under the Department of Environmental Quality for computers, monitors, video display devices, televisions, and other electronic equipment intended for home or residential use. The program would have been funded by fees on manufacturers of such devices based upon the number of electronic devices sold in the state. The fees would have been:

- (a) \$1,250 for sales of 25 but not more than 250 electronic devices;
- (b) \$5,000 for sales of more than 250 but not more than 1,000 electronic devices; and
- (c) \$10,000 for sales of more than 1,000 electronic devices.

A 50% reduction in fees would have been allowed for a manufacturer that could certify to the department that the number of pounds of electronic devices recycled as a percentage of the number of pounds of electronic devices that the manufacturer sold in this state in the previous calendar year exceeded 60%.

LB 645 - Require inclusion of established surface water use and established ground water use in certain agreements between NRDs and DNR. Christensen. The bill proposed to require that when districts had included the regulation of surface water in an integrated management plan to comply with a compact, agreement, or decree, it would include established surface water and groundwater use as determined by the DNR for determining the baseline equitable apportionment of virgin water supply among natural resources districts within such basin.

LB 653 -- Provide for inter-basin transfers during times of flooding as prescribed. Christensen. The bill would have allowed an inter-basin transfer without a permit from the Department of Natural Resources in times of flooding. The transfer could have occurred once the NRD Board and an irrigation district board in the transferring basin agreed with the NRD Board and irrigation district in the receiving basin. The transfer would have had to mitigate public and private property damage when the river draining such river basin is at or above flood stage.

The agreement would also have to have been established in writing prior to the occurrence of such transfer, would specify that the river basin of destination shall be second in time and second in right to all internal water resources projects within the basin of origin, and would include, but need not be limited to, any prearranged purchase price of water, where such inter-basin transfers could take place, under what conditions such inter-basin transfers could take place, and requirements to notify the department and any affected rural water districts, public power and irrigation districts, or other special purpose districts in the basin of origin and the river basin of destination.

When the bill came up for General File debate, Senator Christensen bracketed his bill until the last day of the session, effectively killing the bill for the year. Senator Christensen was unable to come up with language in the bill that met constitutional requirements, acceptance with other senators and interested parties. Senator Christensen did introduce **LR 564**, an interim study to examine the constitutionality of creating standing secondary surface water appropriation rights to un-appropriated surface water for inter-basin transfers to mitigate flood damage.

LB 655 – Change provisions relating to an occupation tax imposed by natural resources districts.

Christensen. The bill proposed that a NRD may allow for the occupation tax on irrigated land to be calculated as a flat amount per irrigated acre or in a different manner as follows:

- 1) The district would determine the amount of revenue needed to be raised from the tax for the project for the current fiscal year, which could not exceed an average of ten dollars per certified irrigated acre.
- 2) The district would determine the total acre-feet of surface water and ground water irrigation usage in the district during the immediately preceding calendar year.
- 3) The district would determine a per acre-foot revenue need by dividing the amount determined in #1 above by the amount determined in #2.
- 4) The district would calculate the tax for each record owner of irrigated agricultural land based upon each record owner's acre-feet usage of surface water and ground water irrigation during the immediately preceding calendar year by multiplying such usage by the per acre-foot revenue needed.

The district could require reporting by irrigation districts as necessary to carry out calculating the tax owed.

LB 656 – Change provisions relating to flood protection and water quality enhancement bonds. Janssen.

The bill proposed to prohibit the use of bonds for multipurpose projects and practices for storm water management in the Pappio-Missouri River NRD. The bill would have only allowed bonds to be used for construction of flood control and water quality projects and practices for storm water management. Projects that included recreational purposes and use would have been prohibited.

LB 683 -- Create the Storm Water Management Commission. Mello. The bill proposed to create the Storm Water Management Commission to study the following:

- 1) The relationship among and adequacy of federal, state, and local regulations and practices that pertain to storm water management;
- 2) The economic impact of actual and potential financing mechanisms for storm sewer system programs;
- 3) The role of design, construction, and maintenance practices by residential, commercial and industrial property owners in storm water management; and
- 4) Options for actual and potential user-charge revenue mechanisms for funding storm sewer system programs.

The commission would issue a report of its findings and any recommendations for proposed legislation to the Legislature and the Governor on or before November 1, 2011 at which time the proposed commission would terminate.

Members would have included:

- A member of the Appropriations Committee;
- A member of the Natural Resources Committee;
- A member of the Urban Affairs Committee;
- The Director of Environmental Quality or his or her designee;
- The Director of Economic Development or his or her designee;
- A representative from the League of Nebraska Municipalities who is employed by a municipality that has a separate storm sewer system;

- A representative of the Nebraska Chamber of Commerce who resides in a municipality which has a separate storm sewer system;
- The president of a metropolitan utilities district;
- A member of the Nebraska Association of Commercial Property Owners; and
- A member of the Omaha Association for a More Competitive Business Environment.

Members of the commission would serve without compensation and without reimbursement for actual expenses. Finally, only political subdivisions would have been allowed to use NETF grants for land acquisition.

LB 728 - Provide for the distribution of money received by the state due to a settlement or court order or judgment. Mello. The bill proposed that all funds in the Supplemental Environmental Project Fund maintained by the Office of the Attorney General be subject to legislative review and could be appropriated and expended for any allowable legal purposes as determined by the Legislature.

LB 732 - Provide procedures for the use of eminent domain by cities and villages for trails. Mello. The bill proposed a super-majority affirmative vote (67%) for a city or village to authorize use of eminent domain to establish a recreational trail. The bill also outlined several procedures for cities and villages to follow for establishing a trail, including but not limited to alternate route options, landowner notification, public notices, and public hearings.

LB 777 - Change provisions relating to distribution of certain supplemental funds. Haar. The bill proposed to transfer all funds from the Supplemental Environmental Project Fund maintained by the Office of the Attorney General to the Nebraska Environmental Trust Fund for distribution pursuant to the Nebraska Environmental Trust Act. The bill also further directed that all money received by the Nebraska Attorney General's office as a result of awards, judgments, and out-of-court settlements relating to enforcement of violations of the Environmental Protection Act would be remitted to the State Treasurer for credit to the Nebraska Environmental Trust Fund.

LB 789 - Change the State Electrical Act relating to electrical inspections. Haar. The bill proposed to add that all electrical installation for grain handling and irrigation equipment regardless of location be subject to the inspection and enforcement provisions of the State Electrical Act.

LB 798 – Relating to special assessments. Urban Affairs Committee. The bill proposed to clarify that certain assessments levied by a natural resources district, sanitary drainage district, sanitary and improvement district, special improvement district, county, city, or village would be levied and collected as special assessments. For NRDs, this would have included special assessments under the Improvement Project Area.

LB 808 - Appropriate funds for an environmental study of a hydroelectric dam project. Lautenbaugh. The bill proposed to appropriate \$2 million in General Funds for FY2012-13 to the Department of Economic Development, to contract for an environmental study to consider the impact of placement of a hydroelectric dam on the Platte River near the Interstate 80 corridor. The study would have had to be completed by October 1, 2013, and a report of the study findings provided to the Legislature and the Governor.

LB 846 - Require employers to maintain employee emergency contact information. Sullivan. The bill would have required all employers to maintain a primary and secondary emergency contact for all employees. Under the bill, if an employee was injured on the job and required medical treatment at a medical facility, the employer or employer's representative would have had to make a reasonable effort to contact the primary contact immediately after calling 911 or while en route to a medical facility if 911 was not called. If the primary contact could not be reached, the secondary contact was to be contacted.

LB 857 -- Provide for repayment of certain grants from the Nebraska Environmental Trust Fund. Larson. The bill proposed that any person receiving a grant from the Nebraska Environmental Trust Fund who purchased real property with funds from such grant and subsequently sold or otherwise transferred an ownership

interest in such real property would have to repay to the board the amount of the grant used to purchase the real property. The repayment would be remitted to the State Treasurer for credit to the Water Resources Cash Fund.

LB 866 - Adopt the Nebraska Fair Employment Opportunity Act. Haar. The bill proposed that it shall be an unlawful employment practice for an employer: (1) To refuse to consider for employment or refuse to offer employment to an individual because of the individual's status as unemployed; or (2) to publish in print, on the Internet, or in any other medium an advertisement or announcement for any job that includes that an individual's status as unemployed disqualifies them as a candidate.

Employer was defined in the bill as any person having in his or her employ in the State of Nebraska 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and included the State of Nebraska, governmental agencies, and political subdivisions, regardless of the number of employees, and any person acting for or in the interest of an employer, directly or indirectly.

LB 877 -- Require disclosure of hydraulic fracturing treatment information. Wallman. The bill would have required the owner or operator of a well on which a hydraulic fracturing treatment was performed to provide the composition of the hydraulic fracturing fluids used in such treatment to the Nebraska Oil and Gas Conservation Commission. The report to the commission would have included the total volume of water used in the hydraulic fracturing treatment and each chemical ingredient that was used. The commission would also have been required to develop a process for the reports to protect any trade secret information.

LB 909 - Provide an employer defense under the Nebraska Workers' Compensation Act. Lautenbaugh. The bill proposed that employees cannot receive compensation for a personal injury by accident or occupational disease, arising out of and in the course of his or her employment, if the employee was willfully negligent in obtaining such employment. The bill proposed to expand the definition of willful negligence to include obtaining employment for an employee, as an applicant, to knowingly make false statements about his or her physical condition in an employment application or pre-employment questionnaire.

LB 931 - Change provisions relating to flood protection and water quality enhancement bonds. Karpisek. Current law allows a county board to pass a resolution opposing construction of a reservoir, water quality basin projects or projects greater than 20 acres within its exclusive zoning jurisdiction. The bill proposed to eliminate the term "exclusive." The term exclusive was placed in the original language to prevent one zoning authority from having veto power over another zoning authority. An example would be Douglas County voting against a structure that was supported by the City of Omaha.

LB 975 - Adopt the Fair Bidding Act. Smith. The bill would have required all governmental units to ensure that any public contract, procurement of services under a public contract, or requests for proposals or bid specifications for a public contract, the procurement procedures for the public contract, or any other controlling document did not contain: (1) A term that requires, prohibits, encourages, or discourages bidders, public contractors, or subcontractors from entering into or adhering to collective-bargaining agreements relating to construction under the public contract; or (2) A term that discriminates against bidders, public contractors, or subcontractors based on the 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.

The bill also proposed that a governmental unit shall not award a public benefit that is conditioned upon a requirement that the recipient of the award include a term listed above in a public contract for any construction that is the subject of the public benefit. Finally the bill prohibited a governmental unit from placing any of the terms listed above in bid specifications, project agreements, or other controlling documents relating to construction.

LB 1013 – Change the Administrative Procedure Act and provide for attorney's fees and costs as prescribed. Mello. The bill would have prohibited a state agency from issuing, utilizing, enforcing, or attempting to enforce any guideline, criterion, bulletin, manual, instruction, standard of general applicability, or

other action which is a rule or regulation unless such had been approved by the Governor and filed with the Secretary of State after a hearing had been held on such rule or regulation. The bill also would have provided for reasonable attorney's fees and court costs to the party who successfully challenged the rule or regulation.

LB 1044 -- Provide for Public Service Commission regulation of hazardous liquid pipeline facilities.

Haar. The bill proposed that the Public Service Commission adopt rules and regulations to establish safety standards and practices applicable to the transportation of hazardous liquids and hazardous liquid pipeline facilities, including both publicly and privately owned facilities, which were not subject to exclusive federal control.

LB 1060 -- Change procedures for adoption and promulgation of rules and regulations. **Avery.** The bill proposed to eliminate the requirement that agency rules and regulations had to be placed in the newspaper of general circulation and in-turn required that all agencies file proposed rules and regulations with the Nebraska Secretary of State. The Secretary of State would, at least 30 days prior to the hearing, publish the proposal on the internet web site of the Secretary of State.

LB 1076 -- Change requirements for copies of public records and speaking at public meetings. **Karpisek.**

The bill proposed to make several changes to the public records and public meetings laws as follows:

- Would not allow a request to copy a record in a different format.
- Would not require a public body to copy produce or generate any public record created within a certain time frame unless the request specifies a specific subject matter.
- Allowed for requests to access and copies of records relating to a specific subject matter.
- Required that when a public body is using video or telecommunications equipment to allow board members to participate, the body would also have to allow a member of the public to speak on agenda items using the video or telecommunications equipment.
- Changed the provisions for public comment at public meetings to be restricted to the agenda items as allowed by the individual presiding over the meeting.
- Required public bodies to have a form on which citizens may recommend subjects for discussion as possible agenda items at a future meeting. Copies of the form would have had to be made available at every meeting and at the principal office of the public body during normal business hours. The public body would have had to respond to the citizen making the request within ten business days by first class mail.

LB 1094 -- Provide for an election in certain counties to require elections by mail. **Harms.** The bill would have allowed a county with 10,000 or fewer inhabitants to hold all elections by mail. A procedure was proposed to do it by county board resolution or by petition of the registered voters of the county. Under the petition route, the voters would have had to approve of voting by mail at the next election before allowing votes by mail.

LB 1134 -- Change agency procedures for eminent domain. **Avery.** The bill proposed several changes to use of eminent domain and applied those changes to all agencies, political subdivisions and entities that had eminent domain powers.

First the bill proposed to define agency as governmental entities given the authority by statute to condemn property by eminent domain including, but not limited to, a) the State of Nebraska, its departments and agencies, municipalities, counties, utilities, the University of Nebraska and state colleges, public schools, irrigation districts, library boards, airport authorities, pipelines, county fair boards, railroads, natural resources districts, sanitary and improvement districts, bridge commissions, rural water districts, the Nebraska Historical Society, a metropolitan transit authority, drainage districts, and community redevelopment authorities, and (b) any company, corporation, or association formed, created, or incorporated in the United States or a foreign country for the purpose of providing services for a public purpose.

Prior to exercising the right of eminent domain the agency would have full and final approval for the public purpose project by (1) an affirmative agency majority vote or other agency action of approval or (2) having applied for and been granted any controlling federal or state order, permit, or authority, for a new public purpose project or the extension of an existing public purpose project.

The bill also proposed to make it a Class IV misdemeanor for each occurrence if any agency claimed to have the right to use eminent domain in discussions with any person about a project without having the prior approval outlined above.

LR 51 CA – Constitutional amendment to change allocation of state lottery proceeds. Heidemann. A proposed constitutional amendment that would have redirected the net lottery proceeds currently going to the Nebraska Environmental Trust Fund. Currently the NETF gets 44.5% of the net proceeds. The proposal would have provided 22.25% to the Water Resources Cash Fund and 22.25% to the University of Nebraska Innovation Campus. After 2038, the portion going to the Innovation Campus would have gone to the General Fund.

Section Three – Interim Study Resolutions Introduced in 2012

The following are the list of Interim Study Resolutions introduced in 2012 that are of interest to natural resources districts. These are sorted by issue. A complete list can be found at:

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

FUNDING & TAXES

- **LR 568** -- Interim study to examine any aspect of the state tax structure and tax policy. Cornett. Referred to the Revenue Committee.
- **LR 550** -- Interim study to examine the impact of the federal cuts to Nebraska anticipated due to the Budget Control Act of 2011. Conrad. Referred to the Appropriations Committee.

GENERAL ADMINISTRATION

- **LR 502** -- Interim study to examine the issues surrounding governmental transparency. Mello. Referred to the Government Committee.
- **LR 512** -- Interim study to examine issues under the jurisdiction of the Government, Military and Veterans Affairs Committee. Avery. Referred to the Government Committee.
- **LR 596** -- Interim study to examine methods of enhancing the budgetary coordination between the Revenue Committee and Appropriations Committee of the Legislature. Pirsch. Referred to the Revenue Committee.

LAND USE & ACQUISITION

Eminent Domain

- **LR 482** -- Interim study to examine the use of eminent domain by political subdivisions for the taking of private land for the use of development or management of recreational trails or corridors. Mello. Referred to the Natural Resources Committee.
- **LR 538** -- Interim study to examine eminent domain authority and judicial approval and interpretation of the public interest determination. Dubas. Referred to the Judiciary Committee.

- **LR 584** -- Interim study to examine the authority and execution of eminent domain and condemnation proceedings. Avery. Referred to the Judiciary Committee.

WATER QUALITY

- **LR 504** -- Interim study to examine Nebraska's statutes and regulations on hydraulic fracturing, also known as fracking. Haar. Referred to the Natural Resources Committee.

WATER & WETLANDS

Policy and Law

- **LR 556** -- Interim study to examine the current ground water policy contained in Nebraska's statutes. Carlson. Referred to the Natural Resources Committee.
- **LR 564** -- Interim study to examine the constitutionality of creating standing secondary surface water appropriation rights to un-appropriated surface water for interbasin transfers to mitigate flood damage which are inferior in right to any future surface water appropriations that may be issued in the basin of origin. Christensen. Referred to the Natural Resources Committee.

Flood Control

- **LR 495** -- Interim study to examine the flood control needs of Omaha and the greater Omaha metropolitan area. Mello. Referred to the Natural Resources Committee.
- **LR 509** -- Interim study to examine the feasibility of a hydroelectric dam on the Platte River near Interstate 80. Lautenbaugh. Referred to the Appropriations Committee.

Recharge Areas

- **LR 539** -- Interim study to examine ways in which to manage water and provide benefits to landowners and other entities for their ability to store and manage water in recharge areas. Schilz. Referred to the Natural Resources Committee.

ENERGY

- **LR 543** -- Interim study to examine the potential adoption of an energy efficiency resource standard in Nebraska. Mello. Referred to the Natural Resources Committee.
- **LR 601** -- Interim study to determine the workforce training opportunities that renewable energy projects can provide in Nebraska communities and how Nebraska can be more strategic and competitive in its job training approaches. Lathrop. Referred to the Business & Labor Committee.

OTHER

- **LR 511** -- Interim study to examine Nebraska's kindergarten through twelfth grade education standards and curricula to determine whether agriculture is incorporated as an essential component. Sullivan. Referred to the Agriculture Committee.
- **LR 608** -- Interim study to examine the issues surrounding the One-Call Notification System Act. Transportation Committee. Referred to the Transportation Committee.