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TO: NARD Board, NRD Managers and Conservation Partners  
FROM: Dean E. Edson, NARD Executive Director  
RE: February 15 NARD Update

### **Floor Action**

#### **LB 103 - Change provisions relating to property tax requests. Linehan.**

The Legislature advanced LB 103 to Select File on a 35-2-12 vote after adopting the Committee Amendment (AM 116) on a 35-1-13 vote. The amendment strikes the original bill and becomes the bill after it was adopted on General File.

#### **Original Bill**

The original bill proposed that when the annual assessment of property would result in an increase in the total property taxes levied by a political subdivision as determined using the previous year's rate of levy, such political subdivision shall reduce its levy for the current tax year so that the taxes collected are equal to or less than the previous year.

If the political subdivision would need to exceed that amount, the original bill would have required notice of a public hearing at least thirty days prior in at least one newspaper of general circulation. The notice must be at least the size of one-eighth page of a standard size or tabloid size newspaper, and the headline no smaller than eighteen-point font. The bill would require standard form for the notice and require the following information to be included:

- The total percentage increase in assessed property valuation of the subdivision.
- The lowered tax rate needed to offset the increased valuation.
- The tax rate increase (Difference between the lowered rate and requested levy rate).
- Proposed total budget increase.
- Location of the public hearing.
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With the Committee Amendment, all the original language is eliminated.

#### **Committee Amendment - AM 116**

The amendment strikes the original language and would require the property taxes collected to be no more than the previous year. The amendment would require the county board of equalization to adjust the rates when valuations have changed to assure the taxes collected are not more than the previous year.

If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so after holding a public hearing and by passing a resolution or ordinance after the hearing.

A public notice would be required to be published in a newspaper of general circulation in the area of the political subdivision at least five days prior to the hearing.

The hearing notice shall contain the following information:

- Certified taxable value for the prior year
- Certified taxable value for the current year
- Percentage increase or decrease in the certified taxable value
- Dollar amount of prior year's tax request
- Property tax rate of prior year
- Property tax rate to fund prior year's tax request with current year's certified taxable value
- Proposed dollar amount of tax request for the current year
- Property tax rate necessary to fund the request
- Percentage increase or decrease in the property tax rate from the prior year to the current year
- Percentage increase or decrease in the total operating budget from the prior year to the current year

The resolution or ordinance shall include, but not be limited to the following information:

- Name of political subdivision
- Amount of property tax request
- The percentage difference in the total assessed value
- The property tax rate to fund prior year's tax request with current year's certified taxable value
- The tax rate that will fund the proposed property tax request
- The percentage increase or decrease in the total operating budget
- The record vote of the governing body

The resolution or ordinance shall be filed with the county clerk on or before October 13 of the year applicable to the property tax request.

The Revenue Committee advanced LB 103 to General File by a 7-0-1 vote with Committee Amendment (AM 116) on February 5<sup>th</sup>. The amendment strikes the original bill and became the bill after it was adopted on General File.

### **Hearing Notes**

The bill was supported by the Platte Institute, Lincoln Independent Business Association and one individual. The main argument was that residential property values are increasing in Lincoln and Omaha and something needs to be done to control increased property taxes on urban property.

Opponents Kyle McGowen, registered lobbyist for the Nebraska Council of School Administrators, testified in opposition for his organization and five other school and education groups. McGowen mentioned that many of the concepts included in the bill are already in existing budget laws. This would make the local boards go through the budget hearing process twice. He also pointed out the bill has some issues with timing on notices and conflicts with current public notice requirements.

County assessors are not required to have property valuation information to political subdivisions until August 20<sup>th</sup> of each year. Budgets must be submitted to the State auditor by September 20<sup>th</sup> which is 31 days later. The bill requires that you notice the hearing "at least" 30 days in advance of the special hearing and most newspapers require a minimum of 5 to 7 days advance notice to publish. The timing under the bill does not allow time to hold the hearing and get your budget submitted to the state by the deadline.

Steve Curtiss, City of Omaha. Assessment valuation adjustments are not consistent with all of the counties. Some are at 95% and some are at 85%. This would maintain inequities in the system.

Gregg Adams with the Nebraska Community Colleges also brought up the timing issue.

Lynn Rex, League of Municipalities, pointed out that state aid and tax base has been taken away from local governments in the past, creating the increased cost of local government. Rex also mentioned problems for smaller cities to publish the notice in the newspapers, especially those that only have weekly publications. It also doubles the costs of notices because of the first public notice.

Other political subdivisions brought up similar concerns in opposition testimony.

**LB 319 - Change provisions relating to notices, rules, and regulations of Department of Natural Resources. Moser.**

The Legislature advanced LB 319 to Select File on Wednesday, February 13<sup>th</sup> on a 42-0 vote.

The bill proposes to eliminate mail as the only method of providing notification of any hearing to consider the adoption, amendment, or repeal of minimum standards for local flood plain management regulation to clerks of all cities, villages, and counties which might be affected.

The bill also proposes to eliminate the requirement for the Department to adopt and promulgate rules and regulations governing matters coming before it and makes it permissive to do such.

The Natural Resources Committee advanced LB 319 to General File on February 11<sup>th</sup>. The hearing was held on February 6<sup>th</sup>.

**Hearing Notes**

Jeff Fassett, Director of the Department of Natural Resources, testified in support of the bill. He noted that the proposed changes were identified by working with customers to improve efficiencies.

Fassett told the committee there was no negative feedback from parties regarding the proposed switch from mail to email to provide cost savings. He noted the proposed eliminating mandatory rules removes the restriction for the use of the Water Resources Trust Fund. It was outlined that statute allows for a broad authority, however current department rules limit the scope of use for the fund. He told the committee that the fund is not receiving new dollars, but currently has \$167,000 available. Modifying the rule would allow the funds to be better used in the fully and over-appropriated areas. He noted it also would eliminate some confusion related to the 2000 merger of the Department of Water Resources and the Natural Resources Commission.

There were no opponents or neutral testimony to the bill.

**Committee Action**

**LB 48 - Change provisions relating to sufficient cause for nonuse of a water appropriation. Stinner.**

The Natural Resources Committee accepted testimony on LB 48 on Wednesday, February 13<sup>th</sup>, and advanced the bill to General File on February 14<sup>th</sup> on a 7-0-1 vote.

The bill proposes to change provisions relating to finding of sufficient cause for nonuse of a water appropriation.

The bill would require that sufficient cause for nonuse be deemed to exist for up to 30 years if the land subject to the appropriation is under an acreage reserve program or production quota or is otherwise withdrawn from use as required for participation in any federal, state, or natural resources district program, or such land was previously under such a program but currently is not under such a program and there have been not more than five consecutive years of nonuse on such land subsequent to when that land was last under such program.

Under current law, sufficient cause for nonuse for similar programs is limited to up to 15 years.

### **Hearing Notes**

In his opening Senator Stinner provided the committee an overview of the CREP program. He emphasized the updated 2016 agreement which allows for reenrollment of existing contracts, but noted that without this legislation, surface water users voluntarily interested in reenrolling would be jeopardizing their water right. He distributed a handout portraying the existing contracts as of 2018 and noted that many of the existing contracts will expire in 2020.

Proponents of the bill included Dennis Strauch, testifying on behalf of the Pathfinder Irrigation District and the North Platte Valley Irrigation Association. Strauch highlighted the success of voluntary set aside programs and echoed the need to provide protection of water rights for those looking to voluntarily set aside their irrigation.

Jeff Fassett, Director of the Department of Natural Resources also testified in support of the bill. He provided the committee an overview of the current statutes governing adjudication due to nonuse. Director Fassett mentioned that voluntary set aside programs, like CREP, are some of the best tools to address obligations of interstate agreements and local integrated management plans. He noted that CREP has been the most beneficial set aside program because it brings in federal dollars.

Timothy McCoy, Deputy Director Nebraska Game and Parks Commission also testified in support of the bill. McCoy stressed that the program is entirely voluntary and provides wildlife benefits in addition to the water benefit. McCoy addressed questions from the committee relating to how ground in the reserve program can be farmed.

Letters of support were included from the North Platte NRD and the Nebraska Association of Resources Districts.

There was no opposition or neutral testimony.

### **Hearings summaries this week -- The following bills had hearings this week.**

#### **LB 283 - Provide for a climate change study. Pansing Brooks.**

The Executive Committee accepted testimony on LB 283 on February 11<sup>th</sup>.

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

- (a) A baseline measurement of greenhouse gas emissions, also called a carbon footprint, of the state;
- (b) Measurable benchmarks and goals, including actions needed to meet the goals and benchmarks;
- (c) Assessment of risks and vulnerabilities from negative impacts of climate change;

- (d) Opportunities presented by strategies for adaptation and mitigation of the impacts of climate change;
- (e) Opportunities to improve and increase resilience to the impacts of climate change;
- (f) Potential economic impacts of climate change, both positive and negative;
- (g) Examination of impacts of climate change upon the following sectors:
  - (i) Agriculture; (ii) Water resources; (iii) Health care and public health; (iv) Energy generation and use; (v) Ecosystems and forestry; (vi) Rural and urban communities; (vii) Transportation; and (viii) Commerce and industry.

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

The process to be used to develop the plan would require opportunities for public comment and engagement, including, but not limited to, online input, public hearings, and public and private sector engagement. It would also require input from entomological, climate, water, agricultural, and natural resource experts in Nebraska. Comparable strategic action plans from other states would also be considered.

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

### **Hearing Notes**

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

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

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

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

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

The committee has not reported any action on the bill.

**LB 177 - Change a termination date for bonding authority of natural resources districts. Lindstrom.**

The Natural Resources Committee accepted testimony on LB 177 on Thursday, February 14<sup>th</sup>.

The bill proposes to extend the authority of the board of directors of a natural resources district encompassing a city of the metropolitan class, upon an affirmative vote of two-thirds of the members of the board of directors, to issue negotiable bonds and refunding bonds of the district, entitled flood protection and water quality enhancement bonds. The bill would extend the authority from December 31, 2019 to December 31, 2029.

**Hearing Notes**

John Winkler, Manager of the Papio-Missouri River NRD, testified in support on behalf of the PMRNRD and the Nebraska Association of Resources Districts.

Winkler pointed out the bonding authority is not a property tax issue but a financing tool. The bill does not grant any additional taxing authority to the NRD, as the bond debt service must fit within the District's statutorily authorized property tax mil levy limit of four and half cents per \$100.00 of assessed valuation. The District with or without bonding authority can never exceed a four and half cent (.045) mil levy limit.

The District has utilized bond funds to construct six major flood control and water quality enhancement projects. (Waterloo Levee, Western Sarpy Clear Creek Levee, Kramper Lake, Prairie Queen Lake and Zorinsky Water Quality Basin 1). For example, the bond funds were a catalyst to complete the Western Sarpy/Clear Creek Levy project which protects Lincoln and Omaha's well fields from disastrous ice jam flooding. This project lagged for over 10 years because of inadequate federal funding and its price tag had risen from \$11 million to \$43 million dollars. Bond funds allowed the NRD to finally complete that project in time to protect the second largest city in Nebraska's only potable water supply.

The Papio-Missouri River NRD has bonded a total of \$71.5 million over the last 10 years. The bonds are for a 20-year term. Total outstanding G.O. bonded debt as of last year is \$60 million. All the current bonds will be completely paid by FY 2033. To do all of this, the District has utilized only six tenths (.0062) of its total one cent (.01) bonding authority.

Some other examples of benefits from bonding authority and as a result of the construction of past flood control reservoirs, new rainfall data and modern mapping techniques, the Omaha Metro Area is one of the few, if not the only place in the nation where federally designated floodplains are actually being reduced between 10 and 15 percent. This reduction in the floodplain will remove or prevent 3,000 structures (homes and businesses) from being designated within the 100-year floodplain. This will result in \$7 to 8 million in annual flood insurance premium savings alone to area homes and businesses.

With the future addition of new planned flood control reservoirs and levees the floodplain will only decrease further and generate even greater benefits to the community.

It is estimated that the readily quantifiable average annual benefits of the existing and planned reservoirs to the greater Omaha Metro Area is \$25 million dollars. Compound this benefit over the 100-year and greater life span of these flood control projects and the average combined benefit to the community is over 2.5 billion dollars.

The Papio-Missouri River NRD has identified six priority flood control reservoir projects and one levee project that must be constructed within the next 10 years. Estimated costs of these projects are \$80 million, in today's dollars. Development is continuing to rapidly occur in the Omaha Metro Area and each of the

priority reservoir sites have either active construction or platted subdivisions around the project areas. These projects have widespread public support from the City of Omaha, Sarpy County, City of Papillion, City of Gretna, City of Bellevue, City of LaVista and numerous citizens.

As a result of this rapid development in the greater Omaha Metro Area, the District has received unsolicited offers to purchase land from various landowners in the priority project site areas. There is no plan to use eminent domain.

He also cited a 2012 study performed for the National Waterways Foundation, it found that when a construction project is delayed, it costs society about 37 cents on the original dollar invested for every year that the project is delayed. Therefore, more than 3 years of delay is equivalent to doubling the cost of the project. The disturbing reality is that construction projects are delayed an average of 20 years. The extension of bonding authority for the Papio-Missouri River NRD has been and will continue to be a cost-effective means of enabling the District to carry out its mission.

Finally, Winkler pointed out that no reservoir projects are proposed nor will be proposed in Washington County.

Jim Thompson, Chairman of the PMRNRD, testified in support on behalf of the Papio Missouri River NRD.

Thompson stressed that when the bill was debated in 2009, opponents used fear of an out of control government entity bonding itself into a debt spiral. That never came to pass, as the board made it a priority to stall under the levy limit in the bill and is very conservative on managing the budget and debt.

The Papio-Missouri River NRD's current property tax mil levy is .0375 cents per \$100 of valuation. For 13 out of the last 14 years the District has either lowered or kept its mil levy the same. Average valuation and tax asking increases since bonding authority was granted in 2009 has been 3.1 percent, which is similar to the growth in the state budget this year.

The old way of building projects with "pay-as-you go" does not work and ends up costing the taxpayers more in the long run.

Jack Cheolha, Lobbyist for the City of Omaha, testified in support on behalf of the city. Cheolha reminded the committee that the metro area has over 1 million people and is growing rapidly. He stressed the need to keep up with growth and develop flood control projects that will protect lives and property.

Cheolha also stressed the city does planning for development and stormwater runoff but does not have the authority to build the flood control structures. The city works with the NRD to build the structures and complements the structures with adjoining public parks. Overall, it is a great partnership with the NRDs and all of the cities in the metro area to protect lives and property.

Several letters of support were filed with the committee.

Opponents included several members of the Papio Valley Preservation Association (PVPA), which is a group that has long-standing opposition to flood control structures in Washington County. These individuals included Shawn Melotz, Grant Melotz, Jason Cloudt, Tyler Mohr, Steve Kroger, Jay Anderson and Mick Mines (registered lobbyist for PVPA).

The common theme from the opposition was the NRD does not need to build flood control structures and should cut spending instead. Also, more NRD funds should be re-directed to cost share programs for farmers.

Doug Kagan, Nebraskans for Taxpayer Freedom, also spoke against the bill. He argued that property taxes are too high in Omaha and cuts should be made.

The committee has not reported any action on the bill.

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

The Natural Resources Committee accepted testimony on LB 53 on Thursday, February 14<sup>th</sup>.

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

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

**Hearing Notes**

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

No action has been reported by the committee.

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

The Executive Committee accepted testimony on LB 261 on February 14<sup>th</sup>.

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

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

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

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

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



No one spoke in opposition or in the neutral capacity. The committee has not reported any action on the bills.

### **Hearings next week**

The Legislature has enacted the following written position letter policy for public hearings:

- If you are not testifying in person on a bill and would like to submit a written position letter to be included in the official hearing record as an exhibit, the letter must be delivered to the office of the committee chair (or emailed to the committee chair) of the committee conducting the hearing on the bill by 5:00 p.m. on the last work day prior to the public hearing.
- Additionally, the letter must include your name and address, state a position of for, against, or neutral on the bill in question and include a request for the letter to be included as part of the public hearing record.

### **Tuesday, February 19<sup>th</sup>**

- **Agriculture Committee, Room 1524, 1:30 PM**

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

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

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

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

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

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

**Wednesday, February 20<sup>h</sup>**

- **Natural Resources Committee, Room 1525, 1:30 PM**

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

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

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

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

**Thursday, February 21<sup>st</sup>**

**Government Committee, Room 1507, 1:30 PM**

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

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