



LOWER PLATTE SOUTH natural resources district

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Memorandum

Date: February 11, 2023
To: Each Director
From: Paul D. Zillig, General Manager
Subject: Executive Subcommittee Meeting Minutes

The Executive Subcommittee met at 8:00 am on Friday, February 10, 2023 in the NRD Large Conference Room. Directors in attendance were David Landis, Bob Andersen, Lisa Lewis, and Tom Green. Others attending included Kristen Hassebrook of Mueller Robak, Corey Wasserburger, Donna Reid, Dave Potter, Will Inselman, and myself.

Chair Landis called the meeting to order at 8:00 am, made introductions, and welcomed those in attendance. Landis called on Kristen Hassebrook to report on the Legislative Session. Hassebrook handed out the list of bills potentially of interest to LPSNRD, and reported the Legislature is on day 26 of the 90 day session and on Monday floor debate begins. Hassebrook then reviewed and updated the Subcommittee on the following bills and preliminary positions. (brief description and lists of the bills is attached, along with a more detailed description of all the LPSNRD bills of interest)

- Support – LB 218, 401, 428, 506*, 534, 560, 571 & 651
- Oppose – LB 312, 394, and 396.
- Monitor – LB 40, 49, 241, 304, 576, 656, and LR 30CA.
- Discuss further – LB281, 268, 662
- *testify or write letter on Bostar’s Lincoln Water Supply bill

The Subcommittee desired to move from “oppose” to “monitor” for LB 312.

The Subcommittee then discussed LB 662, attached is a request from Director Baker to “oppose” the bill and information on the bill. Wasserburger reported how the bill would also affect the NRD’s rights to file suits on actions detrimental to NRD projects/property. The Subcommittee discussed their concerns. It was moved by Green, seconded by Andersen, and unanimously approved by the Subcommittee to add this to the list of bills that the NRD Oppose (based on impacts to the NRD). The Subcommittee did not feel the NRD should testify.

The Subcommittee then discussed LB 281, which would provide funding for the replacement of the Camp at Halsey which burned down last year. I reported that this was an important resource

utilized by the NRDs for youth environmental camps and has more state-wide significance than previously expressed and our support would be appreciated. It was moved by Lewis, seconded by Green, and unanimously approved to add this to the list of bills recommended to support.

The Subcommittee also discussed LB 268 which authorizes trusts/investment pools to be established for the State Treasurer for political subdivisions and the possible impacts to LPSNRD and our current investment pool NPAIT (Nebraska Public Agency Investment Trust). No interest was expressed in taking a position on this bill.

It was moved by Andersen, seconded by Green, and unanimously approved by the Subcommittee **to recommend that the Board of Directors approve the positions on the following legislative bills:**

Support – LB 218, 281, 401, 428, 506*, 534, 560, 571 & 651

Oppose – LB 394, 396 and 662.**

Monitor – LB 40, 49, 241, 304, 312, 576, 656, and LR 30CA.

***testify or write letter on Bostar's Lincoln Water Supply bill**

****based on impacts to the NRD**

The last item was a report by Landis on the NIFCO Mechanical request to utilize the NRD access route to the Blue Heron Wetland area. Landis reported that Director Andersen and himself toured the site earlier this week to get a better understanding of the request. They've directed staff to contact NIFCO concerning their request and look further into allowing some "green" improvements to a portion of the access route that they could use under a license agreement with some compensation to the NRD, and that staff present that proposal to the Corps for consideration as a modification to the use of the wetland bank. At that time staff will report back to the Subcommittee.

There being no further business the meeting adjourned at 9:08 am.

PDZ/pz

pc: Kristen Hassebrook, Matt Schaefer, Tim Hruza
Steve Seglin
Corey Wasserburger

**Lower Platte South Natural Resources District
108th Legislature, 1st Regular Session**

Document	Senator	Position	Committee	Hearing Date	Status	Description
LB40	Blood	Monitor	Natural Resources		Committee 01/09/2023	Adopt the Riparian and Water Quality Practices Act <i>Adopts the Riparian and Water Quality Practices Act. Directs the Department of Agriculture to establish a buffer protection map focused on all waterbodies in the state of Nebraska. The bill would mandate landowners with property adjacent to such waterbodies to install and maintain buffer strip protections or other approved riparian water quality protections to protect such waterbodies from pollution and degradation. Local water management authorities would be tasked with technical assistance and compliance enforcement at risk of losing state funding. The Department of Agriculture would be authorized to issue administrative penalties to landowners who do not comply.</i>
LB49	Dungan	Monitor with Amendment	Judiciary		Committee 01/09/2023	Change provisions relating to solar energy and wind energy, declare certain instruments void and unenforceable, and provide for a civil cause of action <i>The bill adds access to direct sunlight as a consideration in a county zoning plan as it relates to supporting solar energy development. Prohibits any real property restrictions that would prohibit or limit solar energy development and provides for a private cause of action against landlords or homeowners association with such limitation in place.</i>
LB79	Erdman	Oppose	Revenue		Committee 01/09/2023	Adopt the Nebraska EPIC Option Consumption Tax Act <i>Eliminates all state income, sales and use taxes, property taxes and inheritance taxes. Would impose a tax on the use or consumption in the State of Nebraska of taxable property or services. The rate of the consumption tax shall be 7.5%. The person purchasing taxable property or services in the State of Nebraska shall be liable for the tax, but it will be collected by the seller. The bill creates numerous exemptions for purchases such as groceries, used property, property or service purchased for a business purpose in a trade or business or agriculture, property or service used for educational purposes, etc.</i> <i>Funding for schools would be through an educational trust fund whereby schools would be eligible to have transferred to them annually an amount to cover the five-year average operational costs per school plus two percent. In addition an educational stabilization fund would be created and funds, but no more than 10% of what is transferred to the trust fund each year, would be distributed to schools from that fund based on a stabilization score that evaluates disabilities, transportation, textbooks, technology, etc. Would also establish a building and growth fund that will receive no more than 8% of what is funded in the trust fund each year where schools can apply to receive funds to engage in building construction and repairs. Other political subdivisions would be allowed to impose their own consumption taxes. Establishes a statewide board to provide representation and a process for all political subdivisions to receive adequate funding from the state consumption tax.</i>
LB121	Bostelman	Monitor	Natural Resources	02/16/2023	Committee 01/10/2023	Repeal the Trail Development Assistance Act <i>Would repeal the Trail Development Assistance Act which provides funding to Nebraska Game and Parks Commission for ongoing maintenance of designated rail-trails. Senator Bostelman has indicated the purpose of this bill is to be available as a shell bill if a situation arises after bill introduction.</i>
LB125	Bostelman		Appropriations	03/14/2023	Committee 01/10/2023	Change provisions relating to interest earnings on the Surface Water Irrigation Infrastructure Fund <i>The bill specifies that investment earnings from the investment of the money in the fund shall be credited to the fund.</i>
LB147	Kauth		Revenue	02/01/2023	General 02/07/2023	Change procedures for property tax refunds <i>LB 147 amends Neb. Rev. Stat. Sec. 77-1736.06 to allow, within thirty days after a non-appealable order, or a non-appealed determination by the assessor or county board of equalization which results in a refund to the taxpayer of either real property or personal property taxes, the required notice to a political subdivision whose share of the refund is less than one thousand dollars (\$1,000.00) may be waived by the governing body of such political subdivision by notifying the county treasurer in writing; and further allows such notification to any political subdivision that requires any notification of such a refund to be notified by email or electronic means if the governing body of such a political subdivision requests such notification in writing.</i>
LB158	McDonnell		Appropriations		Withdrawn 01/18/2023	Appropriate funds to the Department of Agriculture <i>Appropriates \$2 million for FY23/24 and FY24/25 to the NDA for program 78 to distribute grants for the management of vegetation within the banks or flood plains pursuant to the Noxious Weed and Invasive Plant Species Assistance Act.</i>
LB205	von Gillem		Government, Military and Veterans Affairs	02/10/2023	Committee 01/11/2023	Adopt the Government Neutrality in Contracting Act <i>The intent of this bill is to add new language to the existing law that ensures no statement in a contract with the State of Nebraska can show a preference for or discriminate against bidders on a state contract that are represented by a collective bargaining agreement or those bidders who are not. Would essentially prohibit the requirement of a project labor agreement, unless otherwise required by federal law.</i>
LB218	Ibach	Support	Agriculture	02/07/2023	Committee 01/12/2023	Change provisions relating to intent to appropriate money for management of vegetation within the banks or flood plain of a natural stream <i>Funds in the Noxious Weed and Invasive Species Assistance Fund have been made available for grants to assist local control authorities and other weed management entities in the cost of implementing weed control programs. The bill would provide up to 6 million dollars in FY2023-24 (as compared to 3 million in FY2022-23 for such grants.)</i>

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LB241	Briese	Monitor	Natural Resources	01/26/2023	Committee 01/12/2023	Change provisions relating to transfers of water to another state <i>For permits to withdraw and transport groundwater for use in another state, the bill would prohibit the permits from being allowed if the water is to be transported more than 10 miles outside the state unless necessary to comply with an interstate compact.</i>
LB244	Briese		Revenue	02/09/2023	Committee 01/12/2023	Provide an additional tax credit under the Nebraska Property Tax Incentive Act <i>Adds a definition of general taxes (property taxes excluding those imposed by a community college, school district, but not taxes levied for bonded indebtedness, or the result of an override). The bill provides an income tax credit against property taxes paid for general taxes. Up to \$200 million in credits shall be available for this credit in 2024 and for each year after the credit amount will be increased by the allowable growth percentage.</i>
LB268	Halloran		Government, Military and Veterans Affairs	02/09/2023	Committee 01/12/2023	Authorize participation by certain entities in trusts or investment pools established by the State Treasurer
LB281	Jacobson	Monitor	Natural Resources	02/15/2023	Committee 01/13/2023	Require the Department of Economic Development to provide grants for youth outdoor education camp facilities <i>The bill would require DED to provide grants to nonprofits for the purpose of building or renovating youth outdoor education camp facilities. The grants shall require a 25% match in private funds or other money. No grants can be for more than \$30 million. Preference for grants shall be given to nonprofits using the funds to rebuild a facility that was damaged due to a natural or manmade disaster. Intent to appropriate \$50 million for the program. (Camp Halsey 4H camp)</i>
LB287	Brewer		Government, Military and Veterans Affairs		Committee 01/13/2023	Prohibit creation of joint public agencies under the Joint Public Agency Act <i>Would prohibit the creation of joint public agencies after October 1, 2023.</i>
LB292	Cavanaugh, M.		Natural Resources	02/08/2023	Committee 01/13/2023	Prohibit the use of eminent domain under the Jobs and Economic Development Initiative Act <i>Would prohibit the use of eminent domain for projects under the Jobs and Economic Development Initiative Act, aka the Lake.</i>
LB297	Sanders		Government, Military and Veterans Affairs	02/16/2023	Committee 01/13/2023	Adopt the Personal Privacy Protection Act <i>The bill prohibits public agencies from requiring any individual or nonprofit organization from providing personal information or compelling the release of personal information. If in possession of personal information, each public agency is prohibited from releasing, publicizing, or publicly disclosing such information. Exemptions from certain disclosures are provided. Section 5 provides an operative date of January 1, 2024.</i>
LB302	Linehan		Government, Military and Veterans Affairs	02/15/2023	Committee 01/13/2023	Change provisions relating to conflicts of interest by certain officeholders and public employees <i>Would expand the conflict of interest provisions of the NE Political Accountability and Disclosure Act to any person holding an elective office of any political subdivision. The bill would add and apply the conflict of interest provisions for any public employee other than those in the executive branch to be held to a similar conflict of interest standard as well. Public employee means any employee of a state or political subdivision.</i>
LB304	Linehan	Monitor	Government, Military and Veterans Affairs	02/09/2023	Committee 01/13/2023	Require political subdivisions to disclose membership dues and lobbying fees <i>Would require certain political subdivisions (including school district, esu, NRD and any other unit of local government) to disclose on their website membership dues paid to any association or organization, fees paid for lobbying services. If do not have a website shall make this information available upon request from the public.</i>
LB312	Lowe	Oppose	Government, Military and Veterans Affairs	02/09/2023	Committee 01/13/2023	Change provisions relating to withholding money due to noncompliance with budget limits and annual audits for certain political subdivisions <i>For purposes of governmental entities subject to the Budget Act the bill would specify that any funds forfeited for noncompliance with budget limits remains forfeited. Specifies that noncompliance beyond 1 year makes that entity ineligible for state aid until they come into compliance. The bill would also add the Highway Allocation fund as the recipient of any forfeited funds if there is no other eligible state aid recipient to receive them in the county.</i> <i>Governmental entity means joint airport authorities, esu, hospital district, learning community, NRD, any political subdivision with the authority to have a property tax request.</i> <i>The bill also adds the 1 year forfeiture provision to municipalities.</i>
LB322	Linehan		Revenue		Committee 01/13/2023	Prohibit creation of new joint public agencies with power or authority relating to tax <i>Would prohibit any future joint public agencies created from exercising any taxing authority.</i>

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Document	Senator	Position	Committee	Hearing Date	Status	Description
LB361	Dom		Appropriations	03/01/2023	Committee 01/17/2023	State legislative intent to appropriate funds for the Precision Agriculture Infrastructure Grant Program <i>Appropriates \$2 million for the program for FY2023-24 and FY2024-25.</i>
LB394	Erdman	Oppose	Judiciary		Committee 01/17/2023	Change provisions relating to the determination of damages as a result of eminent domain <i>For agricultural land, the damages shall include: (i) Two times the fair market value of the condemned property; (ii) Reasonable severance damages (including replacement cost for any of the following located on the condemned property: Dwellings, garages, sheds, barns wells, septic systems, fences, and any other permanent structures.); and (iii) The condemnee's abstracting expenses. For all other property the damages shall include: (i) The fair market value of the condemned property; (ii) Reasonable severance damages; and (iii) The condemnee's abstracting expenses.</i>
LB396	Erdman	Oppose	Natural Resources		Committee 01/17/2023	Provide for streamflow augmentation projects and retention of water rights <i>The bill states that a natural resources district has the power and authority to develop augmentation projects as described in subdivision (3)(e) of section 46-715 and to acquire real property for such augmentation projects. Once developed, the bill states natural resources districts owning such project shall sell the overlying surface interest but may retain and reserve the right to the ground water. The bill goes on to state the owner of the augmentation project are entitled to the reasonable and beneficial use of ground water and the quantity of such ground water available to the augmentation project shall be the same as if the overlying surface interest had been retained by the owner of the augmentation project.</i>
LB400	Brewer		Natural Resources	02/08/2023	Committee 01/17/2023	Adopt the Nebraska Pheasant Restoration Act <i>\$10 per predator bounty up to \$50,000 per year. Predator means: badger, coyote, opossum, raccoon, red fox, and striped skunk.</i>
LB401	Dom	Support	Appropriations	03/14/2023	Committee 01/17/2023	State intent regarding appropriations to the Department of Natural Resources <i>The bill would provide \$550,000 in FY2023-24 and FY2024-25 for the state's automated weather network system.</i>
LB411	Dungan		Appropriations	03/16/2023	Committee 01/17/2023	Appropriate funds for Wyuka Cemetery <i>The bill would appropriate \$1.5 million from the general fund to rehome the Pershing auditorium mural.</i>
LB428	Walz	Support	Government, Military and Veterans Affairs		Committee 01/18/2023	Require the Nebraska Emergency Management Agency to provide matching funding for the federal Hazard Mitigation Grant Program <i>The bill would require NEMA to provide up to half of the match requirement required of a political subdivision seeking grant funds from the federal Hazard Mitigation Grant program. FEMA's hazard mitigation assistance provides funding for eligible mitigation measures that reduce disaster losses.</i>
LB456	Brewer		Natural Resources	02/09/2023	Committee 01/18/2023	Provide for claims for monetary compensation for damage caused by elk or mountain lions and authorize the control of elk and mountain lion populations <i>The bill is modeled on Wyoming's law. It provides a process for farmers and ranchers to be reimbursed for livestock killed by mountain lions and crop loss caused by elk. There is a prescribed number of days to submit notarized claims, an investigation and a response from the Game and Parks Commission. The bill allows counties to hire a wildlife services agent to control wild or feral elk and mountain lion populations so long as a portion of their services is funded with money provided by USDA. The bill exempts these agents from a variety of legal claims for their work on private property.</i>
LB457	Holdcroft		Government, Military and Veterans Affairs		Committee 01/18/2023	Require video surveillance of voting and provide requirements for paper ballots, vote scanning devices, and vote tabulating equipment <i>The bill requires video surveillance of ballots in polling places from when it is handed to the voter until sealed for vote counting. The bill would also establish serialized numbers and multiple other requirements for official ballots to prevent them from being counterfeited.</i>
LB483	Raybould		Banking, Commerce and Insurance	03/07/2023	Committee 01/19/2023	Redefine qualifying mutual financial institution for purposes of regulation of public funds deposit security <i>The bill would allow credit unions to be eligible institutions in which public funds can be deposited.</i>
LB506	Bostar	Support with Testimony	Appropriations	03/14/2023	Committee 01/19/2023	State intent to appropriate federal funds to the Department of Natural Resources and the Department of Environment and Energy <i>The bill would reappropriate \$200 million of federal ARPA funds to the Dept. of Natural Resources to award a grant to a city of the primary class. The grant shall be used to cover costs for a water treatment plant, water treatment transmission, and distribution in furtherance of additional water, land acquisition, penning, a wellfield, pumping and transportation of water over 25 miles for the purpose of providing potable water to the municipality.</i> <i>The bill would reappropriate \$20 million of federal ARPA funds to NDEE to provide grants to small and rural communities to install reverse osmosis systems in community water systems where drinking water test levels are above 10 ppm for nitrate.</i>

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Document	Senator	Position	Committee	Hearing Date	Status	Description
LB513	Brewer		Government, Military and Veterans Affairs	02/10/2023	Committee 01/19/2023	Change proof of publication requirements for legal notices and requirements for published notice and virtual conferencing under the Open Meetings Act <i>Adds online publication to the section of law related to public notices that can be proved by affidavit. The bill states that until January 1, 2024 if a public body is unable to publish public notice in a newspaper due to refusal, neglect or inability by the newspaper the public body is allowed to post on their website and a public place in their jurisdiction. The bill states that after January 1, 2024 political subdivisions would be allowed to provide public notice through publication in a newspaper or on its website or on a statewide website established and maintained as a repository for such if no newspaper will be finalized prior to date/time of meeting. The bill would allow governing boards of city of the second class or village the same option, but also an option to merely posting in 3 conspicuous public places in the same city or village.</i>
LB514	Brewer		Government, Military and Veterans Affairs	02/02/2023	Committee 01/19/2023	Change provisions relating to elections <i>The bill ties the petition process related contesting the sale of land by a city of the first class to the standards set out in 32-628. The bill adds a comprehensive definition of electioneering and specifies no person shall engage in electioneering. The bill would allow vote by mail documentation to be provided electronically. The bill would direct political subdivisions to provide maps and any additional information to the Secretary of State or other election official in order to carry out the proper performance of elections and certifications of results. The bill provides some parameters around name changes and how names shall be displayed for candidates. The bill states that if a signed petition to put someone's name on the ballot has not been filed with the Secretary of State by August 1 it shall be invalid. The bill provides some parameters for removing a candidate's name from the ballot.</i>
LB534	Slama	Support	Appropriations	03/13/2023	Committee 01/19/2023	Appropriate federal funds to the Department of Environment and Energy for community water systems <i>The bill would appropriate \$150 million from federal ARPA funds to NDEE to provide grants to small and rural communities to construct drinking water infrastructure projects in community water systems and if appropriate public wells where water test levels are 10 ppm or higher of nitrate.</i>
LB560	Blood	Support	Appropriations	03/06/2023	Committee 01/19/2023	State intent to seek federal funds under the Inflation Reduction Act of 2022 <i>It is the intent of the Legislature to seek all funds made available to the state through the federal Department of Energy, the federal Environmental Protection Agency, the federal Department of the Interior, the federal Department of Transportation, or the federal Department of Agriculture from the Inflation Reduction Act of 2022 for the purposes of: (1) Increasing energy efficiency in homes and businesses; (2) Supporting electric vehicle infrastructure; (3) Upgrading utility infrastructure; (4) Assisting in transition to cleaner energy; (5) Supporting agricultural practices that are more drought resistant and decrease the use of water and fertilizer; and (6) Create jobs and stimulate the economy.</i>
LB571	Lippincott	Support	Appropriations	03/13/2023	Committee 01/19/2023	Appropriate funds to the Department of Environment and Energy to carry out the Water Well Standards and Contractors' Practice Act <i>The bill would appropriate \$750,000 from the general fund for FY23/24 and FY24/25 to NDEE to assist in carrying out the Water Well Standards and Contractors Practice Act.</i>
LB576	Cavanaugh, J.	Monitor	Judiciary		Committee 01/19/2023	Provide limitations on liability and nuisance related to land-management burning <i>In any negligence action arising out of or related to land-management burning conducted in accordance with section 81-520.05, compliance with all terms of an approved permit and plan for such landmanagement burning shall constitute an affirmative defense to such cause of action. In any nuisance action arising out of or related to landmanagement burning, compliance with section 81-520.05 and any applicable state or local air pollution law, rule, or regulation shall constitute an affirmative defense to such cause of action.</i>
LB613	McDonnell		Appropriations	03/13/2023	Committee 01/19/2023	State intent to appropriate funds to the Department of Environment and Energy <i>Appropriates \$22.5 million in each year of the biennium to expedite the replacement of homeowner-owned lead service lines.</i>
LB614	McDonnell		Appropriations	02/22/2023	Committee 01/19/2023	Appropriate funds to the Department of Agriculture <i>The bill would appropriate \$1.5 million from the general fund in FY23/24 to provide dollar-for-dollar match to fund a pilot program to test emerging technologies for sustainable irrigation.</i>
LB637	Albrecht		Government, Military and Veterans Affairs		Committee 01/20/2023	Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act <i>The bill specifies that other than a closed session a public body shall allow members of the public an opportunity to speak at each meeting.</i>
LB651	McDonnell	Support	Appropriations	03/16/2023	Committee 01/20/2023	Provide for appropriations relating to cybersecurity improvements for state agencies and political subdivisions <i>The bill appropriates \$20 million annually beginning in FY23/24 to DAS to engage in a variety of cybersecurity preparedness and response investments. The bill would direct \$8 million annually for a program to be created to provide political subdivisions with the ability to upgrade technology infrastructure.</i>
LB655	McDonnell		Government, Military and Veterans Affairs	02/16/2023	Committee 01/20/2023	Appropriate funds to the State Fire Marshal <i>Appropriates \$2.5M for the purpose of partnering with the Nebraska Forest Service by providing a state match on a Community Wildfire Defense Grant to the United States and to establish two statewide firefighting crews with technical expertise to support rural communities, to provide extra resources for wildfires, and to assist local fire departments in the prescribed burning to control the spread of Eastern Red Cedar trees.</i>

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Document	Senator	Position	Committee	Hearing Date	Status	Description
LB656	McDonnell	More Information	Natural Resources		Committee 01/20/2023	Change provisions relating to the Small Watersheds Flood Control Fund <i>Provides that it is the intent of the Legislature to transfer forty million dollars each fiscal year from the General Fund to the Small Watersheds Flood Control Fund until the total local cost-share is met for all Nebraska watershed and flood prevention operations projects active on December 31, 2022.</i>
LB662	Ballard	Monitor	Agriculture	02/14/2023	Committee 01/20/2023	Change provisions of the Nebraska Right to Farm Act relating to certain public or private nuisances <i>The bill would limit who is permitted to file nuisance actions to recover damages in which an agricultural operation is alleged to be a public or private nuisance to only such persons who own a majority interest in the real property affected and the property is located within 1/2 mile of the operation and the ag operation materially violated a federal, state or local law. The bill also specifies that if an ag operation is being conducted in a manner consistent with commonly accepted ag practices or is in material compliance with all applicable laws/regulations there shall not be found to be a nuisance. The bill specifies that a change in ownership or increase in size, nonpermanent cessation or interruption of use, participation in government program, employment of new technology or change in type of farm product produced shall not cause an ag operation to be considered a nuisance. The bill also limits the time a nuisance suit must be brought from within 2 years after the level of offense is sufficient to bring a claim down to 1 year.</i>
LB695	Linehan		Revenue		Committee 01/20/2023	Provide a property tax exemption <i>Would provide that the first twenty-five thousand dollars of taxable valuation of any real property in this state shall be exempt from real property taxes, except that such exemption shall only apply if the real property is owned by a resident of this state or by an entity organized under the laws of this state.</i>
LB721	Ballard		Transportation and Telecommunications	02/28/2023	Committee 01/20/2023	Appropriate funds to the Department of Transportation for the East Beltway project in Lancaster County <i>The bill appropriates \$25 million to NDOT to begin planning for the east beltway project in Lancaster County.</i>
LB723	Bostelman		Natural Resources	02/02/2023	Committee 01/20/2023	Adopt the Public Water and Natural Resources Project Contracting Act <i>The bill would allow DNR alternative methods for contracting for public water and natural resource projects to include design-build, progressive design-build and construction manager-general contractor procurement processes.</i>
LB749	Cavanaugh, M.	Monitor	Judiciary		Committee 01/20/2023	Prohibit possession of deadly weapons in the State Capitol or on State Capitol grounds <i>Guns and other deadly weapons would be prohibited on the grounds of the Nebraska State Capitol.</i>
LB750	Albrecht		Revenue	02/02/2023	Committee 01/20/2023	Change provisions relating to the valuation of agricultural land and horticultural land <i>Shell bill related to the Governor's proposal to value agricultural and horticultural land based on income properties. e.g. Iowa.</i>
LB766	DeKay		Appropriations	03/13/2023	Committee 01/20/2023	Appropriate Federal Funds to the Department of Environment and Energy for reverse osmosis systems <i>The bill would appropriate \$3.25 million from federal ARPA funds in FY23/24 and FY24/25 to NDEE for reverse osmosis systems.</i>
LB768	DeKay		Appropriations	03/14/2023	Committee 01/20/2023	Transfer money from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund <i>The bill would appropriate a \$30 million transfer from the cash reserve to the Critical Infrastructure Facilities Cash Fund. The fund resides within DNR and can be used to offset costs related to soil and water improvements intended to protect critical infrastructure facilities, provide grants to irrigation districts.</i>
LB776	Boslar		Government, Military and Veterans Affairs		Committee 01/20/2023	Provide for nomination and election of candidates on the nonpartisan ballot
LB808	Halloran		Government, Military and Veterans Affairs		Committee 01/20/2023	Provide for counting and recounting ballots under the Election Act by hand count <i>The bill would allow for hand recounts of ballots. The bill would allow a candidate to petition for a hand recount and for such recount to be then conducted by hand.</i>
LR1CA	Blood	Monitor/Support	Government, Military and Veterans Affairs		Committee 01/09/2023	Constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed <i>The Nebraska Legislature would be required to provide full reimbursement to political subdivisions for any new program or expansion of an existing program.</i>
LR6CA	Erdman	Oppose	Revenue		Committee 01/09/2023	Constitutional amendment to prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes <i>Constitutional amendment to prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes</i>

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LR7CA	Erdman	Oppose	Revenue		Committee 01/09/2023	Constitutional amendment to require the state to impose a consumption tax or an excise tax on all new goods and services and to provide a tax exemption for grocery items <i>Constitutional amendment to require the state to impose a consumption tax or an excise tax on all new goods and services and to provide a tax exemption for grocery items</i>
LR30CA	Murman	Monitor	Revenue		Committee 01/20/2023	Constitutional amendment to provide for a different method of taxing commercial real property <i>Would amend the Constitution to allow the Legislature to provide that commercial real property, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing commercial real property which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of commercial real property</i>

2023 LEGISLATIVE SESSION

812 Bills & 31 LR's

52 Bills to watch (49 + 3)

20 Bills to Review/discuss; 32 monitor

- LB 40 buffers M
- LB 49 solar, cons easements M
- LB 218 streambank weed control \$ S
- LB 241 pumping water out of NE M
- LB 281 outdoor education camp facility \$ S
- LB 304 website notice of lobbying & membership \$ M
- LB 312 withholding state \$ from nonconforming entities M
- LB 394 eminent domain deals for ag land O
- LB 396 water rights, augmentation Erdman repeat? O
- LB 401 weather network \$ S
- LB 428 NEMA/State match \$ for HMP S
- LB 506 Lincoln \$ for water supply & reverse osmosis \$ S*
- LB 534 small/rural community \$ for drinking water infrastructure S
- LB 560 Federal \$ for drought & reducing ag input S
- LB 571 NDEE \$ for water well standards work S
- LB 576 liability limits for good land management burning M
- LB 651 cybersecurity \$ for State/political subdivisions S
- LB 656 funding for Small Watershed Flood Control Fund M
- LB 662 change provisions of the Right to Farm act related to nuisances O
- LR 30CA constitutional amendment - tax commercial real estate differently M

LR 1CA - Constitutional amendment to require the Legislature to reimburse political subdivisions as prescribed. Blood.

A proposed constitutional amendment that the Legislature shall not impose responsibility for a program created after the year 2024 or an increased level of service required under an existing program after the year 2024 on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the cost of such program or increase in level of service.

Reimbursement by the state shall be in the form of a specific appropriation or an increase in state distribution of revenue to such political subdivision.

LR 6CA - Constitutional amendment to prohibit governmental entities from imposing any taxes other than retail consumption taxes and excise taxes. Erdman. Co-sponsored by Brewer, Clements, Halloran, McDonnell and Murman.

A proposed constitutional amendment, effective January 1, 2026, that no governmental entity in the State of Nebraska may impose taxes other than retail consumption taxes or excise taxes.

It replaces such taxes with a consumption tax which shall apply to purchases of services and new goods, except for fuel. Such consumption tax shall begin no later than January 1, 2024 (See LB 79).

LR 7CA - Constitutional amendment to require the state to impose a consumption tax or an excise tax on all new goods and services and to provide a tax exemption for grocery items. Erdman. Co-sponsored by Brewer, Clements, Halloran, McDonnell and Murman.

A proposed constitutional amendment, effective January 1, 2026, the State of Nebraska shall impose a retail consumption tax or an excise tax on all new goods and services, and the Legislature may authorize political subdivisions to do the same. There shall be no exemption from such taxes except for grocery items purchased for off-premises consumption.

(See LR 6CA and LB 79 for the companion legislation)

LB 7 - Provide a statute of limitations for exposure to hazardous or toxic chemicals. Blood.

The bill proposes to add to the product liability actions that can be brought against manufacturers and sellers of products that cause damages. Under the proposal, an action to recover damages based on injury or death that is caused by exposure to a hazardous or toxic chemical shall be commenced within ten years after the cause of action accrues.

The cause of action accrues upon the earlier of the date on which the plaintiff (i) Is informed by competent medical authority that the injury or death is related to the exposure to such chemical; or (ii) by the exercise of reasonable diligence, should have known that the injury or death is related to the exposure to such chemical.

LB 40 - Adopt the Riparian and Water Quality Practices Act. Blood.

The bill establishes the Riparian Protection and Water Quality Practices Act. The Act would require the Department of Agriculture to consult with local water management authorities to develop a summary of watercourses for inclusion in a comprehensive local watershed management plan and to create buffer-protection maps. Water management authorities are defined under the bill as natural resources district, metropolitan utilities district, county, city, or village operating separately or jointly in its role as a local water management authority.

In consultation with local water management authorities, the department shall develop, adopt, and submit to each local water management authority in the state a summary of watercourses for inclusion in the local water management authority's plan. A local water management authority shall include such summary of watercourses identified under this section as an addendum to its comprehensive local water management plan or comprehensive watershed management plan.

The bill requires riparian buffers and water quality practices to: (a) protect state water resources from erosion and runoff pollution, (b) stabilize soils, shores, and banks, and (c) protect or provide riparian corridors.

- Buffers for all public waters of this state, the would be the more restrictive of: 1) A 50-foot-average width, a 30-foot-minimum width, a continuous buffer of perennially rooted vegetation; or 2) The state standards and criteria set by the department pursuant to rules and regulations authorized, adopted and promulgated in the act.
- Buffers for public drainage systems, a 16.5-foot-minimum width continuous buffer. The buffer vegetation shall not impede future maintenance of the ditch.

There is an exception to the minimum buffer strip requirements. A landowner whose property is used for cultivation farming may meet the minimum requirements under the act by adopting an alternative riparian water quality practice, or a combination of structural, vegetative, and management practices.

These practices would have to be based on common alternative practices adopted and published by the department, other practices approved by the department, or practices based on local conditions approved by the local water management authority that are consistent with the practices adopted and published or approved by the department. The practices would have to provide water quality protection comparable to the buffer protection for the water body that the property abuts. Such practices include retention ponds and alternative measures that prevent overland flow to the water resource.

The bill requires landowners with property adjacent to a water source identified on a buffer-protection map to maintain buffers in accordance with the act. It also requires local water management authorities, with resources provided from the department, to assist landowners with riparian protection requirements including planning, technical assistance, implementation of approved alternative practices, and tracking progress toward compliance.

A local management authority would be required to notify the department if a landowner is not in compliance. The department would be authorized to enforce the act with administrative penalties not to exceed \$1000 per violation.

The bill exempts land that is enrolled in the federal Conservation Reserve Program, used as a public or private water access or recreational use, covered by road or other structure, regulated by a national pollutant discharge elimination system, part of a water-inundation cropping system, or in a temporary non-vegetated condition.

LB 79 - Adopt the Nebraska EPIC Option Consumption Tax Act. Erdman.

Establishes the Nebraska EPIC Consumption Tax Act, where EPIC stands for the elimination of property, income, and corporate taxes. Repeals such taxes on Dec. 31, 2025. Beginning Jan. 1, 2026, imposes a flat tax on the use or consumption in Nebraska of taxable property or services (including health care) at the rate of 7.5% (down from 10.64% in the 2022 proposal). No consumption tax shall be imposed on the purchase of fuel or for property or service purchased for a business purpose in a trade or business.

LB 121 - Repeal the Trail Development Assistance Act. Bostelman.

The bill eliminates references to the Trail Development Assistance Act, which sunset in 2010, and provides another source of funding. Under the bill any revenue collected from leases under the fund shall be remitted to the State Treasurer for credit to the Cowboy Trail Fund.

LB 125 - Change provisions relating to the Surface Water Irrigation Infrastructure Fund. Bostelman.

The bill proposes that investment earnings from investment of money in the Surface Water Irrigation Infrastructure fund shall be credited back to the fund.

LB 147 - Change procedures for property tax refunds. Kauth.

The bill proposes to change notice requirements with political subdivisions when refunds are due to property taxpayers.

Current law allows the county to waive notice to political subdivisions if their share of the refund is less than \$200. Under the proposal, any political subdivision whose share of the refund is \$1,000 or less, the governing body of the political subdivision may waive this notice requirement by notifying the county treasurer.

The bill also allows electronic communication of such notices.

LB 205 - Adopt the Government Neutrality in Contracting Act. von Gillern.

The bill proposes the Government Neutrality in Contracting Act to provide for the efficient procurement of goods and services by governmental units. The bill intends to promote the economical, nondiscriminatory, and efficient administration and completion of construction projects funded, assisted, or awarded by a governmental unit.

Under the bill, unless otherwise required by federal law, a governmental unit shall ensure that any requests for proposals or bid specifications for a public contract or the procurement procedures for a public contract do not contain:

- (a) A term that requires, prohibits, encourages, or discourages bidders, public contractors, or subcontractors from entering into or adhering to a collective-bargaining agreement relating to construction under the public contract;
- (b) A term that discriminates against bidders, public contractors, or subcontractors based on status as a party or nonparty to, or the willingness or refusal to enter into, a collective-bargaining agreement relating to construction under the public contract; or
- (c) Contract award pass or fail scoring criteria regarding a bidder's hiring requirements, labor assignments, local headquarters, political affiliation, political activity, or demographic makeup.

Definitions under the proposal follows:

Construction is defined as the business of construction, alteration, repairing, dismantling, or demolition of airports, bridges, buildings, canals, dams, disposal plants, levees, pipelines, power lines, roads, sewers, streets, transmission lines, viaducts, water and gas mains, water filters, water tanks, water towers, water wells, and every other type of structure, project, development, or improvement coming within the definition of real property or personal property, whether such property is to be occupied by the owner or held either for sale or rental.

Governmental unit is defined as the State of Nebraska or any agency or political subdivision of the state.

LB 217 - Change a date for certain scrap tire recycling grants. Hughes.

The bill proposes to extend the sunset for the scrap tire grant program from June 30, 2024, to June 30, 2029.

LB 218 - Change provisions relating to intent to appropriate money for management of vegetation within the banks or flood plain of a natural stream. Ibach.

The bill proposes to increase the annual funding from \$3 million to \$6 million per year for management of vegetation within the banks or flood plain of a natural stream. Such funds shall only be used to pay for activities and equipment as part of vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams.

Current law also requires that priority shall be given to grant applicants whose proposed programs are consistent with vegetation management goals, priorities, plans and policies of the Riparian Vegetation Management Task Force.

LB 241 - Change provisions relating to transfers of water to another state. Briese.

The bill adds criteria to the water transfer permit process for any person, firm, city, village, municipal corporation, or other entity intending to withdraw groundwater from any water well located in the State of Nebraska and transport it for use in another state.

The additional criteria would require the director to deny any permit under this section that would allow ground water to be transported more than ten miles outside of this state unless such transportation of ground water is necessary to comply with an interstate compact or decree.

LB 281 - Require the Department of Economic Development to provide grants for youth outdoor education camp facilities. Jacobson

The bill proposes grants to qualifying 501(c)(3) nonprofit organizations from the Department of Economic Development for the purpose of building or renovating youth outdoor education camp facilities, including physical structures, equipment, and necessary infrastructure to ensure accessibility to the public.

A grant awarded shall require a minimum of a twenty-five percent match in private or other money from the applicant. No applicant could receive one or more grants totaling more than \$30 million.

When awarding grants, the Department of Economic Development shall give preference to any applicant that intends to use the grant to rebuild a youth outdoor education camp facility that was damaged due to a natural or manmade disaster.

Intent language is added in the proposal to appropriate \$50 million from the General Fund for FY 2023-24 to the Department of Economic Development for the purposes described in the bill. The bill also includes the emergency clause.

LB 287 - Prohibit creation of joint public agencies under the Joint Public Agency Act. Brewer.

The bill would end the ability to create a joint public agency on or after October 1, 2023.

LB 292 - Prohibit the use of eminent domain under the Jobs and Economic Development Initiative Act (JEDI). Cavanaugh, M.

The bill proposes that no land within the Lake Development District, as designated by the Department of Natural Resources under the JEDI bill passed last year shall be acquired by the state or any political subdivision of the state through the use of eminent domain.

LB 302- Change provisions relating to conflicts of interest by certain officeholders and public employees. Linehan.

The bill proposes to expand conflict of interest laws to all persons holding an elective office of a political subdivision and all public employees.

LB 304 - Require political subdivisions to disclose membership dues and lobbying fees. Linehan.

The bill would require that political subdivisions or any other unit of local government to disclose on its website the following:

- (a) Membership dues paid annually to any association or organization, identifying each such association or organization and the dues amounts paid; and
- (b) Fees paid to any individual lobbyist or lobbying firm other than any fees paid for lobbying services that may be included in the membership dues.

For any political subdivision that does not have a website, the information shall be made available upon request to any member of the public at the office of such political subdivision.

LB 312 - Change provisions relating to withholding money due to noncompliance with budget limits and annual audits for certain political subdivisions. Lowe.

The bill proposes changes to withheld state aid under current law for those that have received notice from the Auditor of Public Accounts that they are out of compliance.

Current law allows for the state aid to be returned to the other recipients of the state aid or, in the case of a homestead exemption reimbursement, returned to the General Fund, if they do not get into compliance within six months.

The bill would allow the withheld state aid to be distributed to the other recipients of the state aid in the county where such noncompliant governmental unit is located or returned to the Highway Allocation Fund.

Also, the governmental unit shall continue to forfeit state aid until the governmental unit reaches compliance and the State Treasurer has received notification of such compliance from the Auditor of Public Accounts. All state aid that was forfeited shall remain forfeited and redistributed according to the proposal outlined above.

If any governmental unit fails to reach compliance within 12 months from the time of the order and notice of delinquency given by the Auditor of Public Accounts to the State Treasurer, such governmental unit shall be ineligible for future distributions of state aid until they get in compliance.

LB 322 - Prohibit creation of new joint public agencies with power or authority relating to tax. Linehan.

The bill would prohibit a joint public agency created on or after October 1, 2023, from exercising any power or authority relating to tax.

LB 332 - Prohibit creation of new joint public agencies with power or authority relating to education. Linehan.

The bill would prohibit a joint public agency created on or after October 1, 2023, from exercising any power or authority relating to education.

LB 361 - State legislative intent to appropriate funds for the Precision Agriculture Infrastructure Grant Program. Dorn.

The bill proposes \$2 million for each of FY 2023-24 and FY 2024-25 to carry out the Precision Agriculture Infrastructure Grant Program created in 2021. The purposes of the program are to:

- (a) Propel Nebraska agricultural producers to lead the nation in precision agriculture connectivity, sustainability, traceability, and autonomy to accelerate rural economic development; and
- (b) Provide high-speed Internet service to farm sites in unserved areas of the state.

LB 394 - Change provisions relating to the determination of damages as a result of eminent domain. Edrman.

The bill proposes changes to the calculation of fair market value and severance damages when an entity uses eminent domain. Current law allows for fair market value and all compensable damages suffered by the condemnee including, but not limited to, reasonable severance damages and condemnee's abstracting expenses.

Under the bill, the proposal divides out compensation for ag land and all other property.

For property other than agricultural land, the damages shall include: (i) The fair market value of the condemned property; (ii) Reasonable severance damages; and (iii) The condemnee's abstracting expenses.

For agricultural land, the damages shall include: (i) Two times the fair market value of the condemned property; (ii) Reasonable severance damages; and (iii) The condemnee's abstracting expenses.

The bill further defines severance damage for agricultural land to include the replacement cost for dwellings, garages, sheds, barns, wells, septic systems, fences, and any other permanent structures.

LB 396 - Provide for streamflow augmentation projects and retention of water rights. Erdman.

The bill would require each natural resource district that has an augmentation project to sell the overlying land acquired after development of the project but retain and reserve the right to the groundwater located beneath such land.

The bill proposes that the quantity of such ground water available to the augmentation project would be the same as if the overlying surface interest had been retained by the owner or owners of the augmentation project.

LB 400 - Adopt the Nebraska Pheasant Restoration Act. Brewer.

The bill proposes the Nebraska Pheasant Restoration Act to help increase the pheasant population.

Under the proposal, a nest predator bounty program would be created within the Nebraska Game and Parks. Nest predators are defined as badger, coyote, opossum, raccoon, red fox, and striped skunk. The nest predator bounty season would run from March 1 to July 1 each year.

The NGPC would have to pay a bounty of \$10 for each nest predator harvested during the bounty season up to a limit of \$50,000 each year.

LB 401 - State intent regarding appropriations to the Department of Natural Resources. Dorn.

The bill proposes to appropriate an additional \$550,000 from the General Fund for FY 2023-24 and \$550,000 from the General Fund for FY 2024-25 to the Department of Natural Resources for costs associated with operating the Nebraska Mesonet system.

1/19/2023

The bill includes the emergency clause.

LB 428 - Require the Nebraska Emergency Management Agency to provide matching funding for the federal Hazard Mitigation Grant Program. Walz.

The bill would require the Nebraska Emergency Management Agency to provide a dollar-for-dollar match for each political subdivision required to match federal money under the federal Hazard Mitigation Grant Program.

The amount of money provided by the Nebraska Emergency Management Agency shall be equal to one-half of the amount required by the applicant to satisfy the federal match requirements of the political subdivision under the federal Hazard Mitigation Grant Program.

Finally, the bill allows the Nebraska Emergency Management Agency to adopt and promulgate rules and regulations to carry out this section.

LB 506 - State intent to appropriate federal funds to the Department of Natural Resources and the Department of Environment and Energy. Bostar.

The bill provides intent language for the Legislature to appropriate:

- \$200 million from Federal Funds for FY2023-24 to the Department of Natural Resources for a grant to a city of the primary class for water supplies. Eligible expenses for the funding from this grant shall include, but not be limited to, costs for a water treatment plant, water treatment, transmission, and distribution in furtherance of additional water, land acquisition, permitting, a wellfield, pumping, and transportation of water over twenty-five miles for the purpose of providing potable water to the municipality.
- \$20 Million from Federal Funds for FY2023-24 to the Department of Environment and Energy for grants for small and rural communities to install reverse osmosis systems in community water systems where drinking water test levels are above ten parts per million of nitrate and, if appropriate, provide grant funds for use to install reverse osmosis systems if test levels for nitrate in drinking water pumped from private wells are above ten parts per million.

The Federal Funds to be appropriated are from the funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021.

LB 513 - Change proof of publication requirements for legal notices and published notice and virtual conferencing requirements under the Open Meetings Act. Brewer.

The bill incorporates a statewide website, to be completed in 2023, as a repository for public notices. The repository is to be established by a majority of Nebraska's newspapers.

The bill also proposes a two-step solution for situations where a newspaper fails to publish a public notice in cases of refusal, neglect or inability of the newspaper to timely publish the notice.

1/19/2023

- 1) **Until January 1, 2024**, the public body shall (A) post such notice on its website, if available, and (B) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.
- 2) **After January 1, 2024**, the public body shall (A) post such notice on its website, if available, (B) submit a post on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers, and (C) post in a conspicuous public place in such public body's jurisdiction.

The bill also provides two other changes for notices after January 1, 2024.

- 1) (I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or
- 2) (I) Posting to the newspaper's website, if available, and (II) a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

Finally, the bill allows for any advisory committees of risk management pools and any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act to hold no more than one-half of its meetings by virtual conferencing.

LB 534 - Appropriate federal funds to the Department of Environment and Energy for community water systems. Slama.

The bill proposes to appropriate \$150 million from Federal Funds for FY2023-24 to the Department of Environment and Energy for grants for small and rural communities to construct drinking water infrastructure projects that are eligible under the Drinking Water State Revolving Fund in community water systems where drinking water test levels are above ten parts per million of nitrate and, if appropriate, provide grant funds for use to construct drinking water infrastructure projects that are eligible under the Drinking Water State Revolving Fund if test levels for nitrate in drinking water pumped from public wells are above ten parts per million.

The Federal Funds appropriated in this section are from the funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021.

LB 540 - Change provisions relating to public lettings. Vargas.

The bill proposes changes for any request for bids in pursuance of any statutes of the State of Nebraska, on any road contract work or any public improvements work, or for supplies, construction, repairs, and improvements, and in all other cases where bids for supplies or work, of any character whatsoever, are received for the various departments and agencies of the state, and other subdivisions and agencies.

1/19/2023

It would require that such public entity shall inform bidders with contract bids exceeding \$500,000 that such bidders are required, upon request by the public entity, to (i) submit proof of workers' compensation insurance from all contractors and subcontractors, at every tier of subcontracting, (ii) submit a list of subcontractors, at every tier of subcontracting, performing work under such contract, and (iii) provide for direct deposit or check with record of payments for all workers employed, and all independent contractors performing work, on the project.

This requirement would not apply to the State Park System Construction Alternatives Act or Design Build statutes.

LB 560 - State intent to seek federal funds under Inflation Reduction Act of 2022. Blood.

The bill proposes it is the intent of the Legislature to seek all funds made available to the state through the federal Department of Energy, the federal Environmental Protection Agency, the federal Department of the Interior, the federal Department of Transportation, or the federal Department of Agriculture from the Inflation Reduction Act of 2022 for the purposes of:

1. Increasing energy efficiency in homes and businesses;
2. Supporting electric vehicle infrastructure;
3. Upgrading utility infrastructure;
4. Assisting in transition to cleaner energy;
5. Supporting agricultural practices that are more drought resistant and decrease the use of water and fertilizer; and
6. Create jobs and stimulate the economy.

LB 571 - Appropriate funds to the Department of Environment and Energy to carry out the Water Well Standards and Contractors' Practice Act. Lippincott.

The bill proposes to appropriate \$750,000 from the General Fund for each FY2023-24 and FY2024-25 to the Department of Environment and Energy, to aid in carrying out the provisions of the Water Well Standards and Contractors' Practice Act.

LB 576 - Provide limitations on liability and nuisance related to land-management burning. Cavanaugh, J.

The bill proposes that anyone that has obtained a permit for controlled burns and is in compliance with all terms of the permit and plan, would have an affirmative defense for any negligence and nuisance action.

LB 614 - Appropriate funds to the Department of Agriculture. McDonnell.

The bill proposes to appropriate \$1.5 million from the General Fund for FY2023-24 to the Department of Agriculture, for the purpose of providing a dollar-for-dollar private sector match to fund a pilot program to test emerging technologies for sustainable irrigation.

Intent language is added for the department to work with experts in water research at the University of Nebraska to design the pilot program and include Nebraska-based businesses that specialize in advancing agricultural productivity.

The bill includes the emergency clause.

1/19/2023

LB 637 - Require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act. Albrecht.

The bill requires that members of the public have an opportunity to speak at each meeting, except for closed sessions.

Current law provides that a body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

LB 651 - Provide for appropriations relating to cybersecurity improvements for state agencies and political subdivisions. McDonnell.

The bill proposes to provide funding and direction to the office of Chief Information Officer in Nebraska to develop cybersecurity preparedness activities in Nebraska for state agencies and political subdivisions.

Political subdivision would include villages, cities, counties, school districts, educational service units, and natural resource districts.

The office shall work to:

- Support cybersecurity preparedness activities;
- Procure tools, hardware, software, or services, that enhance or expand the cybersecurity defense and response capabilities of the state;
- Strengthen and expand cyber risk management activities for the state;
- Expand vulnerability monitoring, identification, and management;
- Increase and maintain cyber incident response capabilities;
- Promote cybersecurity training and awareness within the state; and
- Support cybersecurity workforce development within the state.

The bill outlines the intent of the Legislature to appropriate \$20 million of General Funds annually beginning in FY2023-24 to the Department of Administrative Services, Information Management Services Division, for the purposes of cybersecurity activities described in this section.

LB 656 - Change provisions relating to the Small Watersheds Flood Control Fund. McDonnell.

The bill expresses the intent of the Legislature to transfer \$40 Million dollars each fiscal year from the General Fund to the Small Watersheds Flood Control Fund until the total local cost-share is met for all Nebraska watershed and flood prevention operation projects active on December 31, 2022.

LB 672 - Appropriate funds to the Department of Environment and Energy. Hansen, B.

The bill appropriates \$30 million from the Drinking Water Facilities Loan Fund for FY2023-24 to the Department of Environment and Energy to provide grants that allow up to fifty-percent loan forgiveness in order to expand municipal drinking water treatment plants and all related appurtenances, settling basins, pumps, storage tanks, and water distribution facilities, including costs for the acquisition of land needed for the purpose of locating eligible project components and to support the additional demand for processing agricultural products, enhanced water quality, creation of new capital investment, and creation of new jobs.

1/19/2023

LB 683 - Create the Nebraska Broadband Office and provide duties. Transportation and Telecommunications Committee.

The bill proposes to create the Nebraska Broadband Office to coordinate all federal, state, and local government funding for broadband infrastructure and services in Nebraska be leveraged strategically to ensure that all Nebraskans have access to affordable, reliable broadband services before January 1, 2028. Currently, the Public Service Commission has many of these duties.

The office shall be headed by the Director of Broadband, who would be appointed by the Governor. The office shall be located in the Department of Transportation.

The duties of the Nebraska Broadband Office includes:

- Through active outreach, collaborate with officials at all levels of government and with stakeholders, which may include, but not be limited to, businesses and industries, community foundations, local governments, local or regional economic development organizations, schools, colleges, other educational entities, public libraries, health care institutions, financial institutions, agricultural producers, telecommunications providers, public power districts, electric cooperatives, nonprofit organizations, and other interested entities;
- Through such collaboration, develop a strategic plan that maximizes the use of public and private resources and encourages innovative models for ownership of infrastructure that is used for both private and public purposes;
- Direct the coordination among state agencies, boards, and commissions on policy matters affecting use of federal or state funding for broadband infrastructure deployment, operation, and maintenance;
- Conduct state advocacy on broadband issues at the federal level, including the accuracy of federal mapping and speed data;
- Ensure that all governmental funding is utilized in a cost effective and accountable manner for Nebraska broadband projects;
- Oversee the coordination of programs for broadband users, such as libraries and schools, and digital equity and inclusion projects;
- Provide resources and assistance for local and regional broadband planning; and
- Provide resources and information to the public through a website and other communication modes.

LB 723 - Adopt the Public Water and Natural Resources Project Contracting Act. Bostelman, at the request of the Governor.

The bill proposes to create the Public Water and Natural Resources Project Contracting Act under the Department of Natural Resources.

1/19/2023

Design-build contract is defined under the proposal as a contract between the department and a design-builder which is subject to a best value-based selection process to furnish (a) architectural, engineering, and related design and (b) labor, materials, supplies, equipment, and construction services.

The purpose of the Public Water and Natural Resources Project Contracting Act is to provide the department alternative methods of contracting for public water and natural resources projects. The alternative methods of contracting shall be available to the department for use on any project regardless of the funding source. Notwithstanding any other provision of state law to the contrary, the Public Water and Natural Resources Project Contracting Act shall govern the design-build, progressive design-build, and construction manager-general contractor procurement processes.

The department may hire an engineering or architectural consultant to assist the department with the development of project performance criteria and requests for proposals, with evaluation of proposals, with evaluation of the construction to determine adherence to the project performance criteria, and with any additional services requested by the department to represent its interests in relation to a project.

The department shall prepare a request for qualifications for design-build and progressive design-build proposals and shall prequalify design-builders and progressive design-builders. The request for qualifications shall describe the project in sufficient detail to permit a design-builder or a progressive design-builder to respond. The request for qualifications shall identify the maximum number of design-builders or progressive design-builders the department will place on a short list as qualified and eligible to receive a request for proposals.

The bill would also allow the department to enter into agreements under the Public Water and Natural Resources Project Contracting Act to let, design, and construct projects for political subdivisions when any of the funding for such projects is provided by or through the department.

On or before July 1, 2024, the Director-State Engineer shall adopt and promulgate rules and regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The rules and regulations shall reflect the intent of the Legislature to promote and encourage the use of public-private partnerships in the State of Nebraska.

LB 729 - Change provisions relating to the Jobs and Economic Development Initiative (JEDI) Fund. McDonnell.

The bill adds that funds available under provisions of the JEDI fund can also be used for economic impact studies. Existing law allows funds for site selection costs, feasibility and public water supply studies, and flood mitigation costs.

There was up to \$20 million set aside last year for such studies.

LB 766 - Appropriate Federal Funds to the Department of Environment and Energy for reverse osmosis systems. DeKay.

The bill proposes to appropriate \$3.25 Million for each FY 2023-24 and FY 2024-25 from Federal Funds to the Department of Environment and Energy for reverse osmosis systems, which shall only be used for such purpose. The Federal Funds appropriated in this section are from the funds allocated to the State of Nebraska from the federal Coronavirus State Fiscal Recovery Fund pursuant to the federal American Rescue Plan Act of 2021.

1/19/2023

LB 768 - Transfer money from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund. DeKay.

The bill proposes that the State Treasurer shall transfer \$30 Million from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund on or after July 1, 2023, but before January 1, 2024, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

1/19/2023

Paul Zillig

From: Melissa Baker <mbaker.nrd@outlook.com>
Sent: Wednesday, February 1, 2023 9:09 PM
To: David Landis; Bob Andersen; Chelsea Johnson; Lisa Lewis; Tom Green; Deborah Eagan
Cc: Paul Zillig
Subject: Request to Executive Committee
Attachments: Concerns about LB 662 2023.docx

Caution: This email originated from OUTSIDE the organization. Do not open suspicious links or attachments. Contact IT for assistance.

Good Evening. I have a request to the Executive Committee to discuss LB662. I attached some shared information. I brought up this bill last Tuesday, as it is not on the legislative agenda with the NARD. I have been emailing Paul and he suggested I bring this to the attention of you all. I hope, if approved, to have our lobbyist team oppose this bill. Since I am new to the Board, I hope this request is done respectfully and according to policies and procedures.

A link I recently shared about this bill and how I heard about it.

https://theindependent.com/news/state-and-regional/bill-aims-to-protect-farmers-from-nuisance-lawsuits-restricting-who-can-file-and-when/article_364dbd1d-d222-5caf-8a29-aa142ec261e3.html

This attachment was not written by me. I echo the concerns within the attachment and the details pertaining to the LPS NRD is I wonder if this bill would restrict the NRDs from protecting their property if a lawsuit would ever be necessary. If a lawsuit would ever be needed, that means damage is done and we are dealing with negative impacts. Sometimes, many times, the negative impacts from pollutants are not found immediately. Do we have air pollution issues that are a singular issue, and don't affect nearby water, land use, or have a negative impact on public health and quality of life? If something stinks so bad it causes ongoing complaints, an air pollution issue, or nuisance, it probably is significant, needing to be addressed and resolved before long term damage to water, land and communities happens.

Thanks,
Melissa Baker

CONCERNS ABOUT LB 662

LB 662 would prevent rural residents and communities from filing claims in court that seek to protect their quality of life.

Nuisance is a concept designed to protect the property rights of landowners and tenants from unreasonable interference in the enjoyment of their property by actions of their neighbors.

Currently, Nebraska's Right to Farm Act prevents a person from moving to a rural area and then suing a neighboring farmer on nuisance grounds after they discover that cattle may have odors or tractors make noise.

LB 662 turns this basic concept on its head by allowing an outsider to come to a rural area and develop an operation that would be a nuisance under current law, yet the neighbors would have no legal recourse against them.

- Example, farmer Jones's family has raised corn and cattle in rural Nebraska and had good relations with their neighbors for many generations. A corporation headquartered in China buys the neighboring farm and builds a swine operation for 50,000 animals.
- Suddenly Farmer Jones's family is confronted with odors, dust, noise, flies and traffic they never had to deal with before. Farmer Jones's family needs to be outside to do the basic tasks of farming but now they need to do their work under conditions that make their lives and work difficult. Under current law, Farmer Jones's family would be able to sue the corporation for the nuisance it brought to their lives. Under LB 662, they would be prevented from bringing such a lawsuit.

Specific concerns about LB 662

- LB 662 would prevent anyone who doesn't own a majority interest in real estate from filing a lawsuit to protect themselves from unreasonable interference in the enjoyment of the property where they live and work. This would mean that people who lease or rent the land would be unable to bring a lawsuit, denying an entire class of people access to the courts. It also would prevent a person who has shared minority ownership from bringing a suit to protect their interest.
- LB 662 would prevent a lawsuit against any operation that is in "material compliance with all applicable federal, state, and local laws, regulations and permits." Unfortunately, there are no legal standards for issues like odors, dust or the number of flies allowed per square inch. In addition, it is unclear what "material compliance" means. In the absence of regulatory action by the government, it would create a nearly impossible burden for private citizens to establish that a corporation is in violation of such laws or regulations. There are also concerns about enforcement of environmental laws; the disaster at the Alt En ethanol facility occurred because NDEE failed to take action to require compliance with statutes and regulations despite years of blatant violations.

- LB 662 prevents anyone whose property is more than one-half mile from the offending operation from filing a claim in court. However, odors, dust, flies and chemicals often go far beyond a half a mile.
- LB 662 shortens the time to bring a lawsuit from two years to one year. This is already a much shorter time than most claims for damages which typically have a four-year statute of limitations.

Likely impacts of LB 662

Reduction in property values. If the impact of the odors, dust, flies or chemicals from the offending neighbor's property are really bad, rural residents may want to sell their property but be unable to do so. This will have a negative impact on real estate sales and property values.

Acreages and rural businesses would lose protections. People who live on acreages would lose the ability to protect their way of life. Rural businesses like farm wineries and ecotourist activities would be unable to protect their businesses.

Cities, counties, NRDs and school districts would lose the ability to protect their properties. Cities, counties, NRDs and school districts may need to file lawsuits to protect properties they own, such as parks, trails, athletic fields and public buildings. LB 662 would severely limit that ability.

Urban areas unable to grow. If property owners are unable to take legal actions to protect their interests against nuisances, developers will be reluctant to build new subdivisions on the outskirts of growing communities like Lincoln and Omaha.

Legal Issues

LB 662 may be unconstitutional. Article I, section 13 of the Nebraska Constitution provides that "all courts shall be open" and "every person.... shall have a remedy by due course of law."

LB 662 prevents tenants and landowners with a minority interest from going to court to protect themselves from unreasonable interference in their property rights.

LB 662 also severely limits the ability of majority landowners to protect their property because of the provisions that prevent filing a lawsuit if the offending property is in material compliance with applicable laws, regulations and permits.

Article I, section 3 of the Nebraska Constitution provides for due process and equal protection of the laws. LB 662 would take away a person's due process rights to protect their property and enjoyment of life. There is caselaw which holds that such an activity is an unconstitutional taking of a person's property by means of government authority.

If LB 662 were declared unconstitutional, it is likely the entire Right to Farm Act would be thrown out.

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 662

Introduced by Ballard, 21; DeKay, 40; Erdman, 47; Hansen, B., 16; Hardin,
48; Jacobson, 42.

Read first time January 18, 2023

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to the Nebraska Right to Farm Act; to amend
2 sections 2-4402 and 2-4403, Reissue Revised Statutes of Nebraska; to
3 define a term; to change provisions relating to any action relating
4 to certain public or private nuisances as prescribed; to change a
5 statute of limitations; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-4402, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 2-4402 As used in the Nebraska Right to Farm Act, unless the context
4 otherwise requires:

5 (1) Agricultural operation means a farm, farm operation, public
6 grain warehouse, or public grain warehouse operation;

7 (2) ~~(1)~~ Farm or farm operation means any tract of land over ten
8 acres in area used for or devoted to the commercial production of farm
9 products;

10 (3) ~~(2)~~ Farm product means those plants and animals useful to man
11 and includes, but is not limited to, forages and sod crops, grains and
12 feed crops, dairy and dairy products, poultry and poultry products,
13 livestock, including breeding and grazing, fruits, vegetables, flowers,
14 seeds, grasses, trees, fish, apiaries, equine and other similar products,
15 or any other product which incorporates the use of food, feed, fiber, or
16 fur; and

17 (4) ~~(3)~~ Public grain warehouse or public grain warehouse operation
18 means any grain elevator building or receptacle in which grain is held
19 for longer than ten days and includes, but is not limited to, all
20 buildings, elevators, and warehouses consisting of one or more warehouse
21 sections within the confines of a city, township, county, or state that
22 are considered a single delivery point with the capability to receive,
23 load out, weigh, and store grain.

24 Sec. 2. Section 2-4403, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 2-4403 (1) No person shall be permitted to file a nuisance action to
27 recover damages in which an agricultural operation is alleged to be a
28 public or private nuisance unless:

29 (a) Such person owns a majority interest in the real property
30 affected by the agricultural operation and such real property is located
31 within one-half mile of the agricultural operation; and

1 (b) The agricultural operation has materially violated a federal,
2 state, or local law applicable to an agricultural operation.

3 (2) An agricultural operation ~~(1) A farm or farm operation or a~~
4 ~~public grain warehouse or public grain warehouse operation~~ shall not be
5 found to be a public or private nuisance:

6 (a) If ~~if~~ the agricultural farm or farm operation or public grain
7 ~~warehouse or public grain warehouse~~ operation existed before a change in
8 the land use or occupancy of land in and about the locality of such
9 agricultural farm or farm operation or public grain warehouse or public
10 ~~grain warehouse~~ operation and before such change in land use or occupancy
11 of land the agricultural farm or farm operation or public grain warehouse
12 ~~or public grain warehouse~~ operation would not have been a nuisance; ~~+~~

13 (b) If the agricultural operation is being conducted in a manner
14 consistent with commonly accepted agricultural practices. For purposes of
15 this subdivision, if the agricultural operation is in material compliance
16 with all applicable federal, state, and local laws, regulations, and
17 permits, it shall be presumed to be conducted in a manner consistent with
18 commonly accepted agricultural practices; or

19 (c) As a result of any of the following activities or conditions:

20 (i) Change in ownership or increase in size;

21 (ii) Nonpermanent cessation or interruption of use as an
22 agricultural operation;

23 (iii) Participation in any government-sponsored agricultural
24 program;

25 (iv) Employment of new technology; or

26 (v) Change in the type of farm product produced.

27 (3) {2} No suit shall be maintained against an agricultural a farm
28 ~~or farm operation or public grain warehouse or public grain warehouse~~
29 operation for public or private nuisance more than one year ~~two years~~
30 after the condition which is the subject matter of the suit reaches a
31 level of offense sufficient to sustain a claim of nuisance.

1 (4) ~~(3)~~ The limitation provided for in this section shall not apply
2 to any action brought to determine compliance with or to enforce a
3 previous order of a court related to the same claim of nuisance or to any
4 claims for additional damages or equitable relief available when an
5 agricultural ~~a farm or farm operation or public grain warehouse or public~~
6 ~~grain warehouse~~ operation fails to remediate a nuisance pursuant to such
7 court order.

8 Sec. 3. Original sections 2-4402 and 2-4403, Reissue Revised
9 Statutes of Nebraska, are repealed.