

Agenda Item: 6.

MEMORANDUM

TO: Personnel, Legislative and Public Affairs Subcommittee

SUBJECT: 2015 Legislation

DATE: February 2, 2015

FROM: John Winkler, General Manager

This legislative session several bills have been introduced which may have a direct impact on the Papio Missouri River NRD's operations and structure as well as the operation of every Natural Resources District throughout the State. In years past I have attempted to decipher which bills are of paramount importance to the District and to list those bills for the Board to take an official position. However, due to our legislative actions and abilities the Papio NRD is called on by various stakeholders to provide testimony and to educate Senators, State Agencies, Constitutional Officers, Federal Agencies, Congressional Representatives and the media on a wide range of issues that impact our vital natural resources. Consequently, we get called upon to take a position on issues in which we may not have anticipated that the Papio NRD would be involved.

As you are aware, each year the Nebraska Association of Resource Districts (NARD) holds a legislative conference in Lincoln, Nebraska to review and discuss proposed legislation which will have the most impact on the NRD system statewide and to take a formal position on those bills that have been introduced. I have attached a Summary of Legislative Bills for 2015 from the NARD Legislative Conference for your review. It is proposed once again this year that the Papio NRD Board of Directors ratify this summary as the District's official position on this year's legislation. If the subcommittee or the Board of Directors would like to change a position on a certain bill then that bill can be called out and voted on separately.

Therefore, management recommends that the subcommittee recommend to the Board of Directors that the Papio Missouri River Natural Resources District officially ratifies the 2015 NARD Summary of Legislative Bills and directs the General Manager and the Government Relations Consultant to take such appropriate action to support and or oppose the positions identified as such through the legislative process.

**NARD CA & BILL SUMMARY of NEW
LEGISLATION**

2015 LEGISLATIVE SESSION

**SUMMARY OF
LEGISLATIVE BILLS**

FINAL VERSION

**NARD LEGISLATIVE
CONFERENCE
EMBASSY SUITES HOTEL**

**LINCOLN, NE
JANUARY 26-28, 2015**

Voting Procedures

Any cell phone ringing during session will require the owner to submit a tax-deductible \$5.00 donation to the NARD Foundation.

Tuesday Morning Business Session

- 1) The first session on Tuesday morning will be spent going through the list of bills. Please wait for motions until we are completely through the outline.
- 2) After the Legislative Chairman has finished the outline, districts may make motions to vote on bills individually with a stated position. A second will be required to advance for a vote. Prior to the break for caucus, a motion and a second will be required to accept the balance of the NARD Legislative Committee recommendations. Final votes will be taken after the caucus period.
- 3) Only the voting delegate of the district, or the alternate in the case of the delegates' absence, can make a motion and vote on behalf of a district. Other NRD directors and employees can speak on issues at the request of the voting delegate of the district, or the alternate in the case of the delegates' absence.

Tuesday Afternoon Caucus

- 4) Caucus rooms are available in Chancellor Rooms I, II & III on a first come/first serve basis. Please share the rooms and feel free to move chairs as needed. The Atrium area may also be available, but is not reserved specifically for our group. You may also use any part of Regents A, which is the area where the general sessions are.

Tuesday Afternoon Business Session

- 5) At the session following the caucus, votes will be taken on motions made in the morning session. Each district will have five votes and a simple majority is needed to pass a motion. Simple majority is 58 of 115.
- 6) Only the voting delegate of the district, or the alternate in the case of the delegates' absence, can make a motion and vote on behalf of a district. Other NRD directors and employees can speak on issues at the request of the voting delegate of the district, or the alternate in the case of the delegates' absence.
- 7) After the individual motions are voted on, and before final action is taken on the remaining NARD Legislative Committee recommendations, a final opportunity to vote on any other bill separately will be provided. Following a second, a majority vote will be required to consider the motion. Again, a simple majority vote will be used to determine whether the motion to take action on that bill passes or fails.
- 8) After a motion and second, a final vote will be taken to accept the recommended position of the NARD Legislative Committee on the remaining bills. A simple majority vote will be used to determine whether this final motion passes or fails.

2015 NARD Voting Delegates
 NARD Legislative Conference
 January 26-28, 2015

District	Delegate's Name	Alternate's Name
<i>Central Platte NRD</i>	Jim Bendfeldt	Jerry Wiese
<i>Lewis & Clark NRD</i>	Marcel Kramer	Gary Howey
<i>Little Blue NRD</i>	Lyle Heinrichs	Chuck Rainforth
<i>Lower Big Blue NRD</i>	Larry Barta	Steve Kelley
<i>Lower Elkhorn NRD</i>	Bob Huntley	Chad Korth
<i>Lower Loup NRD</i>	Dean Rasmussen	Virgil Gellermann
<i>Lower Niobrara NRD</i>	Diana Wendt	Sterling Schultz
<i>Lower Platte North NRD</i>	Robert Hilger	Bob Clausen
<i>Lower Platte South NRD</i>	David Potter	Larry Ruth
<i>Lower Republican NRD</i>	Marlin Murdoch	Matt Harrison
<i>Middle Niobrara NRD</i>	Dean Jochem	Martin Graff
<i>Middle Republican NRD</i>	James Uerling	Brad Randel
<i>Nemaha NRD</i>	Dan Hodges	Duane Sugden
<i>North Platte NRD</i>	Gerald Dillman	Dave Ostdiek
<i>Papio-Missouri River NRD</i>	Tim Fowler	Jim Thompson
<i>South Platte NRD</i>	James C. "Jim" Johnson	Larry L. Rutt
<i>Tri-Basin NRD</i>	Larry Reynolds	Dave Raffety
<i>Twin Platte NRD</i>	Bob Wiseman	Shane Storer
<i>Upper Big Blue NRD</i>	Larry Moore	Gary Eberle
<i>Upper Elkhorn NRD</i>	Ted Hughes	Curtis Gotschall
<i>Upper Loup NRD</i>	Judy Ridenour	Gary Reiser
<i>Upper Niobrara White NRD</i>	Tod Dorshorst	Scott Berndt
<i>Upper Republican NRD</i>	Tom Gaschler	Jason Kunkel

Bill or CA	Description	Sponsor(s)	Page #
LB 9	Revisor bill to repeal the Republican River Basin Water Sustainability Task Force that terminated June 30, 2012	Executive Board	25
LB 19	Change provisions relating to laboratory certification under the Nebraska Safe Drinking Water Safety Act	Krist	22
LB 51	Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act	Scheer	18
LB 86	Change number of districts and members of Game and Parks Commission	Davis	15
LB 95	Provide for operation and regulation of electric-powered bicycles	Smith	27
LB 106	Adopt the Livestock Operation Siting and Expansion Act and change powers of counties relating to zoning	Watermeier	19
LB 130	Change provisions relating to the Water Sustainability Fund	Watermeier	14
LB 142	Create the Aquatic Invasive Species Program and provide funding	Schilz	13
LB 143	Provide training cost reimbursement relating to underground storage tanks	Schilz	22
LB 164	Provide a biennial budgeting option for natural resources districts	Friesen	16
LB 174	Redefine nonpoint source control systems under the Wastewater Treatment Facilities Construction Assistance Act.	Schilz	20
LB 206	Change the Erosion and Sediment Control Act	Schilz	23
LB 207	Change provisions relating to civil penalties under the Nebraska Chemigation Act	Schilz	6
LB 208	Provide an exemption to water storage reservoir permit requirements as prescribed	Schilz	25
LB 209	Adopt the Political Subdivisions Mandatory Mediation Act	Hilkemann	16
LB 282	Change provisions relating to closed sessions for public bodies	Baker	16
LB 310	Change provisions of the Niobrara Scenic River Act	Davis	24
LB 344	Provide natural resources districts with the power to issue general obligation bonds	Kolowski	13

LB 374	Direct transfers from the State Recreation Road Fund	Haar	15
LB 404	Provide for evidentiary hearings relating to certain water-use applications	Davis	26
LB 413	Provide for the evaluation of permits issued to political subdivisions by the Department of Environmental Quality regarding water quality	Mello	20
LB 432	Change provisions relating to access to and copying of public records	Baker	17
LB 461	Change appropriations for the Nebraska Tree Recovery Program	Pansing Brooks	15
LB 462	Change restrictions on campaigning by certain public officials and public employees	Seiler	6
LB 469	Provide powers and duties to the Department of Environmental Quality relating to the development of a state plan for regulating carbon dioxide emissions	Smith	27
LB 512	Provide powers and duties to the Nebraska Oil and Gas Conservation Commission regarding certain wastewater and charge an assessment for certain costs	Stinner	21
LB 537	Appropriate funds relating to natural resources	Watermeier	14
LB 585	Change provisions relating to director qualifications and employment of personnel at the Department of Natural Resources	Schilz	26
LB 622	Change provisions relating to the Niobrara Scenic River Act	Larson	25
LB 646	Eliminate provisions for secret ballots for leadership under the Open Meetings Act	Kintner	17
LB 649	Require all votes taken by public officials to be a public record as prescribed	Kintner	17
LB 656	Provide for deficit appropriations	Speaker (request of Governor)	7
LB 657	Appropriate funds for state government expenses	Speaker (request of Governor)	8
LB 661	Provide fund transfers, create a fund, and authorize certain transfers	Speaker (request of Governor)	11
LB 662	Provide for transfers from the Cash Reserve Fund	Speaker (request of Governor)	11

Chemigation & Wells

A. Chemigation

LB 207 -- Change provisions relating to civil penalties under the Nebraska Chemigation Act. Schilz.

The bill amends Nebraska Revised Statutes 46-1139 to 46-1143 to mirror the civil penalty language in Nebraska Revised Statutes 46-745(1) by providing for a civil penalty of not less than one thousand dollars and not more than five thousand dollars for each day a violation takes place. These sections are as follows:

Nebraska Revised Statutes 46-1139 deals with any person who engages in chemigation without first obtaining a permit.

Nebraska Revised Statutes 46-1140 deals with any person who engages in chemigation with a suspended or revoked chemigation permit.

Nebraska Revised Statutes 46-1141 deals with any person who willfully tampers with or otherwise willfully damages equipment.

Nebraska Revised Statutes 46-1142 deals with any person who fails to notify the district and the department of any actual or suspected accident resulting from the use of chemigation.

Nebraska Revised Statutes 46-1143 deals with any person who violates any of the provisions of the Nebraska Chemigation Act for which a specific penalty is not provided.

The bill also allows the district to recover the costs of the action should a civil penalty by awarded under the relevant section.

Hearing Date: 1/29/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Directors & Elections

A. Campaigns

LB 462 - Change restrictions on campaigning by certain public officials and public employees. Seiler.

The bill changes the definitions of campaign and campaigning to mean disseminating any communication which:

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- (i) Refers to a ballot question, refers to a candidate by name, nickname, photograph, or drawing appearing in the communication, or makes the identity of the candidate otherwise apparent through an unambiguous reference or through an unambiguous reference to the candidate's status as a candidate; and
- (ii) Is aired, broadcast, cablecast, printed, or otherwise disseminated through the facilities of a television station, newspaper, periodical, radio station, cable television system, web site, satellite system, or other electronic means within or directed at the district of the office sought by the candidate or the area to be impacted by the ballot question, or
- (iii) Is broadcasted by any other means not described in subdivision.

Existing law prohibits public funds to be used to disseminate information about candidates or ballot questions.

Hearing Date: **Committee:** Government, Military & Veterans Affairs **Bill Status:**
Committee

Manager Recommendation: Monitor
NARD Legislative Committee Recommendation: Monitor
NARD Position: Monitor

Funding & Taxes

A. Budget Modifications

LB 656 - Provide for deficit appropriations. Speaker Hadley at the request of the Governor.

The Governor's recommendations for the current FY 2014-15 budgets include a net \$26.9 million in total mid-biennium adjustments to the General Fund appropriations and re-appropriations of state agencies. This includes \$17.2 million to pay for federal disallowances for child welfare services and \$10.8 million to address operational costs at the Department of Corrections.

The adjustment for natural resources is to appropriate \$5.5 million to the Department of Administrative Services from the Republican River Compact Litigation Contingency Cash Fund to pay any court ordered payments pursuant to Kansas v. Nebraska.

Hearing Date: **Committee:** **Bill Status:**

Manager Recommendation: Support
NARD Legislative Committee Recommendation: Support
NARD Position: Support

LB 657 - Appropriate funds for state government expenses. Speaker Hadley at the request of the Governor.

The bill appropriates funds for state government purposes. Highlights of Governor Ricketts recommendations for the 2015-2017 biennium represent a two year average growth in General Fund spending of 3.1%. The \$149.7 million or 3.6% increase for FY 2015-16 is comprised of \$45.7 million for education. This is 30.5% of the total General Fund appropriations increase recommended for that year.

The amount of additional General Fund appropriations recommended in FY 2015-16 for health and human services is \$81.4 million. This is 54.4% of the total additional General Fund appropriations increase recommended for that year. The \$99.7 million or 2.3% annual increase in FY 2016-17 is comprised of \$34.2 million for education. This is 34.3% of the total additional increase for that year. The amount of the additional General Fund appropriations included for health and human services is \$52.9 million. This is 53.1% of the total additional increase for that year.

A chart comparing appropriation levels over the fiscal years is provided following the summaries of the budget bills.

Notable Changes for the Department of Environmental Quality

Litter Reduction and Recycling Aid – The recommendation includes the agency request to increase cash fund aid appropriation by \$400,000 in FY 2015-16 and FY 2016-17 to allow grants of available funds from the litter reduction and recycling grant program.

Waste Reduction and Recycling Aid – The recommendation includes the agency request to increase cash fund aid appropriations by \$1,000,000 in FY 2015-16 and FY 2016-17 to allow grants of available funds from the waste reduction and recycling grant program.

Superfund Cost Share Aid – The recommendation includes the agency request to increase cash fund aid appropriation by \$100,245 in FY 2015-16 and \$1,245,601 in FY 2016-17 to allow the agency to utilize previously paid cost share refunds recently made available to Nebraska in the form of refunds by the U.S. Environmental Protection Agency (EPA). Based on cost share fund source history, 65% of the refunds are being paid back to the General Fund and 35% of the refunds are being deposited in the Superfund Cost Share Cash Fund. The funds in the cash fund are used to pay future 10% cost share aid to the EPA for current Superfund projects and completed Superfund projects turned over to the state for operations and maintenance management.

Superfund Cost Share Operations – The recommendation includes the agency request to increase cash fund operations appropriation by \$406,520 in FY 2015-16 and by \$823,448 in FY 2016-17 to allow the agency to utilize recent and future EPA refunds of previously paid Superfund Cost Share. EPA is completing their work at several Superfund sites in Nebraska and the contract stipulates that these sites will be turned over to the State of Nebraska for future operations and maintenance management.

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Clean Water State Revolving Fund (SRF) Grants – The recommendation includes the agency request to increase federal fund aid appropriation by \$1,800,000 in FY 2015-16 and FY 2016-17 to allow increased clean water SRF grants so that each year’s five year federal grant is fully disbursed within two years of the award.

Drinking Water State Revolving Fund (SRF) Grants – The recommendation includes the agency request to increase federal fund aid appropriation by \$2,500,000 in FY 2015-16 to allow increased drinking water SRF grants so that each year’s five year federal grant is fully disbursed within two years of the award.

Drinking Water State Revolving Fund (SRF) Match – The recommendation includes the agency request to increase cash fund aid appropriation by \$464,000 in FY 2016-17 to allow use of repayments to the drinking water SRF program to be used to provide part of the 20% state match required for new SRF grants, reducing the need for bond proceeds providing the 20% match.

Notable Changes for the Department of Natural Resources

Significant legislation regarding water issues became law in the 2014 Legislative Session. This impacted the Nebraska Resources Development Fund program and created the Water Sustainability Fund program. As these legislative actions impacted the FY 2014-15 base year, recommendations are made to remove the impact from the base and adapt these to the new biennium years FY 2015-16 and FY 2016-17.

LB 130 (2014) – The bill provided transfers from the Cash Reserve Fund to the General Fund. Included in that transfer were these amounts designated for water programs:

- a. \$10,492,793 Nebraska Resources Development Fund
- b. \$10,000,000 Water Sustainability Fund (one-time portion)

LB 906 (2014) – The bill made several changes for water funding in last year’s budget bill. These included:

- Restricted funding of projects to only those projects currently approved, thus eliminating new applications for funding from the Nebraska Resources Development Fund.
- Appropriated \$10,492,793 General Fund authority to the Nebraska Resources Development Fund in FY 2014-15.
- Transferred \$21,000,000 from the General Fund to the Water Sustainability Fund in FY 2014-15.
- Stated intent language to transfer \$11,000,000 from the General Fund to the Water Sustainability Fund each fiscal year beginning in FY 2015-16.
- Appropriated \$21,000,000 cash fund authority in the Water Sustainability Fund program in FY 2014-15.

Nebraska Resources Development Fund – Eliminate One-Time Appropriation – The Governor’s recommendation includes a reduction of \$10,492,793 General Fund appropriation in FY 2015-16 and FY 2016-17 provided in LB 905 (2014) for completion of approved projects. This was intended as a one-time appropriation in FY 2014-15.

Nebraska Resources Development Fund – Program Completion – The recommendation includes \$3,140,325 for FY 15-16 and a reduction of \$2,553,815 General Fund appropriation in FY 2016-17 to \$586,510. Per LB 906 (2014), no new projects may be approved in this program.

Interrelated Water Management Plan Program – Program Completion – The recommendation includes a reduction of \$350,000 General Fund appropriation in FY 2015-16 and FY 2016-17. The approved projects will be completed in FY 2014-15. This proposal calls for the program to be discontinued.

Water Sustainability Fund – Appropriation Reduction – The recommendation includes a reduction of \$10,000,000 cash fund authority in FY 2015-16 and FY 2016-17 provided in LB 1098A (2014). This was intended as a one-time appropriation for FY 2014-15.

Water Sustainability Fund – General Fund Transfer – The recommendation includes a General Fund transfer of \$11,000,000 to the Water Sustainability Cash Fund in FY 2015-16 and FY 2016-17 to support the current cash fund appropriation in this program.

Soil and Water Conservation – Federal Grant Funding Composition – The recommendation includes a \$67,327 federal fund reduction in aid appropriation and an increase of \$67,327 federal fund operations appropriation as a result of the 2014 completion of a flood control project near DeWitt, Nebraska, a federal aid program, in FY 2015-16 and FY 2016-17.

Soil and Water Conservation – Reduced Commission Costs – The recommendation includes a \$22,950 General Fund reduction in FY 2015-16 and FY 2016-17 to remove a one-time FY 2014-15 appropriation for the introduction of new commissioners to the Natural Resource Commission as provided by LB 1098A (2014).

Hearing Date: **Committee:** **Bill Status:**

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 661 - Provide fund transfers, create a fund, and authorize certain transfers. Speaker Hadley on behalf of the Governor.

The bill is the fund transfers bill. It transfers \$198 million per fiscal year for FY 15-16 and FY 16-17 from the General Fund to the Property Tax Credit Cash Fund. For natural resources funding, the bill transfers \$3.3 million per fiscal year for FY 15-16 and FY 16-17 from the General Fund to the Water Resources Cash Fund.

In addition the bill creates the Republican River Compact Litigation Contingency Cash Fund. The language directs the Director of Administrative Services to use the fund to make payments in an amount up to \$5.5 million in accordance with any court order pursuant to Kansas v. Nebraska.

Hearing Date: **Committee:** **Bill Status:**

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 662 - Provide for transfers from the Cash Reserve Fund. Speaker Hadley on behalf of the Governor.

The bill makes transfers from the Cash Reserve. The language directs a transfer of \$5.5 million from the Cash Reserve Fund to the Republican River Compact Litigation Contingency Cash Fund on or before June 30, 2015. The bill also transfers \$17.2 million from the Cash Reserve Fund to the General Fund for other programs.

Hearing Date: **Committee:** **Bill Status:**

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Chart 1 – Appropriations Comparison by Agency and Program

Agency and Programs	FY 14-15 Approp.	FY 15-16 Proposed	FY 15-16 Change	FY 16-17 Proposed	FY 16-17 Change
Department of Natural Resources					
Operations Funding					
General Fund	\$10,849,418	\$11,053,563	\$204,145	\$11,225,850	\$172,287
Cash Fund	\$927,904	\$923,018	(\$4,886)	\$924,937	\$1,919
Federal Fund	\$674,164	\$759,999	\$85,835	\$772,911	\$12,912
Total Operations Funding	\$12,451,486	\$12,763,580	\$312,094	\$12,923,698	\$160,118
Small Watersheds					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$475,000	\$475,000	\$0	\$475,000	\$0
Total	\$475,000	\$475,000	\$0	\$475,000	\$0
Soil and Water Conservation Fund					
General Fund	\$2,318,036	\$2,318,036	\$0	\$2,318,036	\$0
Cash Fund	\$50,000	\$50,000	\$0	\$50,000	\$0
Total	\$2,368,036	\$2,368,036	\$0	\$2,368,036	\$0
Water Well Decommissioning					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$100,000	\$100,000	\$0	\$100,000	\$0
Total	\$100,000	\$100,000	\$0	\$100,000	\$0
Nebraska Resources Development Fund					
General Fund	\$13,633,118	\$3,140,325	(\$10,492,793)	\$586,510	(\$2,553,815)
Cash Fund	\$47,500	\$47,500	\$0	\$47,500	\$0
Total	\$13,680,618	\$3,187,825	(\$10,492,793)	\$634,010	(\$2,553,815)
Natural Resources Water Quality Fund					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$1,187,500	\$1,187,500	\$0	\$1,187,500	\$0
Total	\$1,187,500	\$1,187,500	\$0	\$1,187,500	\$0
Water Sustainability Fund					
General Fund	\$0	\$0	\$0	\$0	\$0
Cash Fund	\$21,000,000	\$11,000,000	(\$10,000,000)	\$11,000,000	\$0
Total	\$21,000,000	\$11,000,000	(\$10,000,000)	\$11,000,000	\$0
Water Resources Cash Fund	\$3,300,000	\$3,300,000	\$0	\$3,300,000	\$0
Nebraska Environmental Trust Fund (NGPC)					
Aid Funding	\$19,500,000	\$19,500,000	\$0	\$19,500,000	\$0
Operations Funding	\$560,433	\$570,737	\$10,304	\$578,830	\$8,093
Total	\$20,060,433	\$20,070,737	\$10,304	\$20,078,830	\$8,093
Nebraska Dept of Environmental Quality (Total Funding – Includes Federal \$)	\$67,790,742	\$74,524,970	\$6,734,228	\$74,462,163	(\$62,807)

B. Invasive Species

LB 142 – Create the Aquatic Invasive Species Program and provide funding. Schilz.

The bill creates the Aquatic Invasive Species Program. The program would be used to monitor and sample waters of the state for aquatic invasive species, to hire personnel, to purchase equipment to inspect and decontaminate conveyances, to provide additional enforcement, education, and research relating to aquatic invasive species, and to conduct aquatic invasive species projects as needed.

The program would be funded by fees on boats as established by the NGPC. For resident boats, the fee would be not less than \$5 and not more than \$10. For out-of-state boats that are used in Nebraska waters, the annual fee would be not less than \$10 and not more than \$15.

Hearing Date: 1/21/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

C. Occupation Tax and Bonding

LB 344 -- Provide natural resources districts with the power to issue general obligation bonds. Kolowski.

The bill authorizes natural resources districts to issue general obligation bonds for the purpose of financing all or part of the cost of non-revenue-producing water projects authorized by law. Issuance of such bonds shall be approved by two-thirds of the members of the board of directors of the district.

The bonds would be paid by existing property tax authority and other funds available to the district not pledged for another purpose.

Hearing Date: 2/19/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

D. Water Resources Funding

LB 130 - Change provisions relating to the Water Sustainability Fund. Watermeier.

The bill makes projects which funds have been allocated from the Nebraska Resources Development Fund (NRDF) as of March 30, 2014, eligible for funding from the Water Sustainability Fund. The bill would also require the Natural Resources Commission to develop and utilize a priority ranking system to give priority consideration to projects to which funds have been allocated from the NRDF that are still in need of state funding assistance.

The NRDF project sponsors would be required to file a statement of need to the department in lieu of the application required under the act. Upon receipt of an application or a statement of need, the director shall evaluate and investigate all aspects of the proposed program, project, or activity and the proposed schedule for development and completion of such program, project, or activity, determine eligibility for funding, and make appropriate recommendations to the commission.

Hearing Date: 2/19/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 537 - Appropriate funds relating to natural resources. Watermeier

The bill adds \$15,054,000 to the Natural Resources Development Fund (NRDF) to finish projects that have been approved as of March 30, 2014. This would pay off the remaining projects when added to the appropriations request of \$3,726,835 over the next biennium. The total for the biennium would be \$18,780,835.

Hearing Date: **Committee:** Appropriations **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

E. Game & Parks Commission

LB 86 -- Change number of districts and members of Game and Parks Commission. Davis

The bill adds one district representative to the Nebraska Game and Park Commission, increasing the total number from nine to ten. The new member would represent the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux.

Hearing Date: 1/23/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Support (Vote 6 – 0)

NARD Position: Support

LB 374 -- Direct transfers from the State Recreation Road Fund. Haar.

The bill requires the State Treasurer to transfer at least \$15 million from the State Recreational Road Fund to the Game and Parks State Park Improvement and Maintenance Fund. The bill does not outline whether is annually or a one time transfer.

Hearing Date: **Committee:** Appropriations **Bill Status:** Committee

Manager Recommendation: Motion to oppose lost 9 – 11 – 3. Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Oppose

F. Tree Recovery Program

LB 461 - Change appropriations for the Nebraska Tree Recovery Program. Pansing Brooks.

The bill proposes to increase the annual fund for the Nebraska Tree Recovery grant program from \$250,000 per year to \$3 million per year.

The grant program is operated by the Nebraska Forest Service to fund tree removal, disposal, and replacement costs. The Nebraska Community Forestry Council acts as an advisory body in administration of the program.

Hearing Date: **Committee:** Appropriations **Bill Status:** Committee

Manager Recommendation: Monitor (Vote 12 – 8 – 3)

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

General Administration

A. Budget

LB 164 – Provide a biennial budgeting option for natural resources districts. Friesen.

The proposed legislation allows natural resources districts to adopt either annual or biennial budgets.

Hearing Date: 1/30/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

B. Public Records, Notices & Reports

LB 209 -- Adopt the Political Subdivisions Mandatory Mediation Act. Hilkemann.

The bill proposes to adopt the Political Subdivisions Mandatory Mediation Act which would require political subdivisions of the State of Nebraska to enter into mandatory mediation prior to litigation in any dispute between two or more political subdivisions.

Hearing Date: 1/23/2015 **Committee:** Judiciary **Bill Status:** Committee

Manager Recommendation: Oppose (Vote 22 – 0 – 1)

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 282—Change provisions relating to closed sessions for public bodies. Baker

The bill adds a purpose for a public body to go into closed session. This addition would be for discussion of applicants, other than finalists, who have applied for employment by the public body.

Finalist is defined in the bill to mean any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants.

Hearing Date: **Committee:** Government, Military & Veterans Affairs **Bill Status:**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 432 - Change provisions relating to access to and copying of public records. Baker

The bill eliminates the language limiting a citizen's right to access public records only during the hours the respective offices may be kept open for the ordinary transaction of business.

Also, the bill requires copies to be provided in print format if the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet.

Hearing Date: **Committee:** Government, Military & Veterans Affairs **Bill Status:**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 646 -- Eliminate provisions for secret ballots for leadership under the Open Meetings Act. Kitner.

The bill eliminates the ability of public bodies to elect leadership by secret ballot. Current law allows for such if the total number of votes for each candidate is recorded in the minutes.

Hearing Date: **Committee:** Government, Military & Veterans Affairs **Bill Status:**
Committee

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

LB 649 -- Require all votes taken by public officials to be a public record as prescribed. Kintner.

The bill requires that all votes taken by public officials in the course of their public duties shall be considered public record.

Hearing Date: **Committee:** Government, Military & Veterans Affairs **Bill Status:**
Committee

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

C. Risk Management Pools

LB 51 -- Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act. Scheer

The bill would make several changes to the Risk Management Pool Act statutes for new membership agreements.

Before a public agency takes official action to become a member of a risk management pool, the pool shall provide each member of the governing body of the public agency with a separate written disclosure form containing the following information:

- (a) The mandatory term of membership in the pool, if any;
- (b) The name and home office location of any third party administrator providing claims or other insurance services for the pool;
- (c) A list of insurers providing excess insurance coverage or reinsurance coverage for the pool;
- (d) Applicable deductible levels and the maximum level of claims which the pool will self-insure;
- (e) The requirements for voluntary termination of membership in the pool; and
- (f) The following statements:
 - (i) Voluntary or involuntary termination of membership in a pool does not release a member from continued liability for all contractual obligations entered into with the pool on or before the date of termination;
 - (ii) All costs and expenses incurred by a pool may be assessed to its members without regard for proportionality, and members may be held jointly and severally liable for satisfying any financial obligations of the pool;
 - (iii) A pool is not an insurance company and is not a member of the Nebraska Life and Health Insurance Guaranty Association or the Nebraska Property and Liability Insurance Guaranty Association; and
 - (iv) A pool is issued a certificate of authority by the Department of Insurance.

In the event the governing body of a public agency takes official action to become a member of a risk management pool, the public agency's minutes on such action shall reflect that the information and be given to each member of the governing body of such public agency.

A pool that violates this section may after notice and hearing and upon order of the Director of Insurance be subject to a monetary penalty of not more than one thousand dollars for each violation.

Hearing Date: **Committee:** Banking, Commerce & Insurance **Bill Status:**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Land Use & Acquisition

A. Livestock Permitting

LB 106 -- Adopt the Livestock Operation Siting and Expansion Act and change powers of counties relating to zoning. Watermeier.

The bill requires the Department of Agriculture to adopt and promulgate rules and regulations to develop an assessment matrix which shall be used by county officials to determine whether to approve or disapprove a permit application for a livestock operation siting permit.

The counties would use the matrix for permitting and siting livestock operations within their respective county.

A Livestock Operation Siting Review Board is also created. The state board would handle appeals from individuals that were denied a permit by the county.

The board would consist of the following members to be appointed by the Governor: (a) Two members representing the interests of counties selected from a list of names submitted by the Nebraska Association of County Officials; (b) Two members representing livestock farming interests, selected from a list of names submitted by statewide agricultural organizations; and (c) Three members at-large representing local economic development interests, community planning interests, local chambers of commerce, small business owners, or environmental or conservation interests. Board members would serve five year terms and the first board members would have staggered terms.

Hearing Date: **Committee:** Government, Military & Veterans Affairs **Bill Status:**

Manager Recommendation: Oppose (Vote 22 – 0 – 1)

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

Water Quality

A. Wastewater

LB 174 – Redefine nonpoint source control systems and the Wastewater Treatment Facilities Construction Assistance Act. Schilz

The bill adds the following to the definition of the nonpoint control systems under the Wastewater Treatment Facilities Construction Assistance Act:

Projects which establish methods, measures, structures, or practices to protect, remediate, or enhance any waters of the state or aquatic habitat that are impacted by natural or anthropogenic nonpoint sources of pollution. Types of projects include, but are not limited to, projects which minimize or control runoff or leaching from activities in urban, construction, or rural areas, erosion of sediment, atmospheric deposition, or similar causes or hydro-modification projects.

Hearing Date: 1/22/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 413 -- Provide for the evaluation of permits issued to political subdivisions by the Department of Environmental Quality regarding water quality. Mello.

The bill makes several changes to the Department of Environmental Control permit requirements for political subdivision under the National Pollutant Discharge Elimination System.

First, when requested by the political subdivision, the bill allows the department to evaluate and make a determination of the necessity of specific permit terms and conditions to achieve water quality objectives. Such determination may affect the level of water treatment or pollution control, the length of time necessary for compliance, or both. Any political subdivision may request this evaluation and determination from the department in the issuance or reissuance of its permit.

Second, the evaluation would have to include, but is not limited to, consideration of the following factors in making its evaluation and determination:

- (a) The financial capability of a political subdivision to raise and secure necessary funding at a reasonable cost;
- (b) The affordability for ratepayers for implementation of pollution control options available to a political subdivision using the most appropriate methodology and measurements for the political subdivision in making such affordability determination;
- (c) The future growth potential and projections of a political subdivision and whether its infrastructure is sufficient for projected needs;

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- (d) The overall costs and environmental benefits of control technologies;
- (e) Other environmental improvement investments made by a political subdivision; and
- (f) Any other relevant economic and social concerns or environmental conditions.

Finally, the bill allows the department to provide grants or an additional interest subsidy on loans for municipalities if the project contains a sustainable community feature, measurable energy use reductions, low impact development, or if there are any special assistance needs as determined in the act.

Hearing Date: 3/6/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 512 - Provide powers and duties to the Nebraska Oil and Gas Conservation Commission regarding certain wastewater and charge an assessment for certain costs. Stinner.

The bill creates the Oil and Gas Regulatory Cost Recovery Cash Fund. The purpose of the fund is to recover the costs of monitoring and regulating oil and gas wastewater disposal in this state. The fund shall consist of a new assessment on wastewater related to the operation of oil and gas wells.

The bill gives the commission authority to monitor and regulate the disposal of wastewater generated from oil and gas well production, including wastewater generated from oil and gas well production in other states that is injected into commercial salt water injection wells in Nebraska.

The assessment would amount to twenty cents per barrel of wastewater disposed in Nebraska in a commercial salt water injection well, except for wastewater produced where taxes are already on the severance of oil and gas.

The purpose of the assessment is to offset the costs of monitoring and regulating oil and gas wastewater disposal, to offset the costs of damage to roads used for transporting the wastewater, and to provide additional transportation infrastructure funding necessary for the design and construction of additional roads and bridges

The bill requires the State Treasurer to credit fifty percent of the assessment to the Oil and Gas Regulatory Cost Recovery Cash Fund and fifty percent to the Highway Trust Fund.

Hearing Date: 3/11/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

B. Safe Drinking Water Act

LB 19 -- Change provisions relating to laboratory certification under the Nebraska Safe Drinking Water Safety Act. Krist

The bill changes procedures for the Director of Public Health to certify and enter into agreements with private laboratories. The bill eliminates the permissive language to enter into agreements with private labs and would make it mandatory.

After being certified by the director, the laboratories would be able to test water that is intended for human consumption, including the tests required by the director for compliance and monitoring purposes under the Safe Drinking water Act. They would also be able to test samples which are not compliance samples under the Act.

Hearing Date: 1/30/2015 **Committee:** Health & Human Services **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

C. Training Requirements

LB 143 - Change provisions relating to operator training for underground storage tanks and provide funding. Schilz.

The bill proposes to allow funds in the Petroleum Release Remedial Action Cash Fund to be used for reimbursement to a responsible person or his or her qualified trainer for the cost of compliance with the operator training requirements of the federal Energy Policy Act of 2005. The bill also authorizes the State Fire Marshal to establish training and experience requirements for trainers.

Hearing Date: 1/28/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Water & Wetlands

A. Erosion Control

LB 206 -- Change the Erosion and Sediment Control Act. Schilz

The bill proposes to update the Erosion and Sediment Control Act to address: 1) sheet and rill erosion and 2) ephemeral gully erosion. The intent of the bill is to address excess erosion in excess of the applicable soil-loss tolerance level which causes or contributes to an accumulation of sediment upon the lands of any other person to the detriment or damage of such other person. The law was passed in 1986 and most recently amended in 1994.

The bill changes the definition of soil loss limit to soil loss tolerance levels and maintains the same definition of the maximum amount of soil loss due to erosion by wind or water, expressed in terms of tons per acre per year.

The bill also adds a definition of excess erosion to mean the occurrence of erosion in excess of the applicable soil-loss tolerance level which causes or contributes to an accumulation of sediment upon the lands of any other person to the detriment or damage of such other person.

The bill would require the Natural Resources Commission, in cooperation with the Department of Environmental Quality, the USDA NRCS, and other appropriate state and federal agencies, to develop and coordinate a comprehensive state erosion and sediment control program designed to reduce soil erosion in this state to tolerable levels. The bill would also require the director and the commission to conduct at least four public hearings or meetings to receive information from interested persons in different parts of the state. Once the new program is developed, each NRD would then need to update their respective plans to the new requirements.

The updated program would follow the existing statutory reasonable and attainable requirements to include: 1) The soil-loss limits tolerance level for the various types of soils in the state; 2) State goals and a state strategy for reducing soil losses on all lands in the state to an amount no more than the applicable soil-loss tolerance level; 3) Guidelines for establishing priorities for implementation of the program at the **state** and local levels; 4) Types of assistance to be provided by the state to districts, cities, and counties in the implementation of the state and local erosion and sediment control programs; and 5) Such other elements as the director of the Department of Natural Resources deems appropriate in accordance with the objectives of the Erosion and Sediment Control Act.

The bill also adds the authority to each district to petition the district court for a cease and desist order on an owner or operator if the district determines that the erosion is the result of an activity not normally associated with tillage, seeding, or cultivation of farm land and the immediate discontinuance of such activity is necessary to reduce or eliminate damage to neighboring property. This provision applies only after the refusal of the landowner to discontinue an activity causing the erosion and to establish a plan and schedule for eliminating excess erosion under the act. The order would be lifted once the excess erosion can be brought into conformance with the soil-loss tolerance level or sediment resulting from excess erosion is prevented from leaving the property.

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The bill eliminates the exemption for owners and operators from the provision of compliance to the Erosion and Sediment Control Act if there is not at least ninety percent cost-sharing assistance for the installation of permanent soil and water conservation practices which are required in an approved farm unit conservation plan or are required to conform agricultural, horticultural, and silvicultural practices to the applicable soil-loss limit.

The bill would allow each district to provide any level of cost-share to the owner or operator to comply with the Act. However, the lack of available cost-sharing assistance would not offset the requirement that the owner and, if appropriate, the operator of such land comply with the terms of an approved plan of compliance or an administrative order.

Hearing Date: 1/29/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

B. Niobrara Council

LB 310 – Change provisions of the Niobrara Scenic River Act. Davis.

The bill makes several changes to the Niobrara Scenic River Council.

First, the bill requires that the representatives from the four County Boards (Brown, Cherry, Keya Paha and Rock) be County Commissioners and not a representative of the County Board.

Second, the bill requires that the regional director for the National Park Service or his or her designee and the regional director for the United States Fish and Wildlife Service or his or her designee are the representatives and eliminates the Governor appointment of these two seats.

Third, the bill requires that before the federal representative can vote on matters before the council they have to notify the council and the Governor in writing that they plan to change from non-voting to voting members.

Fourth, the bill eliminates the requirement that a council member may not participate or vote on any matter on which he or she participated or voted as a member of a county board, county planning commission, or natural resources district board. Under current law, when the council member was present and could not vote, the member was not to be counted in attendance for purposes of determining whether quorum or vote requirements have been satisfied.

Hearing Date: 2/18/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 622 – Change provisions relating to the Niobrara Scenic River Act. Larson.

The bill expands the boundaries of the Niobrara Scenic River designation. The bill also requires the members appointed by the Governor to the Niobrara Scenic River Council to be approved by the Legislature.

Hearing Date: 2/12/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Oppose (Vote 21 – 0 – 2)

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

C. Department of Natural Resources

LB 9 – Revisor bill to repeal the Republican River Basin Water Sustainability Task Force that terminated June 30, 2012. Krist.

A revisers bill that eliminates the Republican River Basin Water Sustainability Task Force and related funding. The task force completed its duties on June 30, 2012.

Hearing Date: N/A **Committee:** Executive Board **Bill Status:** Select File

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 208 -- Provide an exemption to water storage reservoir permit requirements as prescribed. Schilz.

The bill exempts dams with a capacity of 50 acre feet or less and built before 1973 from state regulation, except dam safety regulation, as long as they are not used for irrigation or modified to increase their storage capacity. Dams used for irrigation or modified to increase storage capacity would be subject to a permit.

This bill does not exempt any person from any requirements of the Safety of Dams and Reservoirs Act or section 46-233 (water rights for groundwater recharge) or 54-2425 (National Pollutant Discharge Elimination System permit).

Hearing Date: 2/12/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 404 -- Provide for evidentiary hearings relating to certain water-use applications.

Davis.

The bill would allow a public water manager or user to have standing on water right applications before the department.

A public water manager or user is defined in the bill to mean a natural resources district, a municipality, an irrigation district, a public power and irrigation district, a public power district, a reclamation district, a mutual irrigation company, or a public water supplier.

The bill would require the Department of Natural Resources to publish a notice of a new application on their website for three consecutive weeks. Within sixty days after the last date the notice of an application described in this section appears on such web site, a public water manager or user may file with the department a written analysis that has been prepared by one or more qualified experts explaining why granting the application will (i) reduce or diminish the amount of water that will be available to the public water manager or user or its constituents and (ii) be contrary to the public interest.

The department shall not grant the application without first granting the public water manager or user a hearing to present evidence to demonstrate the positions set forth in the written analysis. The public water manager or user may waive the hearing. By waiving the hearing, the public water manager or user also waives the right to appeal.

For each application, the department shall conduct a single evidentiary hearing to adduce evidence from all of the parties who provided a written analysis.

Hearing Date: 2/27/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 585 - Change provisions relating to director qualifications and employment of personnel at the Department of Natural Resources. Schilz.

Current law limits the qualifications for the Director of Natural Resources to a registered professional engineer with five years experience in water resources management. The bill expands the qualifications of the Director of Natural Resources to include having a doctorate degree in civil or hydraulic engineering, hydrology, or geology.

The bill also authorizes the Director of Natural Resources to employ a professional engineer registered under the Engineers and Architects Regulation Act as necessary to carry out the duties required of the director.

Hearing Date: 2/4/2015 **Committee:** Natural Resources **Bill Status:** Committee

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Recreation & Trails

A. Bicycle Use

LB 95 - Provide for operation and regulation of electric-powered bicycles. Smith

The bill adds to the definition of bicycle to include a device with two or three wheels, fully operative pedals for propulsion by human power, and an electric motor with a capacity not exceeding seven hundred fifty watts which produces no more than one brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground.

The definition follows federal definitions and clarifies that such bicycles would not be required to be licensed and would also allow their use on local trails.

Hearing Date: 1/20/2015 **Committee:** Transportation & Telecommunications **Bill Status:** Select File

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Other

A. Carbon Emissions

LB 469 -- Provide powers and duties to the Department of Environmental Quality relating to the development of a state plan for regulating carbon dioxide emissions. Smith.

The bill requires the Department of Environmental Quality to develop a state plan to regulate carbon dioxide emissions. However, the plan could not be developed until after the department has prepared a report that assesses the effects of the state plan on:

1. The electrical power sector including:
 - (A) The ability of the state to provide affordable electricity through diversified sources of electricity generation;
 - (B) The type and amount of electric generating capacity within the state that is likely to retire or switch to another fuel;
 - (C) Stranded investment in electric generating capacity and other infrastructure;
 - (D) The amount of investment necessary to offset retirements of electric generating capacity and maintain generation reserve margins;

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(E) Potential risks to electric reliability, including resource adequacy risks and transmission constraints; and

(F) The amount by which retail electricity prices within the state are forecast to increase;

2. Electricity consumers within the state, including any disproportionate impacts of electricity and other energy price increases on middle-income and lower-income households;
3. Employment within the state, including direct and indirect employment effects and jobs lost within affected sectors of the state's economy;
4. Economic development within the state, including effects on manufacturing, commercial, and other sectors of the state's economy;
5. The competitive position of the state relative to neighboring states and other economic competitors;
6. State and local governments, including potential impacts resulting from changes in tax revenue; and
7. State law, including any new laws necessary to implement the state plan.

In developing the report, the department would be required to hold a public hearing to provide an opportunity for public review and comment before the report is finalized.

Hearing Date: 2/5/2015

Committee: Natural Resources

Bill Status: Committee

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor