



May 31, 2019

TO: NARD Board of Directors, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: May 31, 2019 NARD Sine Die Update

The Nebraska Legislature adjourned Sine Die May 31, 2019, on day 84 of a 90-day session. The next 60-day session is scheduled to begin January 8, 2020. 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 2019 Legislative Bills of interest to natural resources districts.

Senators did not reach an agreement on property tax relief, failing to secure 33 votes to invoke cloture and vote on the bill.

The first section lists bills that were passed by the Legislature and approved by Governor Ricketts (Pages 3-14). The second section lists bills that have been indefinitely postponed or withdrawn (Pages 15-17). The third section lists bills that will be carried over for the next session (Pages 18-42).

The fourth section includes Interim Study Resolutions that were introduced in 2019 (Pages 43-44). 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.

Bill or CA	Description	Sponsor(s)	Page #
LR 8CA	Constitutional amendment to limit the total amount of property tax revenue that may be raised by political subdivisions.	Senator Linehan at the request of the Governor.	18
LB 48	Change provisions relating to sufficient cause for nonuse of a water appropriation.	Stinner	3
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	19
LB 103e	Change provisions relating to property tax requests.	Linehan	4
LB 128	Provide for Wildlife Conservation Plates.	Hughes	19
LB 134	Provide levy authority and duties for natural resources districts.	Stinner	20
LB 148	Change requirements for public hearings on proposed budget statements and notices of meetings of public bodies.	Groene	21
LB 150	Change provisions relating to access to public records and provide for fees.	Brewer	23
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LB 163	Permit counties to conduct elections by mail.	Hunt	25
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LB 204	Require approval of voters for bonds under the Interlocal Cooperation Act.	Briese	26
LB 243e	Create the Healthy Soils Task Force.	Gragert	10
LB 261	Require use of redistricting maps drawn using state-issued computer software.	DeBoer	26
LB 283	Provide for a climate change study.	Pansing Brooks	26
LB 293e	Provide, change, and eliminate provisions relating to appropriations.	Speaker Scheer at the request of the Governor.	12
LB 294e	Appropriate funds for the expenses of Nebraska State Government for the biennium ending June 30, 2021.	Speaker Scheer at the request of the Governor.	12
LB 298e	Repeal funds and authorize, provide, change, and eliminate fund transfer provisions.	Speaker Scheer at the request of the Governor.	12

LB 299e	Change Cash Reserve Fund provisions.	Speaker Scheer at the request of the Governor.	12
LB 302e	Merge the State Energy Office with and rename the Department of Environmental Quality.	Senator Hughes at the request of the Governor.	13
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LB 319	Change provisions relating to notices, rules, and regulations of Department of Natural Resources.	Moser	15
LB 336	Change the vote required to exceed certain budget limitations.	M. Hansen	28
LB 367	Eliminate provisions relating to fund transfers and change a termination date under the Nebraska Litter Reduction and Recycling Act.	Hughes	28
LB 368	Eliminate overappropriated river basins, subbasins, and reaches.	Hughes	29
LB 386	Change provisions relating to cash reserves under the Nebraska Budget Act.	Erdman	32
LB 412	Require an election regarding creation of a joint public agency.	Geist	34
LB 552	Change appropriations relating to the Nebraska Tree Recovery Program	McDonnell	35
LB 573	Change provisions relating to agreements under the Intergovernmental Risk Management Act	M. Hansen. Brewer dropped.	15
LB 581	Require the use of generally accepted accounting principles in preparing budgets under the Nebraska Budget Act	Albrecht	36
LB 606	Provide for water augmentation projects and retention of water rights as prescribed	Groene	37
LB 632	Clarify a statutory reference relating to rural water districts	Hughes	40
LB 712	Prohibit joint entities and joint public agencies from taking action against representative for their speech	Friesen	41
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Section One – Bills Passed by the Legislature and Approved by Governor Ricketts or veto overridden

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

The Legislature gave final approval to LB 48 by a 43-0-6 vote on March 15th. Governor Ricketts signed the bill into law on March 21st. The bill will become law 90 days after the session ends. The bill changes provisions relating to finding of sufficient cause for nonuse of a water appropriation.

The bill requires 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.

The Natural Resources Committee advanced the bill to General File on February 14th on a 7-0-1 vote.

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.

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

Governor Ricketts signed LB 103e into law on March 12, 2019.

The Legislature gave final approval to LB 103e by a 47-0-2 vote on March 7th. On Select File, an amendment was adopted to add the emergency clause (AM 296) on a 27-0-19 vote. With the emergency clause added, the bill became law as soon as the bill was signed by the Governor rather than 90 days after the session ends.

On February 11th, 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 became the bill after it was adopted on General File.

With the Committee Amendment, all the original language was eliminated.

Committee Amendment - AM 116

The amendment strikes the original language and requires the property taxes collected to be no more than the previous year. The amendment requires 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 will 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 5th. The amendment strikes the original bill and became 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. All of the original language was dropped with the adoption of the Committee Amendment (AM 116).

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 have required 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.

All the original proposed language was eliminated with the adoption of the Committee Amendment (AM 116).

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 20th of each year. Budgets must be submitted to the State auditor by September 20th 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 177 - Change a termination date for bonding authority of natural resources districts. Lindstrom. Natural Resources Committee Priority Bill.

Governor Ricketts signed LB 177 into law on May 8th. The bill will become law 90 days after the session ends. The bill extends 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 extends the authority from December 31, 2019 to December 31, 2024.

Senators gave final approval to LB 177 on May 2nd by a 35-8-6 vote. The Final Reading vote was as follows:

Voting YES (35): Arch, Blood, Bolz, Brandt, Cavanaugh, Crawford, DeBoer, Dorn, Friesen, Geist, Gragert, M. Hansen, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Murman, Pansing Brooks, Quick, Scheer, Stinner, Vargas, Walz, Wayne, Williams and Wishart.

Voting NO (8): Albrecht, Bostelman, Clements, Erdman, Groene, Halloran, B. Hansen and Lowe.

Not Voting (6): Brewer, Briese, Chambers, La Grone, Hilgers, and Slama.

Senators advanced LB 177 to Final Reading on April 25th by a 34-9-6 vote after securing cloture on a 36-9-4 vote and defeating a couple of motions by Senator Erdman.

Senators Erdman and Groene led an effort to filibuster the bill. Senator Erdman filed an amendment to strike the 5-year extension of the bonding authority which lost 8-33-8. He also filed a motion to bracket the bill until June 6, 2019 which also failed 7-33-9.

The cloture vote was as follows:

Voting YES (36): Arch, Blood, Bolz, Brandt, Briese, Cavanaugh, Crawford, DeBoer, Dorn, Friesen, Geist, Gragert, M. Hansen, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Pansing Brooks, Quick, Scheer, Stinner, Vargas, Walz, Wayne, Williams and Wishart.

Voting NO (9): Albrecht, Bostelman, Clements, Erdman, Groene, Halloran, B. Hansen, Hilgers and Murman.

Not Voting (4): Brewer, Chambers, Lowe and Slama.

The vote to advance the bill to Final Reading was as follows:

Voting YES (34): Arch, Blood, Bolz, Brandt, Cavanaugh, Crawford, DeBoer, Dorn, Friesen, Geist, Gragert, M. Hansen, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, La Grone, Lathrop, Lindstrom, McCollister, McDonnell, Morfeld, Moser, Pansing Brooks, Quick, Scheer, Stinner, Vargas, Walz, Wayne, Williams and Wishart.

Voting NO (9): Albrecht, Bostelman, Clements, Erdman, Groene, Halloran, B. Hansen, Hilgers and Murman.

Not Voting (6): Brewer, Briese, Chambers, Linehan, Lowe and Slama.

Senator Briese had filed an amendment to place the provisions of LB 20 in LB 177. The bill, LB 20, would require a vote of the people for all joint city/county projects that use bonds as financing. Only cities of the metropolitan (Omaha) or primary class (Lincoln) can do these types of projects with their county. It is not a priority bill and is still held in the Government Committee. The amendment was not considered on Select File as the cloture motion superseded consideration of the amendment. Senator Briese withdrew the amendment prior to the vote on Final Reading.

On April 8th, Senators advanced LB 177 to Select File by a 28-9-12 vote after adopting the Committee Amendment (AM 713) on a 26-9-14 vote.

The vote to advance the bill to Select File was as follows:

Voting YES (28): Arch, Blood, Brandt, Crawford, DeBoer, Geist, Gragert, M. Hansen, Hilkemann, Howard, Hughes, Hunt, Kolowski, Kolterman, Lindstrom, Linehan, McCollister, McDonnell, Morfeld, Moser, Pansing Brooks, Quick, Scheer, Vargas, Walz, Wayne, Williams and Wishart.

Voting NO (9): Albrecht, Bostelman, Brewer, Clements, Erdman, Halloran, B. Hansen, Lowe and Murman.

Not Voting (12): Bolz, Briese, Cavanaugh, Chambers, Dorn, Friesen, Groene, Hilgers, La Grone, Lathrop, Slama and Stinner.

The Natural Resources Committee advanced LB 177 to General File on March 18th with Committee Amendment AM 713 on a 5-2 vote. The amendment extends the bonding authority for five years rather than the ten years in the original bill. The Natural Resources Committee declared the bill as a Committee Priority for the session.

The original bill proposed to extend the bonding authority from December 31, 2019 to December 31, 2029. The Committee Amendment (AM 713), adopted on General File only extends the authority until December 31, 2024.

The hearing on LB 177 was Thursday, February 14th.

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 Nebraska's second largest city'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.

LB 243e - Create the Healthy Soils Task Force. Gragert. Gragert Priority Bill.

The Nebraska Legislature gave final approval to LB 243e on April 11th by a 43-0-6 vote. The bill established the Healthy Soils Task Force within the Ag Department. The bill included the emergency clause, so it went into effect when Governor Ricketts approved the bill on April 17th. Senator Gragert declared the bill as his personal priority bill for the session.

On April 3rd, lawmakers gave second round approval on a 46-1-2 vote after adopting a clarifying amendment by Senator Hughes (AM 937) and defeating several motions and amendments offered by Senator Chambers. Senator Gragert's motion to invoke cloture and end debate was successful by a 46-1-2 vote (33 votes required).

Senators advanced the bill from General File on a 39-1-9 vote on March 21st after adopting the Committee Amendment (AM 640) and AM 789 offered by Senator Gragert.

The committee amendment inserted the emergency clause to enable the appointment and initial meeting of the task force to occur by timelines specified in the amendment. The General File amendment offered by Senator Gragert (AM 789) clarified that there is only one report, not annual reports, and the \$10,000 funding is one time, not annual.

Although the Committee Amendment (AM 640) struck all provisions of the original bill and replaced it with new language, it is very similar in concept. The amendment added one additional agricultural producer representative to the task force (six total) and provides that at least two are producers using healthy soil practices. The amendment also added one additional environmental group representative. Under the amendment, the task force make-up is as follows:

Appointed Voting Members: The Director of Agriculture or his or her designee; Two representatives of natural resources districts in Nebraska; Two academic experts in agriculture and natural resources in Nebraska; Six representatives from production agriculture, including at least two producers that are using healthy soil practices; Two representatives from agribusiness; Two representatives from environmental organizations in Nebraska.

Non-Voting Members: The chairpersons of the Natural Resources Committee and Agriculture Committee. Senators adopted an amendment (AM 937) offered by Senator Hughes on Select File to allow for the committee chair or their designee to serve on the task force.

The appointment of voting members will be made by the Governor. The amendment further adds guidance that in making appointments, the Governor should seek to appoint persons to provide the task force with expertise in incorporating soil stewardship practices in working operations and optimizing environmental services.

The amendment inserts a process for organizing the task force, including: 1) that appointments be completed within 60 days of the effective date; 2) expressly provides that task force members be reimbursed for actual and necessary expenses; 3) that the task force shall hold its first meeting by September 1, 2019; 4) select a chairperson; and 5) that the task force shall meet as necessary at the call of the chairperson. The task force may request support from state and federal agencies, the University of Nebraska and other organizations to facilitate the work of the task force.

The Healthy Soils Task Force will be required to do the following (the Committee Amendment, AM 640, added items # 3 & 4):

- 1) Develop a comprehensive healthy soils initiative for the State of Nebraska; and
- 2) Develop a comprehensive action plan to coordinate efforts to carry out such healthy soils initiative using standards for organic matter, biological activity, biological diversity, and soil structure as measures to assess improved soil health.
- 3) Identify realistic goals and timelines through voluntary partnerships among growers and relevant state, local and private entities.
- 4) Review the provisions of the 2018 Farm Bill and identify funding opportunities for the purpose of soil health.

The required action plan will include:

1. Issues related to providing farmers and ranchers with research, education, technical assistance, and demonstration projects;
2. Options for financial incentives to improve soil health; and
3. The contribution of livestock to soil health.

The committee amendment provides up to \$10,000 in funding from the Fertilizers and Soil Conditioners Act to cover the costs of the task force. The Task Force will be required to file a report electronically to the Governor and Agriculture Committee by January 1, 2021. The task force will terminate on that date as well.

On January 29th, the Agriculture Committee held the public hearing on LB 243. The committee advanced the bill on March 15, 2019 with Committee Amendment AM 640.

Hearing Notes

During his opening Sen. Gragert told the committee the purpose of LB 243 is to promote soil health to improve health, profitability of soil, and to increase carbon sequestration. He noted the task force would investigate why more widespread usage of soil health practices aren't being used and will research ways to increase use. He expressed that the intent isn't to create new mandates to the ag sector; it's to make more resources available, noting this bill would benefit producers, consumers, and the environment.

Proponents included Annette Sudbeck, General Manager of the Lewis & Clark NRD. Sudbeck provided examples of the many programs and projects being implemented by NRDs to promote soil health. She also highlighted the benefits that improved soil health has on water quality.

Dave Potter, Assistant Manager of the Lower Platte South NRD also testified in support. Potter provided examples of partnerships between NRDs and producers to implement soil health practices. He expressed that his district feels an action plan is critical to long-term protection of soils.

There were several other proponents, including representatives from the League of Conservation Voters, Ward Laboratories, Nebraska Wildlife Federation, Nebraska Grazing Lands Coalition, Isaac Walton League, Nebraska Pork Producers, Nebraska Game and Parks Commission, Nebraska Catholic Conference and Nebraska Farmers Union. Several letters of support were also submitted for the record.

There were no opponents. Neutral testimony was provided by Steve Ebke, Nebraska Corn Growers Association. Ebke questioned whether a state task force is necessary, noting there are already multiple agencies dedicated toward soil health. Aaron Hird, NRCS, also testified in a neutral capacity telling the committee that NRCS will support efforts from conservation partners.

Budget Bills -- (LB's 293e, 294e, 298e & 299e)

Senators gave final approval to the budget bills on May 21st. Governor Ricketts signed the bills on May 27th.

On Select File, Senators approved an amendment to increase the property tax credit fund by \$25 million, bringing the total to \$275 million.

The budget growth in the Committee proposed budget is 3.7% in FY 19-20 and 2.2% in FY 20-21 for a two-year average of 3.0%, slightly below the Governor's recommendation but significantly less than the pre-session estimate which had projected average growth of 3.9% over the biennium.

One of the largest growth items is Medicaid expansion enacted by the Nebraska voters and accounts for about \$50 million of additional appropriations over the biennium. Excluding this item, the two-year average budget growth was 2.5%.

After the change on General File to increase the property tax credit, the Cash Reserve Fund projected ending balance is projected at \$377 million in FY 19-20 and \$322 million in FY 20-21. For comparison, the original proposal from the committee had the ending cash reserve at \$402 million in FY 19-20 and \$372 million in FY 20-21. Just a few years ago the ending cash reserve was \$720 million.

Other major issues in the budget include:

- \$54.7 million of Cash Reserve Fund transferred to provide two additional high security housing units, totaling 384 beds, under the Department of Correctional Services.
- After the amendments that were adopted on General File, there is a \$51 million per year increase in the Property Tax Credit program, totaling \$275 million per year. The committee had proposed a \$26 million increase and \$25 million was to rebuild the cash reserve. The Governor had proposed a \$51 million per year increase in the Property Tax Credit program.
- A \$16.5 million increase in FY 19-20 for the State Capitol HVAC project.
- A total of \$6 million for FY 19-20 and \$1 million for FY 20-21 General Fund appropriation to the Governor's Emergency Fund to restore the program to its historical unobligated balance to ensure an adequate level of funding is available for a response to any future disaster/emergency event(s).

For natural resources programs, the budget highlights include:

- **Water Resources Cash Fund --** The budget extends the \$3.3 million transfer for four more years, FY 19-20 through FY 22-23.
- **Water Sustainability Fund --** The budget maintains the \$11 million transfer to the Water Sustainability Fund in each fiscal year.
- **Nebraska Soil and Water Conservation Fund --** The budget maintains current levels of funding at \$1,806,112 for both FY 19-20 and FY 20-21.
- **Nebraska Resources Development Fund --** The budget includes no additional appropriations, however unexpended balances existing on June 30, 2019 will be re-appropriated.

- **Department of Natural Resources operations** -- The budget includes a 22.9% increase in FY 19-20 which includes a one-time \$4 million appropriation resulting from a settlement with the State of Colorado over the Republican River Compact.
- **Wastewater Revolving Fund** – The budget includes a \$600,000 reduction in cash fund spending authority based upon the agency recommendation of historical use.
- **Safe Drinking Water Fund** – The budget eliminates the \$1.732 million in cash fund spending authority based on the agency recommendation. The cash fund has not been used in eight years.
- **Environmental Trust** --The bill includes a 2.5% increase in appropriations for FY 19-20 and FY 20-21, bringing the total to \$20.6 million per fiscal year.

The last page includes a table that compares the adopted budget, the change from Governor Ricketts proposed budget and the change from the FY 18-19 baseline appropriation.

LB 302e - Merge the State Energy Office with and rename the Department of Environmental Quality. Senator Hughes at the request of the Governor.

The Legislature gave final approval to LB 302e by a 45-0-4 vote on March 15th. Governor Ricketts signed the bill into law on March 21st. The bill includes the emergency clause, so it went into effect as soon as Governor Ricketts signed the bill.

The bill merges the State Energy Office and the Department of Environmental Quality to create the Department of Environment and Energy. The Director of the Department of Environmental Quality becomes the Director of Environment and Energy.

The bill also authorizes the state of Nebraska to assume the 404-permitting process. This is pending upon agreement between the federal agencies and the state of Nebraska.

The Natural Resources Committee advanced LB 302e to General File on February 1st. The hearing was held on January 30th. The Legislature advanced LB 302e to Final Reading on a voice vote on February 21st. They advanced the bill to Select File on February 7th by a 41-0-6 vote.

Hearing Notes

At the hearing, Sen. Hughes presented initial testimony on LB 302 explaining that the bill was introduced on behalf of the Governor. According to Sen. Hughes, the bill would increase efficiency in State government by combining the Department of Environmental Quality and the Department of Energy because there are several functions that closely align including the issuance of grants to municipalities and industries.

The bill would also allow the State of Nebraska to begin the process of acquiring the Clean Water Act Section 404 Permitting program that is currently carried out by the United States Army Corps of Engineers. Finally, the bill would repeal obsolete language.

NDEQ Director Jim Macy testified in support of the bill and described how the merger would be beneficial. Director Macy has been serving as interim Director of the Department of Energy for several months. Of specific concern are the number of employees that are or will be eligible for retirement in the next 5 years. The merger would allow for cross training of employees and the combination of other duties such as human resources and information technology.

Director Macy explained to the committee that currently, NDEQ staff reviews the Section 404 Permit applications for compliance with State Water Quality Standards and having one agency complete the entire

permitting process should decrease the time needed for approval. Director Macy noted that currently only two states run the 404 Program – Michigan and New Jersey. However, in addition to Nebraska, several others are pursuing options to take over the program.

Pat O'Brien, General Manager of the Upper Niobrara White NRD testified in support of the bill on behalf the NARD. Pat explained that several projects the NRDs work on require a Section 404 Permit and over the years the cost and time to receive the permit has increased dramatically. NRDs have reported spending \$30,000-\$50,000 to receive a permit.

Proponents included former Department of Energy Director David Bracht, 4 Lanes 4 Nebraska, Nebraska Public Power District, NUCOR Steel, South Sioux City, Renewable Fuels Nebraska, American Council of Engineering Companies and KAPPA Ethanol.

There were no opponents to the bill. One individual spoke in a neutral position, cautioning senators to make sure any action taken does not harm the environment.

LB 307 - Change provisions relating to certain Department of Environmental Quality Funds. Albrecht.

The Legislature gave final approval to LB 307 by 45-0-2 vote on a March 7th. Governor Ricketts signed the bill into law on March 12, 2019. The bill will become law 90 days after the session ends.

The bill makes several changes to the Safe Drinking Water Act. First, the bill updates statutes to define the Safe Drinking Water Act as the act existed on October 23, 2018. Second, the bill extends the loan term for systems from twenty years to thirty years. The loan term would be extended from thirty years to forty years for disadvantaged communities.

The bill also makes minor changes to transfers and reserves from the Wastewater Treatment Facilities Construction Loan Fund to the Drinking Water Facilities Loan. It allows the Director to move dollars between the funds to match demand while also maintaining a minimum balance in each fund. The Director would be required to identify any such transfer in the intended use plan presented to the council for annual review and adoption.

The Natural Resources Committee advanced LB 307 to General File on February 1st. The hearing was held on January 31st.

Hearing Notes

At the hearing proponents of the bill included Jim Macy, Director of NDEQ. During his testimony Director Macy provided the committee an overview of the history of the two programs, highlighting the benefit of both programs to rural communities.

NARD testified in support and provided the committee a list of rural water projects managed by NRDs and the number of rural customers served by NRD rural water projects. The testimony noted that the drinking water fund continues to assist NRDs in connecting rural water users to clean potable water and providing economies of scale.

Other proponents included representatives from the Nebraska League of Municipalities and the City of South Sioux City.

There were no opponents, and no one testified in a neutral capacity. Letters of Support were submitted for the record by the City of Blair and OPPD.

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

The Legislature gave final approval to LB 319 by a 43-1-5 vote on March 15th. Governor Ricketts signed the bill into law on March 21st. The bill will become law 90 days after the session ends.

The bill eliminates 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 eliminates 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 11th. The hearing was held on February 6th. The Legislature advanced LB 319 to Final Reading on March 1st by a voice vote. The bill had been advanced to Select File on February 13th by a 42-0 vote.

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.

Section Two – Bills that have been Indefinitely Postponed or Withdrawn

LB 573 - Change provisions relating to agreements under the Intergovernmental Risk Management Act. M. Hansen.

The Banking and Insurance Committee accepted testimony on LB 573 on Monday, March 18th. The bill proposed to make several changes to any agreement entered for establishing and operating a risk management pool. After the hearing, the committee indefinitely postponed the bill.

First, the bill expands the reserves for calculating claims to the different types of insurance coverage offered, amounts covered, claims experience, economic stability, and underwriting risks involved. The claims reserve would also have to consider the following factors:

- The volume of individual types of pooled risks or insurance coverage managed by the pool and underwriting factors affecting each group of pooled risks or coverage of such type; and
- The aggregate of all insurance or pooled risk coverages managed by the pool and the aggregate of all underwriting factors affecting the entire pool;

The bill would require the pool to provide a minimum amount of specific excess insurance coverage to be purchased for each type of insurance coverage offered by the pool.

The bill also requires changes to voting procedures for election of board members that operate the pool.

First, the election process would have to be filed with the Secretary of State and kept current at all times.

Second, the bill proposes that term limits be imposed on board members but does not provide the specific length of terms.

Third, a provision is added that members of the board of directors be elected in staggered elections to assure that no fewer than one third, and no more than one half, of the members are elected in any one year.

Finally, all election procedures would have to be approved by the Nebraska Secretary of State.

Hearing Notes

In his opening Senator Matt Hansen reported he introduced the bill after extensive conversations with members of the League Association of Risk Management (LARM). Senator Hansen is not necessarily attached to the language of the bill rather the resolution of conflicts.

Proponents:

John Lindsay, registered lobbyist, testified in support on behalf of some members of the LARM. He mentioned the bill is tied to resolution of conflicts, not necessarily the language of the bill. The bill is not going to resolve any litigation that is ongoing, but the statutes governing risk pools should be modified.

Three other individuals also testified in support of the bill including: Michael Werner, the Mayor of Waverly; Dave Hunter, General Manager for the City of Auburn Public Works; and Tracy Juranek customer service associate of LARM. All reported there is on-going litigation over the management and governance of LARM and a new structure needs to be put in place.

Opponents:

The Nebraska Association of Resources Districts presented testimony in opposition, primarily because of the proposed changes in the elections. The testimony outlined there is no need to change the procedures and file with the Nebraska Secretary of State. In addition, placing term limits on the directors and mandating the terms be staggered is un-necessary. These decisions need to remain with the locally-elected NRD board to determine who represents them.

The NARD Intergovernmental Risk Pool includes all 23 natural resources districts and provides health and dental insurance to the NRD employees, spouses and dependents. Elected directors of the districts are not eligible to participate in the plan and are not compensated for their service or reimbursed for expenses from the risk pool. Also, there are no paid employees of the risk pool.

The risk pool is governed by a 23-member board, with a board member and alternate from each district elected by that local elected board to serve on their behalf. Under the operating procedures, the board member can be changed at the discretion of the local board at any time.

The risk pool has saved the local districts and taxpayers significantly over the last twelve years. Prior to the creation of the risk pool, our program was operated by a private insurance agent and our annual premium increases were in the double digits. Since the creation of the pool in 2007, our average increase in premium has been 4.1%, while also providing stable, consistent health and dental coverage to the NRD employees, spouses and their dependents.

Doug Hanson, Mayor of Hickman and chair of LARM, testified in opposition noting the election procedures is the primary issue in the ongoing litigation involving the operation of LARM. He noted that he served on LARM board for an extended period and the current voting protocol seemed to work well for LARM. The proposed language in the bill would violate the current LARM Inter-local agreement and would make all participants modify the existing agreement. He noted some of the employees and members want to separate LARM from the League of Municipalities and privatize it.

Lanette Doan, the Village Clerk for Ansley, testified against the bill outlining the changes would be detrimental to LARM and other risk management pools in Nebraska.

Joley Land, with the City of Imperial, outlined the LARM problem is not the Inter-local agreement, rather the current management. She noted that the board has shrunk from fifteen members to five members, primarily from the actions of the Director of LARM. She also claimed the same individual hired a lobbyist and paid \$48,000 to draft LB 537 without support from the existing board. The remaining five people on the LARM board do not answer direct questions and refused to respond to public requests. She noted 164 communities use LARM and the risk pool is well situated financially to support claims.

Douglas Stack, Legal Counsel for the City of North Platte, testified in opposition. He reported that After one of their city employees had a major injury, LARM tried to increase the deductible for insurance from \$1,000 to \$100,000 per incident which would make the city self-insure. Essentially, LARM gave city an option to voluntary increase premiums or be terminated as member. The current director of LARM is attempting to force city of North Platte out of LARM association. They have appealed to the Department of Insurance that oversees LARM.

Bruce Ramage, Director of the Nebraska Department of Insurance, noted the department is responsible for licensing these pools, but when problems arise, the department does not have the authority to resolve them or to impose fines. He also noted he had spoken with the individual about the legislation, but none of the department's suggestions were included in the final legislation.

Lynn Rex, League of Municipalities, testified that the problem is a disconnect between the inter-local agreement and bylaws. She noted the pool director had no authority to hire lobbyist and a lot of activity is happening that is not authorized by the board. She noted it was unfortunate this has occurred and hopefully the lawsuit will end soon.

Megan Boldt, Director of ALICAP insurance program for the Nebraska Association of School Boards, testified against the proposal. The ALICAP was formed in 1990 when some schools were not able to obtain insurance coverage and 168 schools are included in their pool. She noted the legislation attempts to fix a problem they do not have. She also noted the term limits can be detrimental to the board.

Robert Bell, lobbyist for the Nebraska Insurance Federation, also testified in opposition. He noted the risk pools are in place to save tax payers money. He noted that if a private insurance company treated North Platte like LARM treated North Platte they would be fined.

Andy Barry, Attorney with Cline Williams and the League of Municipalities, noted LARM's problem is not that the Inter-local government isn't working. Rather, LARM is having a problem following the Inter-local agreement. He noted the current LARM board was not properly elected. He explained the current law and interlocal agreement would work if they followed it.

There was one letter of support and two letters of opposition. The committee indefinitely postponed the bill after the hearing.

Section Three – Bills that will be carried over for the 2019 60-day Session

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

The Revenue Committee accepted testimony on LR 8 CA on February 27th. The Constitutional amendment proposes to limit the increase in property tax revenue raised by a political subdivision to no more than three percent of the amount raised in the prior fiscal year.

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

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

Hearing Notes

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

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

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

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

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

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

There were several opponents to the measure.

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

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

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

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

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

No action was reported by the committee.

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 14th.

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 128 - Provide for Wildlife Conservation Plates. Hughes.

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

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

Hearing Notes

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

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

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

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

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

No action has been reported by the committee.

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

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

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

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

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

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

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

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

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

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

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

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

There was no neutral testimony.

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

The Committee reported no action on the bill.

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

The Government Committee advanced LB 148 to General File on a 5-0-2 vote with Committee Amendment AM 421. Although the amendment strikes the original bill, the amendment does not really change the original bill much.

The amendment adds a joint entity created pursuant to the Interlocal Cooperation Act that receives funds from an occupation tax on irrigated acres be subject to the Nebraska Budget Act. This was the same as the original bill.

The amendment adds requirements on all local governmental entities as follows:

- 1) It would require that the public hearing on a proposed budget statement be held separately from any regularly scheduled meeting of the governing body and not be limited by time.
- 2) The bill adds that the governing body be required to make a presentation outlining key provisions of the proposed budget statement, including, but not limited to, a comparison to the prior year's budget statement.
- 3) There would have to be at least three copies of the proposed budget statement available to the public.
- 4) Any member of the public desiring to speak on the proposed budget statement would be allowed to address the governing body and must be given a reasonable amount of time to speak.

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

- For cities of the second class and villages, the amendment proposes that public notice would have to be:
 - 1) Published in a newspaper of general circulation within the public body's jurisdiction and, if available, in a digital advertisement on such newspaper website.
 - 2) Post the public notice in three conspicuous public places in such city or village. Such notice would be required to be posted in the same three places for each meeting.
 - 3) Any additional method the public body designates.
- For all other local government subdivisions or such body's advisory committee, the amendment requires notice of the budget hearing to be published in a newspaper of general circulation within the public body's jurisdiction and, if available, in a digital advertisement on such newspaper website. The amendment also allows for any additional method the public body designates.
- The amendment also provides that public bodies not specifically described, shall provide notice of meetings by a method designated by the public body.

The amendment requires that all public bodies shall be required to record the methods and dates of notices in their minutes.

Hearing Notes

In his opening Senator Groene noted this legislation is targeting NCORPE claiming the entity spends over \$11 million and there is no budget for that much spending. He also noted that the bill is requiring a separate hearing be held and that it not be limited by time, telling the committee this was added because he's been to a school board meeting where the budget hearing was shut off.

Proponents of the bill included Ken Anderson, a resident from Lincoln County Nebraska testifying on behalf of himself. He asked why this large of an entity can be created without having a public budget hearing. He told the committee he's asked for public records and budget information, but NCORPE failed to provide him with information requested. When asked by committee members, he did admit he has been provided copies of the records and budget information he requested.

Dan Estermann also testified as a proponent. He noted he is a director of the Middle Republican NRD but representing only himself. He told the committee that NCORPE by-laws require a budget, but budgets have not been prepared to the satisfaction of some directors. He also told the committee that board members don't have the best skill sets or time to serve on an interlocal board.

Opponents included Todd Siel, General Manager Lower Republican NRD, testifying on behalf of LRNRD and the Nebraska Association of Resources Districts. He corrected the statements made by previous testifiers about the NCORPE expenditures of \$11 million. The expenditures mentioned include the bond repayments, but they are paid by the local districts through their local budgets -- not NCORPE. Also, NCORPE does not have taxing authority. Rather, it is the individual bodies who are members of these joint entities which have taxing authority.

Siel noted all 23 natural resources districts have a transparent budget process and take that seriously. The districts already generally follow the processes that are laid out in this bill. Budget hearings are held separately from regular meeting. For the sake of efficiency, it is usually held immediately prior to a regular meeting, but it is its own meeting that follows the provisions laid out under the bill. It is not time-limited. The public is given

notice. Budget information is presented. Any member of the public is given the opportunity to provide comment.

Siel outlined the process used by the Lower Republican NRD, which is similar to the other three districts that are included with NCORPE and is followed each year. During the budgeting process, they task the board appointed representatives of each joint entity to monitor and assist in the formulation of a draft budget. When approved by these representatives, they then bring it back to the NRD Board of Directors for a vote to either approve or disapprove of the draft budget. These joint entities of the Lower Republican NRD are NOT free-standing bodies with taxing authority. Rather, they ultimately answer to the full Board of Directors of our NRD.

Seil raised concerns related to requirements applicable to any joint entity created pursuant to the Interlocal Cooperation Act that receives occupation tax funds. The Lower Republican NRD is a party to nine interlocal agreements, including NCORPE. Siel noted again these joint entities do not have the authority, by themselves, to levy taxes. It is the member entities that do and that is included in the local entities budgets.

For example, Siel pointed out his district has an interlocal agreement with the Nebraska Department of Natural Resources on the Integrated Management Plan (IMP), similar to most all the other local NRDs. Occupation taxes come into play when implementing the IMP. We are uncertain whether our district and the Department would have to hold a joint public hearing under this proposal.

Finally, Siel expressed concerns about the public notice requirements in the proposed bill. The districts do follow current law, providing reasonable advance publicized notice of the time and place of each meeting and recorded in their minutes. This process has worked well for the constituents of the NRD.

The new language requiring notice publication “in a newspaper of general circulation within the public body's jurisdiction” would be difficult for the Lower Republican NRD to meet, as there is not one newspaper of general circulation that reaches the entirety of the NRD’s jurisdiction. The distribution of the larger newspapers in south central Nebraska has diminished greatly over the last few years. As such, the district has relied much more on local weekly papers and the district website as a means of providing district-wide communication and notices.

Other opponents include Lynn Rex who testified on behalf of the Nebraska League of Municipalities and the Nebraska Association of School Boards. Her testimony expressed concern over what constitutes a detailed presentation and asked that the committee provide clarification.

Jack Cheloha also testified in opposition on behalf of the City of Omaha. His testimony expressed concern over the requirement of a detailed presentation.

Neutral testimony was provided by NACO.

Letters of support were provided by the American Civil Liberties Union, Media of Nebraska and a couple of individuals. Letters of opposition were submitted by the Upper Republican NRD and the City of Stromsberg.

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

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

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

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

Hearing Notes

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

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

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

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

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

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

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

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

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

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

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

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

No action has been reported by the committee.

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

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

Hearing Notes

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

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

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

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

No action has been reported by the committee.

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

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

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

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

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

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

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

No one testified against the bill.

The committee has not reported action on the measure.

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

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

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

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

The Executive Committee accepted testimony on LB 261 on February 14th.

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.

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

The Executive Committee accepted testimony on LB 283 on February 11th.

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

The Government Committee accepted testimony on LB 336 on March 7th.

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

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

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

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

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

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

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

The committee has not reported action on the measure.

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

The Natural Resources Committee accepted testimony on LB 367 on March 7th

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

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

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

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

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

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

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

No action has been reported by the committee.

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

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

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

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

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

Hearing Notes

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

Proponents

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Opponents

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

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

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

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

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

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

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

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

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

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

Hearing Notes

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

There were no proponents to the bill.

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

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

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

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

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

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

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

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

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

As of February 1, 2019, the Upper Elkhorn NRD has labeled 25 townships (parts or whole townships) as Phase III Management Area for water quality. Townships designated Phase III have had average nitrate-nitrogen levels above 9 ppm for multiple years. The maximum level under the Safe Drinking Water act is 10 ppm. The local board has worked with local producers for the past several years to develop a program and has set aside funds for implementation.

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

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

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

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

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

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

The committee has not reported action on the bill.

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

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

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

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

Hearing Notes

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

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

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

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

Charlotte Ralston, on behalf of taxpaying citizens in Lincoln testified in support of the bill, also expressed opposition to the JPAs created in Lincoln. She argued the voters rejected a bond offered by Lancaster County to

build a new county jail. The city and county then created the JPA to do the project together. She claimed the voters should have approved the joint entity.

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

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

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

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

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

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

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

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

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

No action was reported by the committee.

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

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

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

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

John Winn, with the City of Omaha, testified in support. Winn estimated that Ash trees make up 14% of public trees. So far, the City of Omaha has cut down about 1,000 trees and have over 14,000 more to cut down. Ash trees are the focus for now, so other maintenance is deferred in Omaha. He noted the trees are a safety issue as, once diseased, the branches become weak and break off. He mentioned several individuals in other states have been injured by falling Oak tree branches

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

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

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

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

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

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

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

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

Hearing Notes

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

Proponents

Sarah Curry, Policy Director for the Platte Institute, testified in support. She researched the issue over the past year and thirty-seven other states have this type of requirement. The cash and modified accrual do not provide a

full picture of the financial position of government. She claimed using accrual will show all expenditures and obligations. She noted at the hearing that a couple of cities and the NRDs use GAAP for budgets.

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

Opponents

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

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

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

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

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

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

The committee did not report action on the bill.

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

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

Senator Groene declared LB 606 his priority bill for the session. The bill remains in the Natural Resources Committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The committee took no action on the bill.

LB 632 - Clarify a statutory reference relating to rural water districts. Hughes.

The Natural Resources Committee held a public hearing on LB 632 on February 27th.

The bill clarifies that when the Department of Health reviews improvement plans for public water systems, they are to approve of such when they are found in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated thereunder.

Hearing Notes

In his introduction, Senator Hughes mentioned this bill is a place-holder bill for other natural resources issues that may come up this session. There was no testimony on the bill.

Last year, a similar place-holder bill was used to implement a Supreme Court decision on public information requests for public power.

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

The Judiciary Committee accepted testimony on LB 712 on March 14th.

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

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

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

The ACLU submitted a letter in support.

No action was reported by the committee.

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

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

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.

No action has been reported by the committee.

Hearing Notes

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

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

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

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

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

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

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

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

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

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

There was no opponent testimony and the committee has not reported action.

Section Four – Interim Study Resolutions

2019 Interim Study List

Below is a list of interim studies that are of interest to natural resources districts. A full list of interim studies can be found at: <http://www.nebraskalegislature.gov/session/interim.php>

LEGISLATIVE RESOLUTION 114 – Senator Dan Hughes introduced the study resolution to examine the necessary conditions under which the board of directors of the Nebraska Cooperative Republican Platte Enhancement Project (N-CORPE) and the Rock Creek augmentation project may dispose of any of the real property each entity owns related to augmentation projects.

The study shall consider the benefits of conveyance of the real property as well as any associated risks. As the N-CORPE and Rock Creek projects are of significant economic and legal importance to the State of Nebraska, to the local natural resources districts that own the property where the augmentation projects are located, and to the local economies, a collaborative process is necessary to ensure all interests are represented.

The study may result in recommendations for statutory changes, if any, to allow the affected Natural Resources Districts to convey their real property while ensuring the uninterrupted operation of the augmentation projects for interstate river compact compliance.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR114.pdf>

LEGISLATIVE RESOLUTION 138 -- Senator Mike McDonnell introduced LR 138 to look at flood control opportunities in eastern Nebraska. The resolution purpose is to identify for adoption by the Legislature three to five infrastructure project opportunities in eastern Nebraska of sufficient size and scale to provide flood control, a stable and reliable drinking water supply, power generation, climate change mitigation, recreation and to attract and retain a workforce to foster regional and economic growth.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR138.pdf>

LEGISLATIVE RESOLUTION 143 – Senator Joni Albrecht introduced the resolution to examine the laws for accounting and financial reporting in political subdivisions to determine a more uniform method of reporting. The study shall obtain information on financial reporting being used by cities, villages, counties, and school districts across the state and those that have changed from the cash basis to an accrual or modified accrual method. The study shall determine the process, the cost, and any savings, including any impact on debt or bond ratings, resulting from changing from the cash basis to an accrual method.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR143.pdf>

LEGISLATIVE RESOLUTION 154 – Senator Mike Groene introduced the resolution to examine statutes related to augmentation projects in relationship to the Nebraska Cooperative Republican Platte Enhancement (N-CORPE) interlocal project in Lincoln County, Nebraska. The resolution calls for an examination of existing statutes pertaining to integrated management plans and augmentation plans related to ground water. It further calls for examination of opinions of the Nebraska Supreme Court and Nebraska Court of Appeals in reference to the relationship between land ownership and ground water use for augmentation or transfer.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR154.pdf>

LEGISLATIVE RESOLUTION 211 – Senator John Stinner introduced the resolution to examine alternatives for funding the Nebraska Tree Recovery Program, which is administered by the Nebraska Forest Service at the University of Nebraska. The Tree Recovery Program is a matching grant program that funds tree removal, disposal, and replacement costs for municipalities, counties, state agencies, civic groups, tree advisory boards, and other entities that are responsible for the upkeep of government owned real property.

Due to severe weather conditions, diseases, and invasive species, the state's political subdivisions are experiencing a rise in tree mortality. Most subdivisions have been unable to act decisively due to insufficient funds to remove, dispose of, and replace trees situated on public land, presenting a liability and safety problem.

The interim study shall identify the availability of and eligibility requirements for funds through the federal Emergency Management Agency's Resilience Administration and strategies to leverage additional financial resources for the Tree Recovery Program.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR211.pdf>

LEGISLATIVE RESOLUTION 218 -- Senator Steve Halloran introduced the resolution to review the resources of the Department of Agriculture and state government to respond to natural disasters and catastrophic weather events with respect to the loss of agricultural assets and infrastructure serving the agricultural sector. The study shall examine the catastrophic flooding and winter weather events occurring in March of 2019 as a case study to identify potential means of increasing preparedness and response capabilities and shall identify regulatory or statutory provisions that may impose unnecessary costs or restrictions that impede the resiliency of agriculture to recover from catastrophic events.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR218.pdf>

LEGISLATIVE RESOLUTION 241 – Senator Patty Pansing Brooks introduced the resolution to develop an environmental action plan for the state, including assessments of vulnerability, risks, economic impacts, and mitigation strategies. The resolution outlines that the state has experienced devastating, costly, and historic floods in the last ten years and an increase in highly destructive weather events. Developing an effective plan to meet the challenges posed by extreme weather events would enable the state to take advantage of opportunities resulting from adaptation and mitigation strategies. Such strategies have the potential to attract new businesses and investments to Nebraska and to reduce the negative impacts of extreme weather events on the environment.

A full copy of the resolution can be found at:

<https://www.nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LR241.pdf>

Agency	Appropriations Committee LB's 294 & 298			Change from Governor Ricketts' Proposal		Change From FY 18-19 Baseline	
		FY 19-20	FY 20-21	FY 19-20	FY 20-21	FY 19-20	FY 20-21
Agency 84 - Department Environment & Energy							
Program 513- Administration, 586 -Water Quality, 587 - Land Quality and 588 -Air Quality	General Fund	\$3,680,094	\$3,716,744	-\$27,191	-\$40,222	\$27,877	\$64,527
	Cash Fund	\$36,527,132	\$36,751,107	\$2,657,569	\$2,743,655	\$2,825,228	\$3,049,203
	Federal Fund est.	\$16,990,274	\$17,136,874	-\$2,445,234	-\$2,427,683	\$187,593	\$334,193
	Program Total	\$57,197,500	\$57,604,725	\$185,144	\$275,750	\$3,040,698	\$3,447,923
	Salary Limit	\$13,203,051	\$13,507,537	\$92,923	\$173,039	\$254,479	\$558,965
Program 523 - Wastewater Loan Fund	Cash Fund	\$600,000	\$600,000	\$0	\$0	-\$600,000	-\$600,000
	Federal Fund est.	\$6,940,000	\$6,940,000	\$0	\$0	\$0	\$0
*Agency requested the cash fund be reduced	Program Total	\$7,540,000	\$7,540,000	\$0	\$0	-\$600,000	-\$600,000
Program 528 - Drinking Water Facilities Loan Fund	Cash Fund	\$0	\$0	\$0	\$0	-\$1,732,000	-\$1,732,000
	Federal Fund est.	\$8,500,000	\$8,500,000	\$0	\$0	\$0	\$0
*Agency requested the cash fund be discontinued	Program Total	\$8,500,000	\$8,500,000	\$0	\$0	-\$1,732,000	-\$1,732,000
Agency Wide - Volkswagen Settlement Cash Fund	Cash Fund	\$2,500,000	\$2,500,000	n/a	n/a	n/a	n/a
Agency 33 - Game & Parks Commission							
Program 162 - Environmental Trust	Cash Fund	\$20,659,430	\$20,667,587	\$1,097	\$2,021	\$510,303	\$518,460
	Program Total	\$20,659,430	\$20,667,587	\$1,097	\$2,021	\$510,303	\$518,460
	Salary Limit	\$280,552	\$286,424	\$815	\$1,589	\$7,660	\$13,532
Program 330 - Habitat Development	Cash Fund	\$7,475,655	\$7,544,645	-\$92,936	-\$106,804	\$349,114	\$418,104
	Federal Fund est.	\$3,900,673	\$3,900,673	-\$1,703	-\$3,443	\$0	\$0
	Program Total	\$11,376,328	\$11,445,318	-\$94,639	-\$110,247	\$349,114	\$418,104
	Salary Limit	\$1,542,472	\$1,574,657	\$11,605	\$18,920	\$206,238	\$206,238
Program 336 - Wildlife Conservation	General Fund	\$1,412,966	\$1,446,598	\$11,075	\$20,974	\$95,193	\$128,825
	Cash Fund	\$25,904,521	\$26,392,693	\$269,218	\$362,522	\$491,306	\$979,478
	Federal Fund est.	\$3,761,602	\$3,783,728	\$6,929	\$11,575	\$27,067	\$49,193
	Program Total	\$31,079,089	\$31,623,019	\$287,222	\$395,071	\$613,566	\$1,157,496
	Salary Limit	\$14,929,501	\$15,299,856	\$238,967	\$348,560	\$323,948	\$694,303
Program 338 - Niobrara Council	General Fund	\$42,011	\$42,011	\$0	\$0	\$1,680	\$1,680
	Cash Fund	\$1,000	\$1,000	\$0	\$0	\$0	\$0
	Federal Fund est.	\$125,000	\$125,000	\$0	\$0	\$0	\$0
	Program Total	\$168,011	\$168,011	\$0	\$0	\$1,680	\$1,680
	Unexpended balances existing on June 30, 2019 are reappropriated						
*Program 550 - Planning & Trails Coordination	General Fund	\$474,808	\$485,409	-\$30,755	-\$4,007	\$32,524	\$43,125
	Cash Fund	\$1,158,501	\$1,148,457	\$27,769	\$4,733	\$44,784	\$34,740
	Federal Fund est.	\$106,841	\$107,905	-\$9	-\$6	\$1,350	\$2,414
	Program Total	\$1,740,150	\$1,741,771	-\$2,995	\$720	\$78,658	\$80,279
	Salary Limit	\$933,669	\$952,586	\$3,914	\$6,739	\$25,277	\$44,194
	*Amount for development and maintenance of boundary fences along Cowboy Trail limited \$64,000 each FY.						
Agency 29 - Department of Natural Resources							
*Program 303 - Small Watersheds	Cash Fund	\$0	\$0	\$0	\$0	-\$475,000	-\$475,000
	Program Total	\$0	\$0	\$0	\$0	-\$475,000	-\$475,000
*Agency requested the cash fund be discontinued							
Program 304 - Nebraska Soil & Water Conservation Fund	General Fund	\$1,806,112	\$1,806,112	\$0	\$0	\$0	\$0
	Cash Fund	\$50,000	\$50,000	\$0	\$0	\$0	\$0
	Program Total	\$1,856,112	\$1,856,112	\$0	\$0	\$0	\$0
	Unexpended balances existing on June 30, 2019 are reappropriated						
*Program 306 - Water Well Decommissioning	Cash Fund	\$70,000	\$70,000	\$0	\$0	-\$30,000	-\$30,000
* Agency requestd the fund be reduced by \$30K	Program Total	\$70,000	\$70,000	\$0	\$0	-\$30,000	-\$30,000
	Unexpended balances existing on June 30, 2019 are reappropriated						
*Program 307 - Nebraska Resources Development Fund	General Fund	\$0	\$0	\$0	\$0	-\$3,014,712	-\$3,014,712
	Cash Fund	\$0	\$0	\$0	\$0	-\$47,500	-\$47,500
	Program Total	\$0	\$0	\$0	\$0	-\$3,062,212	-\$3,062,212
*Agency Requested the fund be discontinued							
Program 309 - Natural Resources Water Quality Fund	Cash Fund	\$1,187,500	\$1,187,500	\$0	\$0	\$0	\$0
	Program Total	\$1,187,500	\$1,187,500	\$0	\$0	\$0	\$0
Program 313 - Water Sustainability Fund	Cash Fund	\$10,865,033	\$10,865,033	\$0	\$0	\$555,513	\$555,513
	LB 298 Transfer in	\$11,000,000	\$11,000,000	\$0	\$0	\$0	\$0
	Unexpended balances existing on June 30, 2019 are reappropriated						
Program 314 - Critical Infrastructure Facilities	Program Total	\$0	\$0	\$0	\$0	\$0	\$0
	Unexpended balances existing on June 30, 2019 are reappropriated						
Water Resources Cash Fund	LB 298 Transfer in	\$3,300,000	\$3,300,000	\$0	\$0	\$0	\$0
	Unexpended balances existing on June 30, 2019 are reappropriated						
*Program 334 - Soil & Water Conservation (General Operations)	General Fund	\$10,388,164	\$10,577,369	\$9,128	\$40,919	\$218,424	\$407,629
*NOTE: Includes \$4 million in FY 2019-20 for Colorado Republican River Settlement	*Cash Fund	\$11,423,002	\$7,428,919	\$1,634	\$3,175	\$4,005,344	\$11,261
	Federal Fund est.	\$815,984	\$833,429	\$17,630	\$30,358	\$21,378	\$38,823
	Program Total	\$22,627,150	\$18,839,717	\$28,392	\$74,452	\$4,245,146	\$457,713
	Salary Limit	\$6,776,643	\$6,931,898	\$40,832	\$75,758	\$37,860	\$193,115
	Unexpended balances existing on June 30, 2019 are reappropriated						