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June 6, 2013

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: June 6 NARD Sine Die Update

The Nebraska Legislature adjourned Sine Die June 5, 2013 on day 90 of a 90-day session. The next regular session is scheduled to begin January 8, 2014. 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 2013 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 12-13). The third section lists bills that will be carried over for the next session (Pages 13-29).

The fourth section includes Interim Study Resolutions that were introduced in 2013 (Pages 29-31). 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 68 - Change provisions of the Plant Protection and Plant Pest Act. Schilz. The Legislature gave final approval to LB 68 May 2, 2013 on a 41-0-8 vote. The bill was approved by Governor Heineman on May 8, 2013. The bill was brought to the Legislature by the Nebraska Department of Agriculture after input from the Nebraska nursery industry, through the Nebraska Nursery and Landscape Association.

Currently there are nursery dealers, growers and brokers. The bill would replace these categories with a single nursery stock distributor license. Additionally, persons who gather wild plants for commercial distribution are required to obtain a license under the bill. No changes are being made to the certification requirements or the inspection standards for nursery stock. Existing licenses as a grower, dealer or broker would remain valid through Dec. 31, 2013.

The bill consolidates fees charged and establishes a uniform annual Nursery Stock Distributor license fee to be set by the Director of Agriculture. The fee could range from \$115 for the first acre and \$5 for each additional acre within each distribution location, with authority to adjust up to a statutory maximum to \$140 and \$6 for each additional acre. This fee schedule replaces the fees charged dealers and brokers which currently is \$100 per distribution location regardless of size. The Nursery Stock Distributor license fee schedule also replaces the required certification inspection fee charged growers.

On General File, Senators adopted the Committee Amendment AM 333 which made minor corrections to the references in the bill.

On Select File, Senators adopted AM 575 offered by Senator Schilz which placed limits on the fees set by the director for budgeting purposes. Under the amendment, the estimated annual revenue cannot be greater than 107% of program cash fund appropriations allocated for the Act. In addition, the estimated fiscal year-end cash fund balance cannot be greater than 17% of program cash fund appropriations allocated for the act.

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

LB 78 -- Eliminate a task force, an authority, a board, committees, a commission, and a council. Avery. The Legislature gave final approval to LB 78 on March 1, 2013 by a 44-3-2 vote. Governor Heineman signed the bill on March 7, 2013.

The final version of the bill eliminates the following boards and commissions: Affirmative Action Committee; State Airline Authority; Athletic Advisory Committee; Livestock Auction Market Board; Rural Development Commission; and the Economic Development Commission.

Also Senator Harms filed an amendment (AM 123) to restore the State Airline Authority. The amendment was discussed but Senator Harms withdrew the amendment before a final vote.

The original bill proposed to eliminate the Riparian Vegetation Management Task Force and the Private Postsecondary Career Schools Advisory Council. However, they both were taken out of the bill with the Committee Amendment. In other words, these two entities were not eliminated under the bill.

LB 102-- Change requirements for certain water permit applications. Governor Heineman signed LB 102 into law on February 15, 2013. State Senators gave final approval to the measure by a 49-0 vote on February 11, 2013. The bill introduced by Senator Watermeier eliminates the requirement to include an individual's social security number to the Nebraska Department of Natural Resources on applications for intentional underground recharge permits and water well permits.

(LB's 194, 195 & 199) Legislature gives Final Approval to budget bills– The Legislature gave final approval to the budget bills on May 20, 2013. Most of the debate and amendments were offered during General File Debate. Although many amendments were offered then to the Appropriations Committee recommendations, only a few were adopted.

Governor Heineman vetoed approximately \$40 million of the \$7.8 billion budget. None of the vetoes were related to natural resources issues. Senators over-rode about half of the total vetoes and restored approximately one-third of the vetoed amount.

A couple of changes were made to the budget bills which are described in more detail below. In general terms, the Appropriations Committee proposed budget results in a \$278.7 million unobligated ending balance at the end of the FY14/FY15 Biennial Budget which is \$41.3 million above the minimum 3% reserve. This \$41.3 million positive variance from the minimum reserve is an amount that could be available for "A" Bills or revenue legislation that the Legislature may wish to enact.

The variance from the minimum reserve has fluctuated substantially over the past four months from the \$619 million shortfall projected at the end of the last legislative session, to the \$195 million shortfall based on October revenue forecasts and a projected budget based on agency requests, to a \$15.9 million positive balance based on the Committee Preliminary budget.

A more complete chronology and highlights of the various actions taken can be found at:
<http://www.nebraskalegislature.gov/pdf/reports/fiscal/2013budget.pdf>

LB 194 - Provide for deficit appropriations. Speaker Adams, on behalf of the Governor. The Legislature gave final approval to LB 194 on May 20, 2013 by a 49-0 vote.

On General File, the Legislature adopted the Committee Amendment (AM 655) and AM 1324 offered by Senator Dubas. The deficit bill revises the current fiscal year budget to reflect changes that have occurred since the budget was adopted. The amendment reduces General Fund appropriations by \$9 million. It includes a \$5 million increase in the Governor's Emergency Program and \$5 million restoration of funds cut from the Dept. of Corrections. The increases are more than offset by reductions in Homestead Exemption claims (\$5.0 million) and agency savings in employee health insurance premiums (\$9.0 million). Several other smaller adjustments were made in the current budget.

Senator Dubas offered AM 1324 which deleted \$2.1 million in funding for the purchase of a state plane from the University of Nebraska Foundation. In addition to deleting the funding, the amendment requires the Department of Aeronautics to contract for an independent study to determine whether a plane is needed and if so, what kind of plane. On Select File, AM 1395 (also sponsored by Senator Dubas) was adopted to further clarify the independent study.

LB 195 -- Appropriate funds for state government expenses. Speaker Adams, on behalf of the Governor. The Legislature gave final approval to LB 195 by a 46-3 vote on May 20, 2013.

On General File, Senators adopted the Committee Amendment (AM 656) and a couple other amendments offered by Senator Mello. Overall during General File debate, there were ten amendments offered and debated to the committee amendment, but only two adopted. The committee amendment proposes a 5.7% increase in FY 14 and 4.8% increase in FY 15 for a two-year average of 5.2%.

The largest percentage increase is in capital construction where the funding is for one-time items. Governor Heineman's budget proposal included a 4.9% two year average growth. While there were numerous differences in funding items, the largest difference in growth reflects TEEOSA school aid and contributions to defined benefit retirement plans.

The first amendment offered by Senator Mello (AM 1320) that was adopted increased Revolving Funds for the Nebraska Public Safety Communication System by \$1.4 million per year. This funding will allow for three additional towers and equipment to be added to the statewide system. The additional towers would address some of the concerns raised by law enforcement about the problems with the statewide communication system.

The next amendment offered by Senator Mello (AM 1229) that was adopted made minor adjustments to the State Aid to Schools funding to reflect the funding changes proposed in the state aid to schools bill – LB 407.

On Select File, Senators adopted AM 1321 offered by Senator Chambers to increase the funding to the Commission of Indian Relations by \$18,000 to permanently fund the administrative assistant. Finally, Senators approved AM 1325, offered by Senator Mello to make several drafting corrections in the budget bill.

The following is a summary of agencies and funding related to natural resources. A chart also follows. The summary for all programs can be found at:

http://budget.nebraska.gov/das_budget/budget13/summary.pdf.

- **Department of Natural Resources --** The recommendation includes the agency request to reduce cash fund aid appropriation by \$1,400,000 in FY 2013-14 and FY 2014-15. This amount of cash fund authority was provided to the Soil and Water Conservation Program by LB 950A (2012 Session Laws) for FY 2012-13.

The Committee Amendment takes \$150,000 away from the Interrelated Water Management Fund and increases the DNR general operations a similar amount to cover a contract with the University of Nebraska on climate data. Intent language specifies that FY13-15 funding will be used to close out projects currently funded under the Interrelated Water Management program and that no new applications be taken for future program.

The base appropriation was also increased in order to fully utilize the federal grant funding for the agency's floodplain management and dam safety programs.

- **Nebraska Environmental Trust Fund** -- Lottery proceeds to the NETF program have increased in recent years. In addition, \$900,000 in annual interest earnings and \$800,000 was returned to the Nebraska Environmental Trust per the grant agreement from the sale of the Horse Creek Fen Ranch. The agency request to increase cash fund aid appropriation \$2,500,000 in FY 2013-14 and FY 2014-15 is recommended.
- **Department of Environmental Quality**—**In the 2011 Special Session**, LB 4A appropriated \$2,000,000 General Fund in FY 2011-12 for an oil pipeline route study. LB 1161 (2012 Session Laws) subsequently appropriated \$2,000,000 cash funds in FY 2012-13 for the same purpose. Included in LB 195 is the agency requested reduction in cash fund operations appropriation of \$2,000,000 in FY 2013-14 and FY 2014-15 for the pipeline study.

LB 1161 (2012 Session Laws) increased cash fund appropriation in the base year FY 2012-13 to allow the agency to complete an oil pipeline study. This appropriation does not need to be built into the base appropriation for the biennium. The agency advises that this pipeline study costs are in the \$4,000,000 to \$6,000,000 range and the agency has sufficient carry-over cash fund appropriation to address this cost.

LB 199 - Provide fund transfers, create funds, and authorize the sale of land. Speaker Adams, on behalf of the Governor. The Legislature gave final approval to LB 199 on May 20, 2013 by a 49-0 vote.

During General File debate, Senators adopted the Appropriations Committee Amendment (AM 659) and AM 1207. The bill outlines transfers for various programs. For natural resources the bill authorized the transfer of \$3.3 million from the General Fund to the Water Resources Cash Fund for fiscal years 2013-14 and 2014-15. Senator Mello's amendment (AM 1207) transfers an additional \$53 million to the cash reserve. This transfer reflects the recent increase in tax receipts that are above projections.

On Select File, Senators adopted AM 1232 offered by Senator Coash to expand grant opportunities under the Commission of Indian Affairs and AM 1353 offered by Senator Mello to make a technical correction to the bill.

The following chart provides a summary of programs for natural resources.

Natural Resources Funding

	FY 12-13 Appropriation	FY 13-14 Proposed	Change	FY 14-15 Proposed	Change
DNR Operations Funding					
General Fund	10,397,171	10,676,038	278,867	10,807,768	131,730
Cash Fund	776,125	784,716	8,591	793,497	8,781
Federal Fund	439,596	668,308	228,712	674,164	5,856
Total Operations Funding	11,612,892	12,129,062	516,170	12,275,429	146,367
Small Watersheds					
General Fund	0	0	0	0	0
Cash Fund	475,000	475,000	0	475,000	0
Total	475,000	475,000	0	475,000	0
Soil and Water Conservation Fund					
General Fund	2,318,036	2,318,036	0	2,318,036	0
Cash Fund	50,000	50,000	0	50,000	0
Total	2,368,036	2,368,036	0	2,368,036	0
Water Well Decommissioning					
General Fund	0	0	0	0	0
Cash Fund	100,000	100,000	0	100,000	0
Total	100,000	100,000	0	100,000	0
Nebraska Resources Development Fund					
General Fund	3,140,325	3,140,325	0	3,140,325	0
Cash Fund	47,500	47,500	0	47,500	0
Total	3,187,825	3,187,825	0	3,187,825	0
Natural Resources Water Quality Fund					
General Fund	0	0	0	0	0
Cash Fund	1,187,500	1,187,500	0	1,187,500	0
Total	1,187,500	1,187,500	0	1,187,500	0
Inter-related Water Management					
General Fund	500,000	500,000	0	500,000	0
Cash Fund	0	0	0	0	0
Total	500,000	500,000	0	500,000	0
Water Resources Cash Fund (\$1.4 million was added to the baseline in 2012 via LB 950A and removed in the budget for FY's 13-15	4,700,000	3,300,000	(1,400,000)	3,300,000	(1,400,000)
Nebraska Environmental Trust Fund	15,548,247	18,054,258	2,506,011	18,060,395	6,137
Nebraska Dept of Environmental Quality (Total Funding – Includes Federal \$)	68,624,028	67,167,812	(1,456,216)	67,790,742	622,930

LB 203 - Change provisions relating to solid waste under the Environmental Protection Act. Scheer. The Legislature gave final approval to LB 203 on April 18th by a 45-0-4 vote. Governor

Heineman approved the bill on April 24, 2013. The bill was introduced on behalf of NuCor Steel to provide an avenue to market slag, a by-product in the steel making process rather than treating it as waste.

The original bill proposed to add a definition of “products” for purposes of the Nebraska Environmental Protection Act. That definition was as follows: “Products shall mean any materials which are an intended output or result of a fabrication, manufacturing, or production process, and are sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity. A product must be managed as an item of value in a controlled manner and not as a discarded material”.

The Committee Amendment (AM 334) replaced the introduced version of the bill and adds that solid waste does not include slag, a product that is the result of the steel manufacturing process, and is managed as an item of value in a controlled manner and not as a discarded material.

The bill was Senator Scheer’s Priority Bill for the session.

LB 222 - Change provisions regarding certain reports submitted electronically to the Legislature. McCoy. Senators gave final approval to LB 222 May 1, 2013 by a 46-0-3 vote. The bill was approved by Governor Heineman on May 7, 2013. The bill makes several changes for submitting agency and individual reports electronically rather than by paper. Also, the proposal eliminated some of the requirements that an entity must report to the Legislature. However, it maintained the requirement to report to the Governor.

On General File, senators adopted Committee Amendment AM 244 which eliminated the reporting requirement for both the Legislature and the Governor. They include:

- a report from the Department of Roads on the Nebraska Public Transportation Act;
- a report from the Nebraska Ethanol Board;
- a report from the State Department of Education covering the actions of the State Board of Education;
- a report from the State Department of Education and the Department of Health and Human Services on the Nebraska Read, Educate, and Develop Youth Act;
- a report from the Affirmative Action officer;
- a report from the Nebraska Commission on Law Enforcement and Criminal Justice on the continuation of funding for victim and witness assistance centers;
- a report by the Department of Health and Human Services required under the Nebraska Community Aging Services Act; and
- a report from each assistant director of the Department of Correctional Services.

LB 363 - Change provisions relating to access to public records. Avery. Senators gave final approval to LB 363 and LB 363A on May 29, 2013 both by 47-0-2 votes. Governor Heineman approved the bill on June 4, 2013. The bill proposes several changes to requests of public records.

First, the bill would allow a public body to deny a request to copy a public record, if the public body made that available on their website unless the requesting party does not have reasonable access to the internet.

Second the bill allows the public body to charge an added cost to the charge for copying. That added cost could include a reasonably apportioned cost of the supplies such as paper, toner, equipment and additional cost of time to the public body to comply with the request. However, the added labor cost could not include the first four hours as amended by AM 480.

Finally, the bill modifies the process for a request to reflect the added costs. In the formal response to the request, the estimated added cost for the copying would have to be provided. If the person making the request felt the added cost was too much they could appeal to the Attorney General.

The committee amendment (AM 166) was adopted on General File and makes two changes to the bill. First, the amendment provides that the actual added cost used as the bases for the calculation of the fee for records will not include any charge for staff to physically redact (edit) information for the first six hours. In other words, staff time to physically edit information from records will be allowed to be charged after the first six hours. The compromise amendment (AM 480) adopted on Select File lowers this to four cumulative hours.

The second change provides that the fee for records will not include any charge for the services of an attorney to review the requested public records seeking a legal basis to withhold the public records. This is a narrowing from the original bill which prohibited the custodian or any officer, employee or contractor of the office to charge for reviewing the public records seeking a legal basis to withhold them. With the amendment, only services of attorneys are prohibited from being charged for this purpose even after four hours of time.

On General File, Senator Larson introduced AM 389 which would lower the number of free hours from six to one. After lengthy debate, the senators agreed to a four hour limit, but would develop that amendment for Select File debate which resulted with AM 480. Senator Larson withdrew AM 389 prior to a vote.

LB 477-- Change sunset for the Riparian Vegetation Management Task Force. Carlson. Senators gave final approval to LB 477 May 1, 2013 by a 45-0-4 vote. Governor Heineman approved the bill on May 7, 2013. The bill extends the sunset date for the Riparian Vegetation Task Force from June 30, 2013 to June 30, 2015. The bill also extends the due date for the final report from June 30, 2013 to June 30, 2015.

LB 493 - Authorize transfer of portions of the Cowboy Trail. Davis. Senators gave final approval to LB 493 on May 1, 2013 by a 45-0-4 vote. Governor Heineman approved the bill on May 7, 2013. The bill allows any portion of the Cowboy Trail to be leased or transferred to a political subdivision or nonprofit organization.

On Select File, Senators adopted AM 1126. The amendment requires any lease or transfer to be subject to the requirements of the federal National Trails System Act.

On General File, senators adopted Committee Amendment AM 292 and AM 1057. As amended the bill would allow the Nebraska Game and Parks Commission lease or otherwise transfer portions of the Cowboy Trail to a political subdivision, and allows the commission to lease portions to a nonprofit organization. The language in the original bill indicated that a transfer had to be made only to one of the entities listed. The amendment also requires the lessee or transferee to maintain the property at its own expense. Senator Carlson introduced AM 1057 to eliminate unnecessary language.

The original provisions only allowed the commission to lease, sell or otherwise transfer portions of the Cowboy Trail located in Sheridan County to Sheridan County, to the cities of Gordon, Hay Springs, or Rushville, or to a nonprofit organization. Under the amendment, the entire trail is available for transfer.

LB517e - Create the Water Funding Task Force. Carlson. The Legislature gave Final approval to LB 517e and LB 517Ae on May 29, 2013 both by 45-0-4 votes. Governor Heineman approved the bill on June 4, 2013. The task force is to develop a list of water projects and related funding needs. The bill included the emergency clause so it becomes effective as soon as the Governor signs it.

Pending Final Reading motions by Senator Chambers to strike the enacting clause (FA111), and Senator Lathrop to re-write the bill (AMs 1308 & 1396) were withdrawn.

On Select File, Senator Carlson offered AM 1048 to address the concerns that rose on General File and replaced the bill. Senator Mello offered AM 1176 to add a representative of the Metropolitan Utilities District of Omaha to the task force. The amendments were adopted 38-0 and 33-0 respectively.

The proposed Water Funding Task force will consist of the Nebraska Natural Resources Commission, Director of the Department of Natural Resources and eleven (11) additional members to be appointed by the governor. These members will represent public power and irrigation districts, irrigation districts, municipalities, agriculture, wildlife conservation, livestock producers, agribusiness, manufacturing, metropolitan utilities district and outdoor recreation users.

In appointing members, the amendment requires the governor to seek to create a broad-based task force with knowledge of and experience with and representative of Nebraska's water use and economy. In addition the Governor shall give equal recognition to the importance of both water quantity and water quality. In making the appointments, the bill allows the Governor to solicit and accept nominations from water interest groups in the state. Representation must represent diverse geographic regions of the state including urban and rural areas.

The bill requires the task force to submit a report to the Legislature on or before December 31, 2013 that contains the following:

(a) Recommendations for a strategic plan which prioritizes programs, projects, and activities in need of funding. The recommendations shall give equal consideration to and be classified into the following categories:

- (i) Research, data, and modeling needed to assist the state in meeting its water management goals;
- (ii) Rehabilitation or restoration of water supply infrastructure, new water supply infrastructure, or water supply infrastructure maintenance
- (iii) Conjunctive management, storage, and integrated management of ground water and surface water; and
- (iv) Compliance with interstate compacts or agreements or other formal state contracts or agreements;

(b) Recommendations for ranking criteria to identify funding priorities based on, but not limited to, the following factors:

- (i) The extent to which the program, project, or activity provides increased water productivity and otherwise maximizes the beneficial use of Nebraska's water resources for the benefit of its residents;
- (ii) The extent to which the program, project, or activity assists the state in meeting its obligations under interstate compacts or decrees or other formal state contracts or agreements;
- (iii) The extent to which the program, project, or activity utilizes objectives described in the Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process issued by the Department of Natural Resources;
- (iv) The extent to which the program, project, or activity has been approved for, but has not received, funding through an established state program;
- (v) The cost effectiveness of the program, project, or activity relative to achieving the state's water management goals;
- (vi) The extent to which the program, project, or activity contributes to the state's ability to leverage state dollars with local or federal government partners or other partners to maximize the use of its resources; and

(vii) The extent to which the program, project, or activity contributes to multiple water supply management goals, including, but not limited to, flood control, agricultural uses, recreation benefits, wildlife habitat, conservation of water resources, and preservation of water resources for future generations;

(c) Recommendations for legislation on a permanent structure and process through which the programs, projects, or activities described in this section will be provided with funding, including:

- (i) A permanent governing board structure and membership;
- (ii) An application process;
- (iii) A statewide project distribution mechanism; and
- (v) A timeframe for funding allocations based on the list of programs, projects, and activities provided for in this section;

(d) Recommendations for the annual funding amount and the start date for distribution of funds; and

(e) Recommendations for statutory changes relating to regulatory authorities and to funds and programs administered by, and boards and commissions under the direction of the department based on the task force's evaluation of the efficiency of such funds, programs, boards, and commissions.

The task force shall make every effort to identify and consult with all water use stakeholder groups in Nebraska on the development of the recommendations required by the task force.

The funding for the task force in LB 517A was reduced from \$3 million to \$1 million by AM 1068 on Select File. This amendment addressed the concern raised on General File debate. A majority of the floor debate revolved around: 1) the \$3 million dollar cost for the evaluation and report; and 2) the Governor's appointments to the task force. Senator Carlson indicated that prior to select file debate he would work with other senators and the Department of Natural Resources to address both of these concerns. The appropriations bill, LB 517Ae, was passed on a 45-0-4 vote and approved by Governor Heineman on June 4, 2013.

Senator Carlson designated LB 517 as his priority bill for the session.

LB 549 -- Change the scrap tire recycling sunset provision and fees. Schilz Senators gave final approval to LB 549 on May 1, 2013 by a 45-0-4 vote. Governor Heineman approved the bill on May 7, 2013. The bill extends the sunset date for grants for new scrap tire projects, if acceptable scrap tire project applications are received. The sunset date would be extended from June 30, 2014 to June 30, 2019. Under current law, grant funds for new projects are available up to one million dollars annually.

The original bill proposed to increase the fees on tires sold from \$1 to \$2 per tire. In addition, the bill increases the cap on funds available as grants to counties, municipalities, and agencies for the purposes of planning and implementing facilities and systems to further the goals of the Integrated Solid Waste Management Act. Currently, fees collected in excess of one million dollars are made available as grants. The bill increases that cap to two million dollars.

On General File, senators adopted Committee Amendment AM 427 which removed the increased fee language. The Committee Amendment also requires that grants up to \$1.5 million be available annually for new scrap tire projects under the Waste Reduction and Recycling Incentive Act and correspondingly, that fees collected in excess of \$1.5 million be made available for grants to political subdivision for Integrated Solid Waste Management Act purposes. Senator Schilz had offered AM 427 at the hearing on February 27, 2013.

LB 583 -- Change provisions relating to membership on the Climate Assessment Response Committee and provide duties for the committee. Haar. Senators gave final approval to LB 583 and LB 583A on May 29, 2013 by 32-12-5 and 33-7-9 votes, respectively. Governor Heineman approved the bill on June 4, 2013.

On General File, Senators adopted the Committee Amendment (AM 664) and a couple of floor amendments. The bill proposes to make several changes to the Climate Assessment Response Committee. First, a representative of the High Plains Regional Climate Center in the School of Natural Resources of the University of Nebraska-Lincoln is added. Second, the bill adds additional duties of the committee as follows:

- Provide the Governor and other interested persons with information and research on the impacts of climate change in Nebraska, including impacts on physical, ecological, and economic areas, and attempt to anticipate the unintended consequences of climate adaptation and mitigation;
- Facilitate communication between stakeholders and the state about climate change impacts and response strategies;

The original bill also required a long-term strategic report for the Governor and the Legislature on how the State of Nebraska should prepare for climate variability and change, including, but not limited to, preparation for effects on water, wildlife, ecosystems and forests, electricity, agriculture, and outdoor recreation. The report would also have to examine the complete impacts and vulnerability assessment centered on a range of plausible climate scenarios to prioritize Nebraska's key climate threats and vulnerabilities and point to adaptations that could reduce costs and potential losses. The report would have to include key points, overarching recommendations, and options that emerge either explicitly or implicitly from the results of the study. The committee shall present the final report and any minority report on September 1, 2014.

The Agriculture Committee Amendment (AM 664) eliminated the original long-term strategic report mentioned above and provides for a scaled back commissioned report completed by Sept. 1, 2014 that would be a synthesis and assessment of the state of knowledge of climate, including historical climate patterns and projections of climate, and implications for agriculture, recreation and other sectors.

The current Climate Assessment and Response Committee consist of university representatives, UNL Conservation and Survey, state and federal agencies. The primary duty is to provide timely and systematic data collection, analysis, and dissemination of information about drought and other severe climate occurrences, drought assistance programs, other coordination and communication among federal and state agencies as is deemed appropriate to the Governor and to other interested persons.

Senators McCoy and Larson also introduced some amendments to eliminate references to climate change and to remove the proposed individual from the High Plains Regional Climate Center as a voting member of the Climate Assessment Response Committee. Both amendments were discussed but later withdrawn. However, Senators McCoy and Larson offered floor amendments FA's 62 and 63 which were approved by the body and inserted the work "cyclical" before "climate change" throughout the bill.

The bill was Senator Haar's Priority Bill for the session.

LB 634e -- Adopt the Wildfire Control Act of 2013. Davis. Senators gave final approval to LB 634e and LB 634Ae on May 29, 2013 by 45-0-4 and 44-0-5 votes, respectively. The Governor approved the bill on June 3, 2013. The bill included the emergency clause so the act took effect as soon as Governor Heineman approved the bill.

On Select File, senators adopted an amendment offered by Senator Davis (AM 1158) to re-write the original version of the Wildfire Control Act of 2013. The amendment strikes all original provisions of the bill and inserts new language.

The final version of the bill, as amended with AM 1158, would require the Nebraska Emergency Management Agency (NEMA) to contract for all costs to place one single-engine air tanker in Nebraska for use in fighting wildfires. It outlines intent for NEMA to deploy the single-engine air tanker to prevent the rapid spread of wildfires upon ignition.

NEMA would also be required to submit a report electronically to the Governor and Clerk of the Legislature on or before December 1 each year describing the following:

1. The date and time each request to deploy a single-engine air tanker is made to the agency,
2. The date and time a single-engine air tanker was deployed in response to a request for such a tanker,
3. An explanation of the reason for any delay of more than one hour from the time of a request for employment of a single-engine air tanker and the time of the actual deployment of such a tanker, and
4. An explanation of the reason for the denial of a request to deploy a single-engine air tanker.

Also the Nebraska Forest Service would be assigned the following duties:

1. Administer programs to thin forests to reduce forest fuel-loads in order to substantially reduce wildfire risk, intensity, and rate of spread and develop markets for woody biomass generated from forest thinning;
2. Provide expanded training programs for volunteer firefighters, private landowners, and communities in Nebraska in fire suppression tactics of wildfires in order to increase suppression effectiveness and safety;
3. Expand the federal excess property programs sponsored by the United States Department of Agriculture and the United States Department of Defense and managed by the Nebraska Forest Service in Nebraska;
4. Oversee the rehabilitation of forest lands that have been destroyed by wildfires;
5. Manage single-engine air tanker bases and operations in Nebraska; and
6. Contract to construct at least two single-engine air tanker bases and develop one or more mobile single-engine air tanker bases in Nebraska.

Finally, the amendment adds the emergency clause so the act would take effect when passed and approved.

The bill was Senator Davis' Priority Bill for the Session.

Section Two – Bills Indefinitely Postponed by the Legislature

LB 186 --Restrict rule and regulation authority of natural resources districts. Christensen. The Natural Resources Committee Indefinitely Postponed LB 186 on February 21, 2013. The bill would have prohibited an NRD from promulgating any rule or regulation requiring an irrigation water right to apply manure to land.

Senator Christensen brought this bill forward after receiving a complaint regarding the Lower Loup NRD's recently adopted rules and regulations. The concern raised by Senator Christensen involved the perception that the rules limited the application of livestock waste through an irrigation system. At the hearing on January 30, 2013, Russ Callan, Assistant Manager of the Lower Loup Natural Resources District testified on behalf of the Lower Loup NRD and NARD in opposition to this bill. The rules passed by the Lower Loup were in response to situations where water captured in livestock waste control systems was being used to establish an irrigation history. There was no testimony in support of the bill.

LB 235 - Change precinct size requirements and procedures for drawing political subdivision boundaries and changing polling places and provide for election advisory committees. Howard. The Government Committee Indefinitely Postponed LB 235 on April 2, 2013. The hearing was held on February 14, 2013.

The bill proposed to add a public hearing requirement to changes in sub-district boundaries for political subdivisions. The hearing would have to be public noticed at least one week prior to the hearing in a newspaper of general circulation in the affected political subdivision or other method determined to provide adequate notice to the residents of the affected political subdivision.

The bill also proposed to change the population counts for county clerk or election commissioner when they set voting precincts within legislative districts. The maximum registered voters for voting precincts would be lowered from 1,750 voters to 1,000 voters.

Finally, the bill proposed a six-member advisory committee for each county having more than 100,000 inhabitants. Two members would be appointed by the political party that has the highest number of votes, two members would be appointed by the political party that has the second highest number of votes, and two members would be appointed by the election commissioner. The role of the committee would be to advise the election commissioner on matters relating to voter registration and the conduct of elections in the county.

LB 322 – Require the Department of Natural Resources to conduct an environmental study on the Big Blue River. The Natural Resources Committee accepted testimony on LB 322 on January 31, 2013. The committee Indefinitely Postponed the bill on February 12, 2013.

Senator Karpisek introduced the bill on behalf of the city of Crete and other communities that were undertaking efforts to increase flood protection and create recreational opportunities in the area. Testimony in support of the bill was provided by several proponents including representatives from the cities of Beatrice and Crete and the Village of DeWitt. John Turnbull, General Manager of the Upper Big Blue NRD testified on behalf of Upper Big Blue and NARD in opposition to the bill. The testimony provided was not in opposition to the project rather the process that would be undertaken. John explained to the committee that the NRDs historically take the lead role in this process rather than the Department of Natural Resources. John invited the proponents of the bill to attend the February UBBNRD Committee meeting to present their proposal. Senator Carlson encouraged the project proponents to further project discussions with both the Upper and Lower Big Blue NRDs.

LB 387 - Eliminate provisions relating to constructing drainage facilities and taking other control measures on public roads. Christensen. The Transportation Committee indefinitely postponed LB 387 on March 26, 2013. The bill proposed to repeal the section of law that authorizes counties to construct,

maintain and improve drainage facilities on public roads of the counties. The bill also proposed to repeal the authority of the county board or any person acting on its behalf to enter into private property or public property for the above purposes.

The bill was brought forward by Senator Mark Christensen for an individual outside the senator's legislative district about a dispute over a fence-line. A landowner had requested the county clean out a road ditch to improve drainage. When the county inspected it, it was discovered that the landowner's fence was in the county right-of-way. A verbal agreement was reached between the landowner and the county that the county would remove the fence, place the posts and wire on the landowners property, clean out the ditch and the landowner would put the fence back on the property line. However, after the work was done, the landowner denied that an agreement had been reached and wanted the county to put a new fence back in where the old fence once was. The individual did not appear at the hearing and no individual spoke in favor of the bill.

Section Three – Bills carried over for the 2014 Session

LB 57 -- Change provisions relating to grants from the Nebraska Environmental Trust Fund. Larson. The Legislature bracketed LB 57 until January 10, 2014 on June 3, 2013. There are eight amendments pending on the bill when it comes up for Select File debate next session.

On April 3, 2013, the Legislature advanced LB 57 to Select File after eight hours of debate on the bill and adopting several amendments. After eight hours of debate, Senator Larson made a motion to invoke cloture, which requires 33 votes, to end debate and force a vote on the measure. The motion for cloture prevailed on a 34-9 vote. After amendments were adopted, the bill advanced to Select File on a 27-17 vote.

The original bill outlined that if a grant recipient uses funds received by the NETF to purchase real estate or requesting the use of the revolving funds from proceeds or a sale or transfer of ownership in real property, the NETF Board would have to approve of each subsequent purchase of real property. The issue that sparked the bill was land purchased by Ducks Unlimited with NETF funding and later transferring the land to the US Fish and Wildlife Service.

The original bill would have required NETF Board approval if a grantee ever sold property acquired by trust funds and later transfer the real property to a federal land management agency by any means, which resulted in the removal of the property from the tax rolls. If the NETF Board approved the transfer, it would be required to approve an amount of funds equal to the amount for which such real property was valued for purposes of taxation during the year immediately preceding the transfer into a trust fund to be established and administered by the county for any governmental purpose, including investments of the interest. The principal amount in the trust could not be spent.

The Committee Amendment, AM 676, proposed to replace all of the new language in the original bill. However, several other amendments were approved to the Committee Amendment, including AM 879 by Senator Haar, AM 844 and AM 871 by Senator Larson. The bill as advanced to Select File with amendments would do the following:

- Require that an applicant who proposes to use grant funds to purchase property that will at any time be sold or transferred to or exchanged with or encumbered by a federal land management agency that results in the removal of the property from its current county tax assessment, to provide in its contract with the trust board how it will provide for the replacement of the taxes to the county.
- Require in the contract between the NETF Board and a nonpublic grantee, that such grantee not sell, transfer, or exchange, unless approved in the original grant, any portion or all of the real

property acquired by such grantee in whole or in part by trust funds without the prior written approval of the board.

- The approval would be granted if the sale, transfer, or exchange is consistent with the purposes of the original grant. The grantee would be required to provide the board in writing the details of any proposed sale, transfer, or exchange of the real property at least thirty days in advance of the next scheduled board meeting and obtain written approval of the board prior to executing any such transaction.
- If the board does not provide written approval of the sale, transfer, or exchange, such grantee may repay the value of the grant to the trust in order to be released from all further obligations.
- If the board provides written approval of a sale, transfer, or exchange, the real property shall be released from any further restrictions regarding its sale, transfer, or exchange.
- Require in the contract between the NETF Board and the grantee, in advance of the distribution of funds, written confirmation from any financial institution that would provide a portion of the funds for purchase of real property acknowledging that such grantee cannot sell, transfer or exchange any portion of the property without written approval of the board. This would have to be incorporated into the deed or other instrument conveying title.
- The NETF Board would have 45 days after the request to approve the transfer. If the NETF does not take action within the 45-day period, the request shall be deemed approved. The NETF Board would be authorized to participate in and vote on issues at a regular or special meeting by telephone conference call or videoconference as long as the chair or vice-chair conducts the meeting in a location where the public is allowed to attend.

During General File debate, motions by Senator Chambers to indefinitely postpone and to return to committee were defeated on 13-26 and 7-33 votes respectively. Senator Schilz has an amendment pending (AM 869) to clarify some of the amendments approved to the bill.

A few new amendments were filed to the bill when it comes up for Select File debate next January. First, Senator Haar filed AM 1250 to make the new requirements permissive by striking the words “shall” and replacing them with “may”.

Senator Schilz filed AM 1277 which would clarify that the new process would not apply if the sale, transfer or exchange was proposed by the grantee in its grant application and was approved as part of the original grant. His amendment would also allow the board an additional time (up to 60 days) to consider the requests.

Senator Avery has filed six amendments (AM’s 1529-1533) that all make minor changes in the bill.

LB 63 -- Change distribution of certain sales and use tax revenue. Schilz. The Revenue Committee accepted testimony March 14, 2013 on LB 63. The bill proposes that sales and use tax proceeds from the sale or lease of motorboats would be credited to the Nebraska Game and Parks to be used for motorboat access development and aquatic invasive species monitoring and control.

John Thorburn, Tri-Basin NRD Manager testified on behalf of the NARD in support of the bill. The testimony pointed out that the threat and spread of aquatic invasive species has been greatly increased by the ease of travel and history has multiple examples of such species being either intentionally or unintentionally being introduced to Nebraska. Thorburn supported the process of being pro-active rather than re-active citing the millions of dollars spent recently to address phragmites and salt cedar.

The committee reported no action on the bill.

LB 152 -- Change eminent domain negotiations. Dubas. The Judiciary Committee accepted testimony on LB 152 on January 30, 2013. The bill remains in the Judiciary Committee.

The intent of the bill is to ensure damages for condemned property are accurately assessed by courts considering the purpose that the property will be used for, that the purpose and scope of the project does not change after property is condemned and an award made by the court, and that property is not unnecessarily condemned for projects that may never come into existence.

The bill would require that a condemner shall not attempt to negotiate with a condemnee unless the condemner has a present plan and a present public purpose. The condemner has a present plan and a present public purpose only after all agencies required to have approved the project have done so and all necessary permits have been granted. The condemner shall provide the condemnee copies of all granted and necessary permits upon request of the condemnee.

Under the proposal, a condemner found to be noncompliant with this act or found coercive or to be threatening the condemnee with condemnation shall entitle the condemnee to injunctive relief from the condemner, attorney's fees, and actual damages as prescribed by the court.

LB 160 - Provide for electronic signatures on recall, initiative, and referendum petitions. Schumacher. The Government Committee accepted testimony on LB 160 on January 31, 2013. The committee took no action on the bill.

The bill proposes to establish a process to use electronic signatures on petitions and electronic verification of signatures on petitions used in the recall, initiative, and referendum processes. The bill would require the Nebraska Secretary of State to establish a secure website to and server to operate the new program.

A signer at the time of submitting the electronic signature would have to submit: (a) his or her name, address, county of residence, political party affiliation, and date of birth as shown on his or her voter registration record, (b) his or her assent to the petition document, and (c) a unique identifier which (i) can be verified against other state-qualified data associated with the signer or (ii) would be acceptable in commercial financial transactions involving the transfer of money between financial institutions such as credit card transactions;

The electronic signature would have to be correlated with the signer as evidenced by a reasonable match with voter registration records and voting records which correspond to at least one item of state-qualified data or by the execution of an electronic financial transaction initiated under the signer's name.

Once an electronic signature was obtained, the Secretary of State would also have to send out a postcard to the individual that electronically signed a petition, recall or referendum giving them 10 days to withdraw the signature on the ballot.

LB 185 -- Authorize state assistance for streamflow enhancement projects undertaken by natural resources districts. The Appropriations Committee accepted testimony on LB 185 on February 1, 2013. No action was taken on the bill.

Senator Christensen brought this bill forward to allow the N-CORPE project to move forward. The N-CORPE project is a four NRD project that will assist in the State of Nebraska maintaining compliance with the Republican River Compact and the requirements of the Platte River Recovery and Implementation Program.

The initial financing of the project was planned to be through the issuance of bonds with repayment being the proceeds of the occupation tax on irrigated lands collected by the Lower, Middle and Upper Republican and Twin Platte NRDs. The issuance of the bonds is being delayed as a result of the law suit filed by the Nebraska based Frenchman-Cambridge and Bostwick Irrigation Districts against the State of Nebraska, N-CORPE, Bureau of Reclamation and the Upper Republican NRD. Passage of the bill would result in a loan that would be repaid by the NRDs.

Testimony in support of the bill was provided by Senator Carlson, Senator Hansen, Jasper Fanning, Upper Republican NRD; Dan Smith, Middle Republican NRD; Mike Clements, Lower Republican NRD; Kent Miller, Twin Platte NRD and the McCook Public Power District. Ameritas provided an explanation to the committee on the bond process. Letters of support were provided by the Nebraska Farm Bureau Federation, Nebraska Water Resources Association and the Nebraska Cattlemen.

NARD President Joe Anderjaska also testified in support of the bill on behalf of the Association and stressed several key points; the appropriation would be a loan to be repaid with funds collected through the assessment of the occupation tax; the project is part of the Integrated Management Plans; the project will use no more water on average than the historic use of water from this site and the project is not the only action the NRDs have taken or will take to maintain compact compliance.

While there was no verbal testimony in opposition to the bill, Brad Edgerton of the Frenchman-Cambridge Irrigation District submitted a letter in opposition to the bill with the claim that a loan from the Cash Reserve would be unconstitutional. Mr. Edgerton also testified in support of Kansas in the recent litigation brought by Kansas against Nebraska. The Nebraska State Irrigation Association also sent a letter of opposition. The committee took no action on the bill.

LB 272 - Change provisions relating to chemigation permits and fees. Carlson. The Natural Resources Committee advanced LB 272 on March 5, 2013 with a committee amendment AM 433. The intent of the bill is to increase fees for the chemigation program to off-set the cost of administering the program and costs of the annual inspection programs.

The original bill proposed to allow the Nebraska Environmental Quality Council to set the fees for Chemigation permits. The original copy proposed a cap of no more than \$250 for new, special, and renewal permits. The bill also outlines that no more than 20 percent of the fee shall go to the department. The fee for an emergency permit is proposed to be \$500, with \$100 going to the department (20%).

The fees for chemigation permits have not changed since the Nebraska Chemigation Act was put into effect in 1986. Current fees are \$30 for new and special permits (\$25 to the NRD and \$5 or NDEQ), \$10 for renewal (\$8 to the NRD and \$2 to NDEQ) and \$100 for an emergency permit (\$80 to the NRD and \$20 to NDEQ).

The committee amendment (AM 433) allows each NRD to set the fees rather than the Nebraska Environmental Quality Council. This would allow some NRDs to keep the fees at the current level if they wish. The amendment includes a cap of no more than \$150 for new or special permits; \$100 for renewal of regular and special permits; and \$500 for emergency permits. The amount sent in to the Nebraska Department of Environmental Quality would remain the same as existing law.

The bill would also clarify that emergency permits must be approved within two working days rather than 48 hours. The change is proposed to clarify that emergency permits cannot be issued on Saturday, Sunday or a federal or state holiday. A definition of working day is provided in the bill. The bill remains on General File.

LB 284 - Change provisions of the Political Subdivisions Tort Claims Act relating to limits on actions and amounts recoverable. Conrad. The Judiciary Committee accepted testimony on LB 284 on February 13, 2013 which proposes two changes to the Political Subdivisions Tort Claims Act. First the

bill extends the time for a claim to be forever barred from one year to two years after such claim accrued. Second, the bill increases the maximum awards for claims arising after the act from \$1 million to \$3 million for a person for any number of claims arising out of a single occurrence and from \$5 million to \$12 million for all claims arising out of a single occurrence.

The Nebraska Trial Attorneys testified in support of the bill. Opponents included the League of Municipalities, Nebraska Association of County Officials and several other political subdivisions. Bob Hilske presented testimony against the bill on behalf of the Nebraska Association of Resources Districts. The primary reason for the NARD opposition is that increasing the claim limits dollar aggregate as proposed in the bill will make it cost prohibitive, or even impossible, for NRDs to obtain liability insurance to cover those amounts.

The bill remains in the Judiciary Committee.

LB 294 - Change provisions relating to use of public resources by public officials and public employees. Seiler. The Government Committee accepted testimony on LB 294 on February 22, 2013. The committee has taken no action on the bill.

In his introduction of the bill, Senator Seiler mentioned that the bill is a “work in progress” noting that amendments are being worked on between the parties, but agreements have not been reached.

The bill stems from an incident where the Nebraska Accountability and Disclosure Commission (NADC) fined two public power district employees for the placement of radio ads which were developed as part of an education program on wind energy and rates. The ads did not name a candidate, an election, or otherwise referred to the election process. However, there was a candidate for the public power district office that opposed the ads because of his position on wind energy use and filed a claim with NADC. The candidate did win the election.

The bill amends the accountability and disclosure statutes and prohibits a public official or public employee from using or authorizing the public resources for a campaign for or against a candidate or a ballot question to allow such an individual acting under the direction of the government body or public employee from communicating authorized information for the purpose of educating the public and to participate in a public forum concerning issues germane to the office.

An amendment was offered at the hearing that redefines campaigning and use of public resources. The amendment would make it illegal to campaign against an individual running for public office or a ballot issues by using public resources. These definitions would include:

Campaign means to convey any communication which:

- (i) Offers support or opposition to a ballot question, refers to a candidate by name, nickname, photograph, or drawing appearing in the communication, or makes the identity of the candidate otherwise apparent through an unambiguous reference or through an unambiguous reference to the candidate’s status as a candidate in a manner that offers support of opposition to the candidate; and
- (ii) Is aired, broadcast, cablecast, printed, or otherwise disseminated through the facilities of a television station, newspaper, periodical, radio station, cable television system, web site, satellite system, or other electronic means within or directed at the district of the office sought by the candidate or within the general jurisdiction of the ballot question.

Public resources would be defined as personnel, property, resources, or funds under the official care and control of a public official or public employee.

Those testifying in favor of the bill included: Dave Jarecke, legal counsel for the public power district involved in the case, Tim Pextel, Executive Director for the Nebraska Power Review Board (but testifying only as an individual) and Nebraska Association of County Officials.

Frank Daily, NADC, spoke in opposition to the bill. He noted that actions by the employee(s) or public official(s) and their intent are what determine whether someone is campaigning or not.

LB 325 - Change provisions relating to approval of natural resources district boundary changes.

Brasch. The Natural Resources Committee accepted testimony on LB 325 on February 14, 2013. The bill proposes to eliminate the language that requires board approval for district boundary changes, divisions or mergers. Under the proposal any changes, divisions and merger decisions will rely solely with the Natural Resources Commission. Landowners could petition out of the district and the impacted NRD would have no input on the process.

The bill was supported by the Papio Valley Preservation Association which wants to form its own natural resources district. The Papio Valley Preservation Association (PVPA) has a long-standing policy of opposing flood control and water quality projects that protect lives and property. Testimony provided by the PVPA claimed they have not received adequate representation on the PMRNRD Board and the rural counties are subsidizing the greater Omaha area. Nebraskans First also testified in support of the bill. When asked by committee members, the PVPA was unable to provide a list of projects they wanted funded or how a different or additional board member would help.

John Winkler, Papio Missouri River NRD Manager, testified on behalf of the Nebraska Association of Resources Districts. The testimony showed the NRD spends more in the northern four counties than were collected. For the last three year period, the PMRNRD expenditures in these four counties were nearly five times the tax revenue collected in those counties. Furthermore, the Papio NRD collects nearly 94 percent of its tax revenue from Douglas and Sarpy Counties. The tax information provided does not include the four Rural Water Districts operated by the Papio NRD, which serves the citizens of the four northern counties with a clean, safe and reliable water supply.

The Nebraska Association of Resources Districts provided testimony on the challenges that would be encountered by other districts if the bill was to be passed. Under the bill, landowners that did not like current water regulations could petition out of the NRD to avoid regulation and the NRD would have no say in the move. Letters of opposition were submitted behalf of the Central Platte, Middle Republican and Upper Elkhorn NRDs.

The City of South Sioux provided testimony in opposition to the bill citing that since merger in of the Middle Missouri NRD and the Papio NRD in 1989, service and projects have greatly improved in the area. The PMRNRD has built regional offices to serve customers and holds board meetings in South Sioux City. The additional tax dollars provided by the Omaha area has funded many conservation and water projects that would not be possible if they were a separate district. The City of Omaha also provided testimony on opposition to the bill.

Senator Brasch plans to offer an amendment that would change the bill to a study of rural representation on the Papio-Missouri River NRD. No action was reported by the committee on the bill. However, Senator Brasch introduced LR 226, an interim study on the issues.

LB 353 - Restrict rule and regulation authority of natural resources districts. The Natural Resources Committee accepted testimony on LB 353 on January 30, 2013. No committee action was taken.

Senator Christensen introduced this bill in response to the Central Platte NRD current rules and regulations that require certified irrigated acres actually be irrigated two years in a ten year period. Testimony was provided by two proponents, one of which was a former Central Platte NRD board member. Concerns raised were the effort needed to flood irrigated pivot corners and also taking control

of crop production out of the producer's hands. Ron Bishop, General Manager of the Central Platte NRD testified in opposition of the bill on behalf of the Central Platte NRD and NARD. Ron explained the rules and regulation were established in an effort to bring the state into compliance with LB962 requirements and the State of Nebraska's obligations under the Platte River Recovery and Implementation Program.

LB 364 - Permit government bodies to set limits on certain contracts. Avery. The Government Committee accepted testimony on LB 364 on February 22, 2013. The committee advanced the bill on May 14, 2013 with Committee Amendment AM 1360.

The bill would allow a government body to prohibit contracts over a specific dollar amount in which a public official or a public employee of such body may have an interest.

Current law covers public officials but does not cover public employees. Other current statutes also require that any contract over \$2,000 has to be approved by the public body. The change in law would allow a public body to set the limit lower.

Proponents of the bill included City of Lincoln, Common Cause Nebraska, League of Nebraska Municipalities, Nebraska Accountability and Disclosure Commission and League of Voters. No one spoke in opposition to the bill.

The committee amendment (AM 1360) limits the scope of the original bill. With the amendment, only metropolitan, primary, and first class cities may prohibit contracts over a specific dollar amount where a public official or public employee of that city may have an interest.

LB 391 - Change water law provisions relating to water storage. Davis. The Natural Resources Committee accepted testimony on LB 391 on February 22, 2013. The bill proposes to modify the requirement of a reservoir and intentional underground water storage facilities when having to release water for direct irrigation or a reservoir facility holding a senior right. Current law does not designate where the facilities are located for the water to be released. The bill outlines that the irrigation ditch or reservoir holding a senior right receiving the water have to be downstream.

According to the testifiers, the issue stems from a call on the Niobrara River last year where water in Merritt and Box Butte Reservoirs was ordered to be released to meet NPPD call on the river downstream. The water was released from the reservoirs because there were not subordination agreements with five land owners upstream of Box Butte Reservoir. The total amount of water needed to meet the upstream use was 9.0 cfs while the releases were greater than 200 cfs. The Nebraska Public Power District supported the bill citing that the bill may not be necessary if subordination agreements are signed by the upstream landowners.

Other proponents of the bill were the Ainsworth Irrigation District and the State Irrigation Association spoke in favor of the bill. Central Nebraska Public Power and Irrigation District presented testimony in a neutral capacity explaining that Central believed the DNR has mis-administered the appropriation on the Niobrara River and feared a similar action could be taken on the Platte system.

The committee did not take action on the bill and it remains in committee.

LB 449 - Redefine high elective office for restrictions on multiple office holding. Avery. The Government Committee advanced LB 449 to General File on April 2, 2013 by a 5-2-1 vote. The bill adds the airport authority, metropolitan utilities district, natural resources district, and public power district to the list of higher offices. Those elected to these positions would be prohibited from holding a second public office. If the bill would pass, those holding more than one higher office would be able to serve out their terms.

Current law provides that no person serving in high elective office shall simultaneously serve in any other high elective office. Therefore, under this bill, members of the boards listed above will not be allowed to serve in any other high elective office simultaneously.

Other high elective offices include: members of the legislature, governor, lieutenant governor, secretary of state, auditor of public accounts, state treasurer, attorney general, public service commission, state board of education, University of Nebraska board of regents, county, city, learning community, community college area, or school district elective office.

The bill also provides that anyone serving in more than one high elective office on the effective date of this act will be allowed to complete the remainder of all terms for which he or she was elected or appointed.

The bill was brought to the committee by the Papio Valley Preservation Association, which was also the only supporter of the bill. The organization has a long-standing position in opposition to flood control structures that protect lives and property.

Fred Conley, Chairman of the Papio-Missouri River NRD, testified on behalf of the NARD and PMRNRD against the bill. Other opponents included the Nebraska Rural Electric Association, Nebraska Water Resources Association, the Little Blue NRD, the Lower Elkhorn NRD, and several individuals.

The committee vote on advancement of the bill follows:

Aye: (5) Senators Avery, Karpisek, Lautenbaugh, Murante, Wallman

Nay: (2) Senators Bloomfield, Scheer

Present Not Voting: (1) Senator Price

LB 474 - Change provisions relating to occupation taxes. Krist. The Revenue Committee advanced LB 474 on March 19, 2013 with Committee Amendment AM 652. The hearing on the bill was held on March 13, 2013.

The original bill proposed that funds collected from an occupation tax levied for municipal purposes may not be provided to another political subdivision, state government entity, or nonprofit entity unless the funds will be used for (a) a building that will become property of the municipality or (b) infrastructure or public utilities upgrades or public service support for the municipality.

The original bill also proposed that any occupation tax adopted on or after July 19, 2012 and prior to the operative date of this act shall terminate on January 1, 2015, unless the tax complies with the requirements of this section prior to January 1, 2015. The changes made to this section by this legislative bill do not apply to occupation taxes imposed prior to July 19, 2012.

For occupation taxes on the activity of irrigation levied by NRDs, the original bill proposed to eliminate the term “occupation” and leaves it defined as a “tax”. The bill makes no other changes to the use of the occupation tax by NRDs. A change in the definition of occupation tax could result in additional lawsuits on the constitutionality of the tax. When the tax was passed in 2007, the use of the tax was suspended when a lawsuit was filed in that fall. It took four years to get the final decision from the Nebraska Supreme Court that the tax was constitutional.

The Committee Amendment (AM 652) replaces the entire bill and places a moratorium on the imposition of new local option sales tax over the current one and one half percent rate. The Committee amendments also place a moratorium on city occupation taxes. In both cases, the ending date for the moratorium is July 15, 2014. The original bill contains the emergency clause, and the moratorium becomes law on the effective date of the act.

The bill is on General File. However, Senator Krist filed a motion (MO 51) to recommit the bill to the Revenue Committee.

LB 482 - Prohibit the state and political subdivisions from adopting certain policy

recommendations. Kitner. The Judiciary Committee accepted testimony on LB 482 on February 13, 2013 which prohibits the State of Nebraska and all political subdivisions from adopting or implementing any policy that deliberately or inadvertently infringe or restrict private property rights without due process, as may be required by policy recommendations originating in or traceable to Agenda 21, adopted by the United Nations in 1992 at its Conference on Environment and Development, or may be required by any other international law or ancillary plan of action that contravenes the Constitution of the United States or the Constitution of the State of Nebraska.

The bill would also prohibit the State of Nebraska and all political subdivisions from entering into any agreement, expend any sum of money, receive funds, contract for services, or give financial aid to or receive financial aid from nongovernmental and intergovernmental organizations as defined in Agenda 21.

Prior to the hearing an amendment was floated out to some proponents of the bill that would prohibit affiliation with the Agenda 21 organizations, but also place restrictions on conservation easements. The amendment was not offered to the bill at the hearing, but created quite a bit of testimony on the bill. Jim Bendfeldt, Secretary/Treasurer for the Nebraska Association of Resources Districts, submitted a letter of support for the bill outlining that the NRDs want to make it clear that the natural resources districts have no intention of taking property without due process. The NRDs are very cautious when dealing with property rights and want to make sure private land and landowners are protected.

Bendfeldt also pointed out that the amendment to the bill that changes the focus to limitations on conservation easements was not a part of the discussion for the voting delegates. The conservation easements have been used by the NRDs for a variety of projects. In particular, they are very useful in the Platte and Republican River Basins when landowners voluntarily give up water rights for a payment provided by the local NRD. This allows the districts to meet the state goals of reducing irrigation in the basins, increase flows in the rivers and most importantly to keep Nebraska in compliance with water compacts and agreements. On other easements from conservation groups, the NRDs have not discussed this in detail so Bendfeldt could not provide an official position from the Nebraska Association of Resources Districts. However, the NARD offered to work with interested parties to resolve any issues with the amendments to LB 482.

The committee has not reported action on the bill.

LB 488 - Change provisions relating to municipal occupation taxes. Revenue Committee. The Revenue Committee accepted testimony on LB 488 on March 13, 2013. The bill proposes to change the procedures for cities on applying occupation taxes. First, the bill would require that cities implementing an occupation tax to make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax. Second, the bill provides a list of items that would exempt from occupation taxes. These would include beer, wine, alcohol, motor fuels and tobacco products.

The bill is in response to the City of Omaha imposing on occupation tax to provide to the UNL Cancer Center. The bill does not change anything with the occupation taxes imposed by NRDs (See LB 474 – Krist). The committee has not reported action on the bill.

LB 492 - Appropriate funds to carry out the Nebraska Youth Conservation Program. Cook. The Appropriation Committee accepted testimony LB 492 on March 13, 2013. The bill proposes to appropriate \$820,000 for FY2013-14 from the General Fund to the Nebraska Youth Conservation Program Fund. The Nebraska Youth Conservation Program is administered and maintained by the

Nebraska Game and Parks Commission (NGPC). The program employs Nebraska's at-risk youth on projects which contribute to conserving or developing natural resources under the jurisdiction of the Game and Parks Commission. The program combines academic, environmental and job skills training with personal growth opportunities for the participants.

The committee reported no action on the bill. However, in the mainline appropriations bill (LB 195) the Appropriations Committee re-appropriated any unspent funds from LB 549A in 2011 so they can be combined with donations or federal funds, if they become available, to continue the program one more year.

LB 494 - Change number of districts and members of Game and Parks Commission. Davis. The Natural Resources Committee accepted testimony on LB 494 on March 6, 2013. The bill proposes to add a ninth district to the NGPC. The new district would include the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux which are in districts six and seven. Currently there are eight NGPC districts. The committee reported no action on the bill.

LB 513 - Change notice provisions under the Nebraska Ground Water Management and Protection Act. Carlson. The Natural Resources Committee accepted testimony on March 6, 2013. The bill changes the notice requirement of cease and desist order from ten days to three days to enforce any provision of the Nebraska Ground Water Management and Protection Act.

Stan Staab, Lower Elkhorn NRD Manager, testified in support of the bill on behalf of the Nebraska Association of Resources Districts. Staab reiterated that the bill would allow a shortened time frame for violators of groundwater rules and regulations to provide corrective action. The LENRD imposed new rules in areas of their district where severe declines had occurred last year. If there are water users that are operating illegal wells, under current law the well could run for 10 days before corrective action would have to be taken. Shortening this to three days could save a significant amount of water.

There was no opposition to the bill. The committee advanced the bill to General File without any amendments.

LB 514 - Provide for new funding mechanisms under the Wastewater Treatment Facilities Construction Assistance Act. Carlson. The Natural Resources Committee advanced LB 514 to General on March 5, 2013 with committee amendment AM 412. No further action has been taken on the proposal.

The bill creates a Wastewater Treatment Facilities Construction Assistance Linked Deposit Program to promote loans by eligible financial institutions for the construction, rehabilitation, and enhancement of nonpoint source control systems for public or private owners.

When an eligible financial institution has executed a linked deposit agreement with the director, the director may deposit a portion of the Wastewater Treatment Facilities Construction Loan Fund with the eligible financial institution in low-yielding deposit accounts, certificates of deposit, or other authorized deposits as set forth in the linked deposit agreement between the director and the eligible financial institution. Such deposits shall not be subject to the requirements of the Public Funds Deposit Security Act.

In the linked deposit agreement, the eligible financial institution shall make loans available at an interest rate lower than the otherwise prevailing interest rate for construction, rehabilitation, and enhancement of nonpoint source control systems. An eligible financial institution is defined as a bank that agrees to participate in the linked deposit program and which is chartered to conduct banking in this state pursuant to the Nebraska Banking Act or any national bank authorized to do business in Nebraska.

Linked deposit program loans may be made to public or private owners by eligible financial institutions for the construction, rehabilitation, and enhancement of nonpoint source control systems including: (a) Onsite wastewater and private septic systems; (b) Local water protection projects, including best management practices for nutrient controls; and (c) Eligible nonpoint source activities under the Livestock Waste Management Act.

The committee amendment (AM 412) adds to the definition of "eligible financial institution" to ensure that banks chartered in other states and authorized to do business in Nebraska are included.

LB 516 - Adopt the Nebraska Water Legacy Act. Carlson. The Revenue Committee accepted testimony on LB 516 on March 15, 2013. The bill creates the Nebraska Water Legacy Commission. The bill is part of the recommendations from the LB 229 Water Funding Study completed in December 2012.

The purpose of the commission is to identify water resources programs, projects, and activities that will achieve the goals of water sustainability, increasing water use productivity, and otherwise maximizing the beneficial use of Nebraska's water resources for the benefit of its citizens. The commission would be required to evaluate every project, rank them, and determine if they were eligible for funding.

The bill also creates the Nebraska Water Legacy Fund and would consist of one-quarter of one percent of the current sales tax, other funds appropriated by the Legislature, and money paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, and donated as gifts, bequests, or other contributions to such fund from public or private entities. Funds made available by any department or agency of the United States may also be credited to this fund if so directed by such department or agency.

Senator Carlson mentioned at his opening that the bill is not ready for advancement. Another bill (LB 517) would be worked on this session to finish a study on water funding needs and come back next session with a priority list of projects and possibly a different oversight committee.

The bill was supported by W. Don Nelson. Nelson mentioned at the hearing that the idea behind the bill was developed by himself and a select group of his friends. Other supporters of the bill included the Audubon Society, Nebraska Corn Growers Association, Central Nebraska Public Power and Irrigation District, Ducks Unlimited, and the Nebraska Farm Bureau.

John Boellstorff, former University Professor, testified against the bill.

Jim Bendfeldt, Central Platte NRD Board Member and NARD Secretary-Treasurer submitted a letter in a neutral capacity on behalf of the NARD. Bendfeldt thanked Senator Carlson for working on changes to LB 517 to get more people involved in evaluating the water funding needs. The process that Senator Carlson has set out with LB 517 provides an opportunity to come back to the Legislature next session with a prioritized water project list and a suggested oversight board utilizing the Natural Resources Commission.

The committee did not report action on the bill.

LB 521 -- Require cities and villages and other public bodies that maintain web sites to publish ordinances and other information as prescribed. Christensen. The Government committee accepted testimony on LB 521 on February 6, 2013.

The bill requires that if any public body maintains an official web site, each meeting notice and agenda would have to be published on the web site. Also, the bill requires that on and after January 1, 2014, any city of any class and any village that maintains an official web site shall publish on the web site all of its ordinances. New or amended ordinances shall be published on the web site within seven days after passage.

The American Civil Liberties Union testified in support of the bill and provided three cases in small communities in the past year that did not provide ordinances' to citizens for different reasons. The ACLU recognized that some of the bill requirements may need to be modified to be workable but it was a "good hearted bill".

The League of Municipalities testified against the bill noting that only 180 cities and villages have websites. The requirement might become so burdensome that dropping the website might be a default remedy. The City of Omaha also testified against the bill noting that over 40,000 ordinances have been adopted since Omaha became a city in 1857. The committee did not report action on the bill.

LB 522 - Provide state financial assistance to irrigation districts to compensate water

appropriators. Christensen. Senators advanced LB 522 to Select File on April 23, 2013 by a 27-0 vote after adopting an amendment by Senator Christensen. His amendment, AM 1071, takes all of the funds for the Platte River Recovery Program (\$3.3 million annually) and adds \$1.7 million annually to provide \$5 million dollars to the Frenchman Cambridge Irrigation District annually for the next two years. The amendment was adopted 25-0.

It also appears under the amendment that the \$3.3 million annual grant from the Nebraska Environmental Trust would have to be turned back as providing compensation to irrigators in the Republican River Basin was not the purpose of the grant. The Department of Natural Resources was using the \$3.3 million annual appropriation as a match for the grant which was also matched by the NRDs in the Platte Basin. The net result is taking away \$6.6 million annually that would have been going to the Platte River Recovery Program.

The bill as amended would require the Department of Natural Resources to provide financial assistance to affected irrigation districts if the Department of Natural Resources adopts a rule or regulation prohibiting surface water appropriators from storing or diverting instream flows for irrigation to comply with an interstate compact or decree. The irrigation districts would be required to use the financial assistance to compensate surface water appropriators who have had to forgo the use of water. Individual surface water appropriators and irrigation companies would not be eligible for compensation.

If the Department of Natural Resources issues closing notices prohibiting surface water appropriators from storing or diverting natural or instream flows for irrigation to comply with an interstate compact or decree, then the department shall provide reasonable compensation based on the acre-feet of water not stored or diverted for affected water users through the affected irrigation districts. The irrigation districts shall use such compensation to reasonably compensate surface water users who have had to forgo the use of water.

Senator Christensen introduced the bill on behalf of Frenchman-Cambridge Irrigation in response to the compact call on the Republican River for 2013 by the Nebraska Department of Natural Resources. The manager for the Frenchman-Cambridge Irrigation District sided with Kansas in the recent Kansas v. Nebraska lawsuit on the Republican River Compact.

The Frenchman-Cambridge Irrigation District is also the entity that is suing the state of Nebraska, N-COPRE, Bureau of Reclamation and the Upper Republican NRD to stop augmentation projects that would keep Nebraska in compliance with the compact. Senator Christensen's bill to provide a \$40 million loan (LB 185) to finish the augmentation project would not be necessary if the lawsuit was not filed. Final action by the courts is still pending in both matters.

The amendment further defines reasonable compensation as the equivalent to the current compensation for dry-year leases used by natural resources districts (or the districts' average if the irrigation district is in more than one district), where the irrigation district is located, for the conversion of irrigated acres to dry-land acres for a one-year period. The payments would come from the General Fund.

A long-standing US Supreme Court Case, *Hinderlider v. La Plata Co.*, 304 U.S. 92 (1938), provides some guidance in the issue of compensation in water compacts. The case involved a water compact between Colorado and New Mexico. In essence, New Mexico claimed that Colorado was using more than their share of the water and wanted more water released downstream. Further, Colorado had provided more water rights to their users than the state was entitled to. The court ruled that if the downstream state was allowed the water under the compact, the upstream state had no authority to grant the water right to its users. Since Colorado had no authority to grant the water right for its users, no compensation for cancelling the right was required.

Another long standing case, *Badgley v. City of New York*, 606 F.2d 358, 365-67 (2d Cir. 1979), dealt with a similar compact issue where water in the upstream state had to be released under the compact for use in the downstream state. The upstream state demanded payment to their users for the loss of water. The Court ruled that a state cannot grant to private parties any privately owned property interest in riparian rights greater than the state's own property interest in them under the compact. In this case the upstream state tried to place a price on the water right and force a payment when the compact called for water to be released. The Court ruled that no right existed because of the compact and no compensation was required.

Further, the permits granted in 1947 for the Frenchmen projects outline that use of the water may be denied during times of scarcity. The permits do not require compensation, even in times of scarcity. As most recall, Nebraska suffered the worst drought on record in 2012, which resulted in the water short year for the Republican Basin for 2013.

The bill was Senator Christensen's Priority Bill for the session.

LB 551 -- Change recreational liability provisions. Schilz. On February 13, 2013, the Judiciary Committee accepted testimony on LB 551 which proposes to create the Recreation and Tourism Promotion Act. The bill is designed to encourage landowners to grant access to their farm and ranch land for recreation and tourism activities by reducing the risk of liability. The bill revises existing recreation liability law and provides protection from liability for landowners allowing persons on their land for recreation and tourism activities, such as hunting, fishing, birding, hiking, water sports and archeological work. It allows landowners to charge a fee for such activities, but requires notice be given of inherent risks on the land, in order for the landowner to be protected from liability.

The bill protects landowners from liability arising from injuries and damages caused by inherent risks of the land. It does not change ordinary standards of care the landowner has for not notifying the participant of known hazards, not maintaining equipment, or not properly training employees. The bill does not relieve the landowner or liability for acts that are grossly negligent, willfully in disregard for the safety of others, or intentional.

The bill amends the recreational liability limitations by expanding the limits from just land to premises and other definition changes. Premises are defined in the proposal to include realty, land, roads, pathways, trails, water, watercourses, private ways, and buildings and structures attached to the realty.

Recreation and tourism activities are defined include, but are not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, canoeing, kayaking, tubing, water sports, camping, picnicking, hiking, backpacking, bicycling, horseback riding, pleasure driving, nature study, birding, farm, ranch and vineyard tours and activities, waterskiing, snow-shoeing and cross country skiing, and visiting and viewing historical, archaeological, scenic or scientific sites, and similar activities.

The Nebraska Association of Resources Districts submitted a letter of support for the bill outlining it would expand tourism and recreational opportunities in the State of Nebraska. The bill was supported by several other individual and groups. The bill was opposed by the Nebraska Trial Attorneys.

The committee has not reported action on the bill.

LB 574 - Provide that certain assessments are levied and collected as special assessments. Harr.

The Revenue Committee advanced LB 574 on March 21, 2013 with Committee Amendment AM 446. 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.

The League of Municipalities is seeking the change because of a court case that treats the city assessments differently for tax lien purposes. Prior to the hearing, an agreement was reached with the proponents of the bill to remove the changes for natural resources districts.

The amendment (AM 446) deletes references to four sections including: NRD special assessments; special improvements areas assessments; joint solid waste agencies assessments and charges; cities of the metropolitan class sewage special assessments; and assessments by a county for usage fees charged by the county government under the County Industrial Sewer Construction Act.

The bill is a Speaker Priority Bill and awaits General File debate. Senator Chambers' motion to bracket the bill until June 5, 2013 was unanimously approved on May 30, 2013.

LB 580 -- Change certain condemnation procedures. Johnson. The Judiciary Committee accepted testimony on LB 580 on March 15, 2013. The bill changes condemnation procedures for the state and any governmental or political subdivision.

The intent of LB 580 is to amend the law regarding claims based on inverse condemnation. Specifically, the bill amends the process for inverse condemnation by (1) requiring inverse condemnation petitions to be filed in district court for a simultaneous determination of whether a taking or damage has occurred and determination of just compensation for the damages; (2) creating a statute of limitations of 3 years for inverse condemnation actions and (3) allowing for offers of judgment at trial on condemnation and inverse condemnation petitions.

The bill was introduced in response to the Nebraska Court of Appeals case of *Henderson v. City of Columbus*, No. A-11-060 (April 3, 2012). *Henderson v. City of Columbus* is currently on appeal to the Nebraska Supreme Court and oral arguments were heard on November 8, 2012 but, as of the bill introduction, a decision had not been rendered.

The lower court decision expands the scope and application of inverse condemnation by applying inverse condemnation actions to damages caused by the operation of public utilities or public improvements that have failed to function. If the Nebraska Supreme Court affirms the Court of Appeals, LB 580 seeks to allow cities and other condemners the ability to better prepare for and process the expected increase in inverse condemnation claims.

However, on the date of the hearing (March 15th) the Nebraska Supreme Court issued their decision and remanded the case to the Court of Appeals with directions to affirm the district court's order in which it rejected the entirety of the Hendersons' claims. Thus, with the decision, the bill is no longer needed. Senator Johnson brought the bill to discuss at the committee level to raise awareness of the case. With the court's decision on March 15th, Senator Johnson asked that the bill be indefinitely postponed after the hearing. The committee did not report action on the bill.

LB 601 -- Require notice for natural resources district subcommittee meetings. Bloomfield. The Natural Resources Committee accepted testimony on LB 601 on March 7, 2013. The bill would require that any meeting of a subcommittee created by a NRD board shall be open to the public and notice shall be public noticed.

Scott Japp of the Papio Valley Preservation Association testified in support of the bill and explained that the Papio Missouri River NRD does follow the open meeting laws appropriately but none of the other NRDs do.

Other proponents included landowners impacted by the Maple Creek Recreation area project that was recently completed by the Lower Elkhorn NRD. Claims were made by Myron and Kent Franzen that secret meetings were held by sub-committees that bind board decisions on dam projects. However, no evidence of the binding action was provided or demonstrated. Nebraska Farmer Union also testified in support of the bill.

The Nebraska Association of Resources Districts testified against the bill. The testimony acknowledged that most of time the NRDs do public notice sub-committee meetings and make them open to the public. However, there are some instances where sub-committees meetings are not be open to the public. Examples would be; 1) meeting with legal counsel and NRD staff to address legal issues related to district operations or programs; 2) meet with individual to discuss their compliance issues and 3) meeting with state agencies and legal counsel to receive advice on water management plans. Under the bill, all of these meetings would have to be open to the public. The NRDs need discretion to determine when meetings are open to the public and when the meeting should be closed to protect individuals and attorney/client privileges.

Glenn Johnson, Lower Platte South NRD also testified in opposition to the bill on behalf of the LPSNRD and the Nebraska Water Coalition pointing out that the bill singles out NRDs and does not include other public bodies who operate with sub-committees.

The Papio-Missouri River NRD testified in a neutral capacity explaining the bill as drafted is overly broad and does not define a meeting of a sub-committee and may result in districts spending tax funds on public notice and other requirements such as legal counsel unnecessarily.

The committee did not report any action on the bill.

LB 635 -- Provide powers and duties regarding hydraulic fracturing to the Nebraska Oil and Gas Conservation Commission. Wallman. The Natural Resources Committee accepted testimony on LB 635 on February 28, 2013. The bill would provide the Nebraska Oil and Gas Conservation Commission with authority to adopt, promulgate and enforce rules and regulations relating to hydraulic fracturing or other chemical stimulations to complete an oil or gas well.

The bill also sets out requirements and documentation for the operator, location, transporter, water and chemicals used in the hydraulic fracturing process. New and existing wells which will be stimulated by hydraulic fracturing would have to demonstrate suitable and safe mechanical configuration for the stimulation treatment proposed. Within sixty days after the hydraulic fracturing stimulation is performed, the operator shall post all the elements specified in the commission's rules and regulations, including the amount and source of water used for the stimulation and the amount of fracturing fluid recovered. The posting would be required to be on a web site designated by the commission's rules and regulations.

Those testifying in support of the bill included the Nebraska Sierra Club and the Nebraska Wildlife Federation. The arguments used in favor of the bill was that fracking causes contamination and pumping oil out of the ground creates a imbalance of fluid underground creating threat of earthquakes. The groups also argued for full disclosure of all chemicals used in the process.

William Sydow from the Nebraska Oil and Gas Commission testified in opposition to the bill. His testimony pointed out that current laws in place already cover many of the issues requested in the bill. In addition, the commission had almost completed rules and regulations on the issue, but the process was suspended after the bill was introduced to see what other items needed to be included. Mr. Sydow's testimony also pointed out that some of the products approved for use by state and federal agencies in the fracking process have patent protections and the chemical composition cannot be released. Over a dozen other testifiers from the industry spoke in opposition to the bill.

No action has been reported by the committee.

LB 636 -- Provide restrictions for application of certain herbicides. Wallman. The Agriculture Committee accepted testimony on LB 636 on March 5, 2013. The bill would require any person applying 2, 4-D, or any phenoxy herbicide outside the corporate limits of a city or village between April 15 and September 15 follow new requirements.

These requirements would include the following:

- The applicator would have to notify the Department of Agriculture, in writing, of the location of each application at least seventy-two hours prior to such application;
- Only make applications within four miles of susceptible crops when the wind is blowing at least two miles per hour away from the susceptible crop;
- Have a buffer zone between the application location and any susceptible crop of four miles for aerial application and one mile for ground application; unless the applicator receives a waiver from the producers of all susceptible crops within the buffer zone.

Susceptible crops are defined in the bill to include grapes and other organic broadleaf crops. A violation would be punishable by a civil fine of up to one thousand dollars per violation.

The bill was introduced on behalf of grape growers who had some damage from overspray/drift in the last year. Several grape growers testified in support of the bill, but recognized that an interim study may be the best approach to resolving the issue. A long list of agribusiness groups, individuals, commodity groups, agriculture groups and individuals testified against the bill.

Charles Brooks, Tri-Basin NRD, testified in opposition of the bill on behalf of the Nebraska Association of Resources Districts and the Nebraska Weed Control Association. Brooks' testimony outlined that current federal and state laws address situations of over-spray and drift. For example, use of each registered pesticide must be consistent with use directions contained on the label. All commercial applicators must have training to apply pesticides properly. In addition, training and testing is under the direction of the Nebraska Department of Agriculture.

The Nebraska Department of Agriculture has a sensitive crop locator on their website called Driftwatch™ to assist applicators in identifying areas which may require special consideration. Driftwatch™ was designed by staff from the Purdue University Agricultural and Biological Engineering and Agricultural Communications departments with input and support from Purdue University Cooperative Extension Specialists. This site is meant to help pesticide applicators, specialty crop growers, and stewards of at-risk habitats in Nebraska communicate more effectively to protect pesticide-sensitive areas. The DriftWatch map is designed to display sensitive commercial agricultural areas.

This site features an easy-to-use Google Maps™ interface that clearly shows applicators the locations of registered areas so they can take the appropriate precautions before they spray. It's important to remember that the lines on the maps are not property lines; they merely indicate approximate positions of sensitive

lands submitted. Sensitive crop areas registered on this site include beehives, certified organic crops, fruits, grapes, nursery crops, pumpkins, melons, tomatoes, and vegetables.

The committee did not report action on the bill.

LB 637 -- Require an economic analysis of rules and regulation proposed by the Department of Environmental Quality. Wallman. Senators began General File debate on LB 637 the first week of April but did not get to a vote on the bill. The bill still sits on General File.

Senator Wallman introduced LB 637 on behalf of the Association on Nebraska Ethanol Producers in order to provide additional economic analysis of the impacts rules and regulations have on industry. The bill requires additional information, outreach and economic analysis when the NDEQ proposed rules and regulations that are different than those proposed by federal regulations.

Also under the bill, the Governor's Policy Research Office would have to review a proposed rule or regulation from the NDEQ that will have a total estimated economic impact greater than five hundred thousand dollars on all regulated persons or entities. After conducting a review, the office may suggest alternatives to reduce any regulatory burden that the proposed rule or regulation imposes on regulated persons or entities. The department shall respond in writing to the office concerning the comments or suggested alternatives before adopting the proposed rule or regulation. Senator Chambers filed FA 52 to the bill which proposes to strike this section.

At the hearing, NDEQ Director Mike Linder testified in opposition to the bill explaining to the committee that any rules and regulations proposed by the department must be done so in accordance with the Administrative Procedures Act and also has a public hearing in front of the Nebraska Environmental Quality Council. Director Linder also explained that situations do arise where a one size fits all regulation established on the federal level may not work in Nebraska or may be in conflict with existing regulations.

Senator Sullivan withdrew her name as a co-sponsor of the bill on April 3, 2013.

Section Four – 2013 Interim Study Resolutions

The following are the list of Interim Study Resolutions introduced in 2013 that are of interest to natural resource districts. These are sorted by category in the NARD Policy Book.

A complete list of interim studies can be found at:
<http://www.nebraskalegislature.gov/session/interim.php>.

DIRECTORS & ELECTIONS

- **Elections**

LR 192 -- Interim study to examine conducting elections by mail. Avery. Government Committee.

LR 202 -- Interim study to examine the issue of election day registration. Avery. Government Committee.

- **Board Representation**

LR 226 -- Interim study to examine concerns surrounding the operation of the Papio-Missouri River Natural Resources District. Brasch. Natural Resources Committee.

FUNDING & TAXES

- **Water Management Programs**

LR 319 -- Interim study to examine issues relating to Omaha's federally mandated combined sewer overflow project. Mello. Revenue.

- *Other*

LR 332 -- Interim study to examine ways the state may reduce property taxes. Pirsch. Revenue Committee.

GENERAL ADMINISTRATION

- *Data*

LR 167 -- Interim study to examine issues surrounding personal identifying information collected by state and local governments and private businesses. Mello. Government Committee.

LR 223 -- Interim study to examine issues surrounding open data policies. Mello. Government Committee.

- *Other*

LR 298 -- Interim study to examine issues surrounding the efficiency of state programs. Mello. Appropriations Committee.

LAND USE & ACQUISITION

- *Drainage*

LR 183 -- Interim study to examine Nebraska's drainage statutes as they apply to drainage by neighboring landowners under section 31-201 and other related statutes. Larson. Natural Resources Committee

- *One Call*

LR 267 -- Interim study to review the One-Call Notification System Act. Smith. Transportation Committee.

- *Pipelines*

LR 320 -- Interim study to examine statutes and procedures relating to the eminent domain laws for oil pipelines and the authority of local governments to regulate oil pipelines. Haar. Judiciary.

LR 321 -- Interim study to examine statutes and procedures relating to the State of Nebraska's financial responsibility for oil pipelines. Haar. Natural Resources Committee.

SOLID WASTE

LR 245 -- Interim study to examine issues relating to recycling. Mello. Natural Resources Committee.

WATER QUALITY

LR 309 -- Interim study to examine issues relating to improving the protection of sensitive commercial crops from losses due to the damaging effects of phenoxy herbicide drift. Wallman. Agriculture.

WATER & WETLANDS

- *Flood Control*

LR 214 -- Interim study to examine Nebraska's statutes, rules, and regulations relating to the permitting process for small surface water storage reservoirs. Carlson. Natural Resources Committee.

- **Integrated Management Plans**

LR 254 -- Interim study to examine the concept of regulating commingled acres relating to surface water and ground water. Christensen. Natural Resources Committee.

LR 255 -- Interim study to examine the concept of moving surface water-only irrigated acres to ground water acres to help compliance with compacts, agreements, and decrees. Christensen. Natural Resources Committee.

LR 345 -- Interim study to examine whether the Nebr. Ground Water Management and Protection Act should be amended relating to designating or determining the appropriation status of river basins. Christensen. Natural Resources Committee.

OTHER

LR 205 -- Interim study to examine the mission and financing options as authorized by current law of the Game and Parks Commission. Avery. Natural Resources Committee.