

Agenda Item: 7.

## MEMORANDUM

TO: Personnel, Legislative and Public Affairs Subcommittee

SUBJECT: 2014 Legislation

DATE: February 4, 2014

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 in.

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's statewide and to take a formal position on those bills that have been introduced. I have attached a Summary of Legislative Bills for 2014 from the NARD Legislative Conference for your review. It is proposed 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 full Board of Directors that the Papio Missouri River Natural Resources District officially ratifies the 2014 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**

**2014 LEGISLATIVE SESSION**

**SUMMARY OF  
LEGISLATIVE BILLS**

**FINAL VERSION**

**NARD LEGISLATIVE  
CONFERENCE  
EMBASSY SUITES HOTEL**

**LINCOLN, NE  
JANUARY 27-29, 2014**

## **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) A list of carry-over bills and the NARD position taken from last year will also be provided but will not be reviewed unless a specific request is made on a bill in the list by a delegate. No vote is required on this list to retain the position on the bill.
- 3) 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.
- 4) 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**

- 5) 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**

- 6) 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.
- 7) 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.
- 8) 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.
- 9) 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.

2014 NARD Voting Delegates  
NARD Legislative Conference  
January 27-29, 2014

District	Delegate's Name	Alternate's Name
<i>Central Platte NRD</i>	Jerry Wiese	Jim Bendfeldt
<i>Lewis &amp; Clark NRD</i>	Gary Howey	Leroy Hoelsing
<i>Little Blue NRD</i>	Lyle Heinrichs	Charles Rainforth
<i>Lower Big Blue NRD</i>	Jim Damrow	Norman Stokebrand
<i>Lower Elkhorn NRD</i>	Ken Peitzmeier	Bob Huntley
<i>Lower Loup NRD</i>	Dean Rasmussen	Virgil Gellermann
<i>Lower Niobrara NRD</i>	Sterling Schultz	Tom Higgins
<i>Lower Platte North NRD</i>	Don Kavan	Dave Saalfeld
<i>Lower Platte South NRD</i>	David Potter	Karen Amen
<i>Lower Republican NRD</i>	Roger Nelson	Nelson Trambly
<i>Middle Niobrara NRD</i>	Dean Jochem	Martin Graff
<i>Middle Republican NRD</i>	Brad Randel	Bill Hoyt
<i>Nemaha NRD</i>	Donald Siske	Dan Hodges
<i>North Platte NRD</i>	Jerry Dillman	Gary Darnall
<i>Papio-Missouri River NRD</i>	Rich Tesar	Tim Fowler
<i>South Platte NRD</i>	James C. "Jim" Johnson	Larry L. Rutt
<i>Tri-Basin NRD</i>	Larry Reynolds	David Nelson
<i>Twin Platte NRD</i>	Joe Wahlgren	Doug Stack
<i>Upper Big Blue NRD</i>	Larry Moore	Gary Eberle
<i>Upper Elkhorn NRD</i>	Mike Russman	Ted Hughes
<i>Upper Loup NRD</i>	Judy Ridenour	Eric Storer
<i>Upper Niobrara White NRD</i>	Curt Roth	Tod Dorshorst
<i>Upper Republican NRD</i>	Tom Gaschler	Tom Terryberry

<b>Bill Index</b>			
<b>Bill or CA</b>	<b>Description</b>	<b>Sponsor(s)</b>	<b>Page #</b>
LB 683	Change a reference to federal rules and regulations relating to storm water management	Scheer	24
LB 686	Change a certification date relating to non-irrigated acres	Christensen	9
LB 710	Provide requirements for entering into certain ground water augmentation projects	Christensen	19
LB 718	Change procedures for adoption of rules and regulations and require publication of certain information	Crawford	20
LB 719	Provide a report requirement for the adoption of rules and regulations	Crawford	20
LB 720	Provide and change complaint procedures for rules and regulations	Crawford	21
LB 723	Change property tax provisions relating to the valuation of irrigated cropland and comparable sales	Christensen	12
LB 736	Change the service of notice provision in the One-Call Notification System Act	Dubas	18
LB 743	Provide definition of one-half of an elected term of office	Murante	6
LB 756	Redefine bicycle and motor vehicle	Smith	33
LB 759	Require annual reports from various defined benefit retirement plans	Mello	23
LB 760	Adopt the Combined Sewer Overflow Infrastructure Assistance Act and the Unfunded Federal Mandate Infrastructure Assistance Act	Mello	8
LB 762	Change provisions relating to integrated management plans	Christensen	28
LB 767	Change provisions relating to operator training for underground storage tanks and provide funding	Schilz	25
LB 772	Increase expenditure amount for Adjutant General for aerial fire suppression or hazardous material response	Davis	13
LB 778	Require certain entities to comply with provisions on open meetings, public records, and conflicts of interest	Chambers	21
LB 814	Change the distribution of sales tax revenue to provide funding to the Game and Parks Commission	Avery	14
LB 820	Authorize the Governor to execute a compact for prevention and control of forest fires and provide employment status for certain volunteer firefighters	Davis	13
LB 840	Require rules and regulations for mandatory water well permits in management areas	Haar	6
LB 841	Change sales and use tax provisions relating to all-terrain vehicles, utility-type vehicles, and distribution of revenue	Hadley	14
LB 844	Extend the termination date of the Nebraska Litter Reduction and Recycling Act	Schilz	34
LB 856	Require water well metering relating to hydraulic fracturing	Wallman	6
LB 873	Create a fund and appropriate and transfer funds for the Game and Parks Commission	Larson	14
LB 874	Appropriate funds to the Game and Parks Commission	Larson	14
LB 882	Change duties of the Climate Assessment Response Committee	Haar	33
LB 890	Change provisions relating to procedures for acquiring private property for public use	Dubas	24
LB 892	Change enforcement provisions of the One-Call Notification System	Smith	18

Bill or CA	Description	Sponsor(s)	Page #
LB 896	Change provisions of the Erosion and Sediment Control Act	Carlson	25
LB 905	Provide for deficit appropriations	Adams, request of Governor	7
LB 906	Transfer funds and create and eliminate funds	Adams, request of Governor	7
LB 930	Require an operator's presence at an excavation under the One-Call Notification System Act	Watermeier	19
LB 940	Create the Water Sustainability Fund and transfer cash reserve funds	Schilz	11
LB 945	Provide procedures for aid to political subdivisions from the Governor's Emergency Program	Davis	23
LB 955	Adopt the Paid Family Medical Leave Act	Dubas	15
LB 959	Provide a permit application exemption for certain water storage reservoirs	Carlson	32
LB 985	Provide standing to natural resources districts and provide requirements for water appropriations	Davis	27
LB 996	Require state agencies to respond to legislative requests for information	McGill	22
LB 1003	Provide for natural resources districts to issue general obligation bonds	Kolowski	9
LB 1005	Create the Surface Water and Ground Water Review Board and provide powers and duties	Avery	28
LB 1008	Change duties of the Climate Assessment Response Committee	Haar	34
LB 1033	Appropriate funds to the Game and Parks Commission and state intent relating to operation and maintenance of Arbor Lodge State Historical Park	Watermeier	15
LB 1037	Authorize Auditor of Public Accounts to examine certain entities formed under the Interlocal Cooperation Act	McGill	22
LB 1045	Redefine the term underground facility for purposes of the One-Call Notification System Act	Harr	19
LB 1046	Create the Water Sustainability Fund and transfer General Funds	Carlson	11
LB 1047	Appropriate funds to the Department of Natural Resources	Carlson	11
LB 1053	Provide state aid to municipalities, counties, and natural resources districts	Karpisek	8
LB 1065	Eliminate secret ballot provisions under the Open Meetings Act	Lautenbaugh	22
LB 1074	Change provisions relating to the regulation of ground water	Lathrop	32
LB 1075	Prohibit employment of certain persons leaving public positions	Harr	16
LB 1084	Change provisions governing the filling of certain vacancies	Garrett	16
LB 1098	Change membership and powers and duties of the Nebraska Natural Resources Commission	Carlson	17
LB 1111	Provide duties relating to integrated management plans	Christensen	31
LB 1112	Change provisions relating to an occupation tax on irrigated land	Christensen	10
LB 1113	Provide powers and duties relating to surface water appropriations	Christensen	27
LR 397 CA	Constitutional amendment to require public recording and preservation of votes of public officials	Lautenbaugh	22
LR 416 CA	Constitutional amendment to authorize casino gaming, provide for a local vote, and provide for distribution of tax proceeds	Karpisek	12

## ***Chemigation & Wells***

### **A. Water Well Permits**

**LB 840 - Require rules and regulations for mandatory water well permits in management areas. Haar.** The bill eliminates the requirement of an owner that a permit is required for a new or replacement well in a management area and replaces it with language that would require it only if the local district has a rule or regulation in place to require it.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support with Amendment

**NARD Legislative Committee Recommendation:** Support with Amendment

**NARD Position:** Support with Amendment

**LB 856 - Require water well metering relating to hydraulic fracturing. Wallman.** The bill would require a person issued a permit to withdraw ground water for hydraulic fracturing stimulation to also install a water meter or meters approved by the department to measure the amount of water used. An annual report would also be required.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Oppose

## ***Directors & Elections***

### **A. Elected Term**

**LB 743 - Provide definition of one-half of an elected term of office. Murante.** The bill defines when a term starts for an elected official as the day of the meeting of the body at which the members are regularly sworn into office. It also defines the second half of the term as the day of the meeting of a body at which members are regularly sworn in to office in the second calendar year after the term begins.

**Hearing Date:** 1/31/2014      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## ***Funding & Taxes***

### **A. Budget Modifications**

**LB 905 - Provide for deficit appropriations. Adams, on behalf of the Governor.** The bill modifies the two-year budget adopted last year as proposed by Governor Heinemann. In addition to the appropriations proposed in the bill, unless otherwise provided, the bill re-appropriated all unexpended appropriation balances existing on June 30, 2014, for FY 2014-15 to the respective agencies, programs, and funds.

Changes related to natural resources included in the bill are the following:

- Increase to the Nebraska Environmental Trust from \$18 to \$21.5 million for FY 2013-14 and from \$18 to \$19 Million on FY 2014-15.
- Eliminate \$300,000 from the Attorney General for Interstate Water Litigation for FY 2014-15.
- Establishes Program No. 664 – The Republican River Compact Litigation Contingency Cash Fund and appropriates up to \$5.5 million for FY 2013-14 which shall only be used to pay any court-ordered payments pursuant to Kansas v. Nebraska.

**Hearing Date:** 2/3/2014

**Committee:** Appropriations

**Bill Status:** Committee

**Manager Recommendation:** Support w/ reinstatement of funds to the Attorney General's office & work on Compact funding

**NARD Legislative Committee Recommendation:** Support w/ reinstatement of funds to the Attorney General's office & work on Compact funding

**NARD Position:** Support w/ reinstatement of funds to the Attorney General's office & work on Compact funding

**LB 906 - Transfer funds and create and eliminate funds. Adams, on behalf of the Governor.**

The bill creates the Republican River Compact Litigation Contingency Cash Fund to be used by the State Treasurer to make payments in an amount up to \$5.5 million for any order of the United States Supreme Court pursuant to Kansas v. Nebraska. The bill transfers \$5.5 million from the cash reserve to the newly created fund but also allows the fund to receive revenue from fund transfers as authorized by the Legislature and from fees, charges, and any other revenue source specifically designated by the Legislature for deposit in the fund.

The bill also eliminates the use of the occupation tax to repay a \$8.5 million loan to the districts in 2007 as the loan has been repaid. However, all of the statutes related to the use of occupation tax are also included in the bill.

**Hearing Date:** 2/3/2014

**Committee:** Appropriations

**Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor



## **B. State Aid**

### **LB 1053 - Provide state aid to municipalities, counties, and natural resources districts.**

**Karpisek.** The bill reinstates state aid formulas to municipalities, counties and natural resources districts that were repealed in 2011. For NRDs, the formula is based upon the proportion of property taxes levied by each district to the total amount. The bill does not provide state aid amounts.

**Hearing Date:** Not Posted      **Committee:** Revenue      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

## **C. Combined Sewer and Stormwater**

### **LB 760 - Adopt the Combined Sewer Overflow Infrastructure Assistance Act and the Unfunded Federal Mandate Infrastructure Assistance Act. Mello.**

The bill creates the Combined Sewer Overflow Infrastructure Assistance Act and the Unfunded Federal Mandate Infrastructure Assistance Act to assist municipalities to construct, upgrade, redevelop, and replace sewer infrastructure facilities to reduce combined sewer overflow.

A state fund would be created from the state sales tax on monthly sewer fees. The Combined Sewer Overflow Infrastructure Assistance Act would get ninety percent of the state sales tax revenue collected by municipalities on the increase in monthly sewer use fees on and after July 1, 2013. The Unfunded Federal Mandate Infrastructure Assistance Act would get the remaining ten percent of the sales tax on sewer use fees. Municipalities would not be eligible for both funds.

For the Combined Sewer program, the municipality would apply for assistance to a state board created under the act consisting of the Director of Environmental Quality, the chief executive officer of the Department of Health and Human Services, and the State Fire Marshal.

To be eligible, the municipality would have to acquire, constructed, improved, or equipped facilities or have approved a general obligation bond issue or revenue bond issue to do such. The state assistance shall only be used (1) to repay the debt borrowed through one or more issues of bonds to be expended by the municipality to acquire, construct, improve, and equip eligible facilities until repayment in full of the amounts expended or borrowed by the municipality, including the principal of and interest on bonds, for eligible facilities and (2) to pay amounts to be expended by the municipality without the issuance of bonds to acquire, construct, improve, and equip eligible facilities.

The municipality would also have to be applying the local option sales tax on the sewer project to be eligible.

Any municipality that has applied for and received state assistance under the Unfunded Federal Mandate Infrastructure Assistance Act may not receive state assistance under the Combined Sewer Overflow Infrastructure Assistance Act.

For the Unfunded Federal Mandate Infrastructure Assistance Act a federally mandated project would be defined as a sewer or water project undertaken by a municipality as a result of an unfunded federal mandate. The fund would be administered by the Department of Environmental Quality and used as grants for federally mandated projects.

Any grant of assistance shall be matched at least ten percent from local sources. To receive a grant of assistance, the project for which the grant is requested shall be owned and operated by the municipality that applies for the grant or a metropolitan utilities district.

**Hearing Date:** 1/29/2014      **Committee:** Revenue      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

### **C. Occupation Tax and Bonding**

**LB 686 - Change a certification date relating to non-irrigated acres. Christensen.** The bill changes the date to certify non-irrigated status from March 1 to June 1 for land subject to occupation taxes.

**Hearing Date:** 1/30/2014      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support with Amendment to May 1st Date

**NARD Legislative Committee Recommendation:** Oppose (Vote: 6 - 0)

**NARD Position:** Oppose

**LB 1003 - Provide for natural resources districts to issue general obligation bonds. Kolowski.** The bill proposes to authorize general bonding authority to each natural resources district 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, and such bonds shall be retired using the district's ad valorem tax revenue and other funds available to the district not pledged for another purpose.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LB 1112 - Change provisions relating to an occupation tax on irrigated land. Christensen.**

The bill proposes to change the method in which the occupation tax is calculated. Until January 1, 2015, the tax could be imposed under current law which allows for a tax up to \$10/irrigated acre. After that, the bill would require the tax to be calculated and imposed as follows:

Step 1: The district shall determine the amount of revenue needed to be raised from the tax for the project for the applicable fiscal year. This amount shall not exceed an average of ten dollars per certified irrigated acre.

Step 2: The district shall determine the total acre-feet of ground water irrigation usage in the district during the current calendar year and obtain the total acre-feet of surface water irrigation usage in the district during the current calendar year from the department to calculate the total acre-feet irrigation usage in the district.

Step 3: The district shall determine the acre-foot revenue need by dividing the amount determined in Step 1 by the amount determined in Step 2.

Step 4: The district shall calculate the tax for each record owner of irrigated agricultural land based upon each record owner's acre-feet usage of surface water and ground water irrigation during the current calendar year by multiplying such usage by the per acre-foot revenue needed.

Each irrigation district and direct surface water irrigator shall report surface water irrigation usage within a natural resources district levying an occupation tax to the department, and the department shall report such surface water irrigation usage within the natural resources district as necessary to carry out the district's powers and duties.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

## **D. Water Resources Funding**

### **LB 940 - Create the Water Sustainability Fund and transfer cash reserve funds. Schilz.**

The bill creates the Water Sustainability Fund. The bill proposes to transfer \$50 million from the Cash Reserve to the newly created fund. The fund could only be used to fund programs, projects, and activities identified by the Water Funding Task Force in its final report. The fund could not be used for other new capital projects.

**Hearing Date:** Not Posted      **Committee:** Appropriations      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LB 1046 - Create the Water Sustainability Fund and transfer General Funds. Carlson.** The bill creates the Water Sustainability Fund to be administered by the Natural Resources Commission. The fund shall be used for water sustainability projects throughout the state. The bill requires that on October 1, 2015, the State Treasurer shall transfer fifty million dollars from the General Fund to the Water Sustainability Fund.

**Hearing Date:** Not Posted      **Committee:** Appropriations      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LB 1047 - Appropriate funds to the Department of Natural Resources. Carlson.** The bill appropriates \$843,701 from the General Fund for FY 2013-14 to the Department of Natural Resources for grants from the Nebraska Resources Development Fund. The amount equals an amount that was refunded to the program in FY 2012-13. The bill also includes the emergency clause.

**Hearing Date:** Not Posted      **Committee:** Appropriations      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LR 416 CA - Constitutional amendment to authorize casino gaming, provide for a local vote, and provide for distribution of tax proceeds. Karpisek.** A proposed constitutional amendment to allow for casino gambling in Nebraska and allow the Legislature to provide for operation, regulation and taxation of casino gambling.

Under the amendment, if a casino is proposed to be located in a city or village, the governing body of the city or village shall submit the issue of whether to approve or disapprove the casino location in the city or village to the registered voters of the city or village. If a casino is proposed to be located outside of a city or village, the county board shall submit the issue of whether to approve or disapprove the casino location in the county to the registered voters of the county.

The proceeds of taxation of casino gaming shall be appropriated by the Legislature for the costs of regulating casino gaming. After payment of regulatory costs, the funds would be appropriated by the Legislature as follows:

- Fifty percent of the money for property tax relief.
- Twenty-five percent of the money for elementary and secondary education.
- Twelve percent of the money shall be transferred to the Game and Parks Commission.
- Twelve percent of the money shall be transferred to the Department of Natural Resources for water funding.
- One percent of the money shall be transferred to the Compulsive Gamblers Assistance Fund.

The proposed constitutional amendment includes language for directing funding to the Department of Natural Resources but not the other programs. For NDNR the water funds could include, but not be limited to, (A) research and data gathering; (B) further integrating the management of Nebraska's water supplies; (C) improving the state's aging and antiquated water supply infrastructure; (D) building new water supply infrastructure; (E) promoting coordination and collaboration among all water users; and (F) providing information to policymakers to justify a stable source of project funds.

**Hearing Date:** Not Posted      **Committee:** General Affairs      **Bill Status:** Committee

**Manager Recommendation:** Support (Vote: 12 - 7)

**NARD Legislative Committee Recommendation:** Support (Vote: 4 - 2)

**NARD Position:** Support

## **E. Irrigated Valuations**

**LB 723 - Change property tax provisions relating to the valuation of irrigated cropland and comparable sales. Christensen.** The bill divides irrigated cropland into the following subclasses – ground water irrigated, surface water irrigated, ground and surface water irrigated, and limited capacity irrigated. The bill then adds another guideline for what determines comparable sale for determining value as follows: Whether the difference in well capacity or in

water availability due to federal, state, or local regulatory actions or limited source affected the sale of the property.

**Hearing Date:** Not Posted      **Committee:** Revenue      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

## **F. Fire Suppression**

**LB 772 - Increase expenditure amount for Adjutant General for aerial fire suppression or hazardous material response. Davis.** The bill increases the Adjutant General's spending authority out of the Governors Emergency Program Fund from ten to twenty five thousand without the state of emergency proclamation from the Governor if aerial fire suppression or hazardous material response is immediately required.

**Hearing Date:** 1/22/2014      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LB 820 - Authorize the Governor to execute a compact for prevention and control of forest fires and provide employment status for certain volunteer firefighters. Davis.** The bill authorizes the Governor of Nebraska to execute a compact on behalf of the state with any one or more states for fire control services. The purpose would be to promote effective prevention and control of forest fires in the great plains region of the United States by the maintenance of adequate forest fire fighting services by the member states, and by providing for reciprocal aid in fighting forest fires among the compacting states of the region, including South Dakota, North Dakota, Wyoming, Colorado, and any adjoining state of a current member state.

The compact would allow individuals to cross state lines with equipment to assist in firefighting, including volunteer firefighters. Each state would have to assure that workers' compensation benefits are in conformity with the minimum legal requirements of the state and are available to all employees and contract firefighters sent to a requesting state pursuant to this compact. For Nebraska volunteer firefighters engaged in activities under the compact would be deemed to be an employee of the University of Nebraska solely for purposes of the Nebraska Workers' Compensation Act.

**Hearing Date:** 1/24/2014      **Committee:** Business      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

## **G. Game & Parks Commission**

**LB 814 - Change the distribution of sales tax revenue to provide funding to the Game and Parks Commission. Avery.** The bill would create the Game and Parks Commission Capital Maintenance Fund, funded by the proceeds of the sales and use taxes derived from the sale or lease of motorboats and personal watercraft.

**Hearing Date:** 1/29/2014      **Committee:** Revenue      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 841 - Change sales and use tax provisions relating to all-terrain vehicles, utility-type vehicles, and distribution of revenue. Hadley.** The bill proposes to create the Game and Parks Commission Capital Maintenance Fund and dedicates the proceeds of the sales and use taxes derived from the sale or lease of all-terrain vehicles be credited to the newly created fund.

**Hearing Date:** 1/29/2014      **Committee:** Revenue      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 873 - Create a fund and appropriate and transfer funds for the Game and Parks Commission. Larson.** The bill creates the Game and Parks State Park Improvement and Maintenance Fund. The bill then transfers \$15 million from the Cash Reserve Fund to the newly created maintenance fund.

**Hearing Date:** Not Posted      **Committee:** Appropriations      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 874 - Appropriate funds to the Game and Parks Commission. Larson.** The bill appropriates \$2.5 Million from the General Fund in FY 2014-15 to the Game and Parks Commission for projects at Ponca State Park. Of the appropriation, \$1.5 Million shall be used to replace the existing swimming pool with a new aquatic feature that will include a splash pad and

a restroom/shower facility and \$1 million shall be used to develop twelve two-bedroom camper cabins. The improvements would have to meet all current federal Americans with Disabilities Act standards.

**Hearing Date:** Not Posted      **Committee:** Appropriations      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 1033 - Appropriate funds to the Game and Parks Commission and state intent relating to operation and maintenance of Arbor Lodge State Historical Park. Watermeier.** The bill appropriates \$2,107,000 from the General Fund for FY2014-15 to the Game and Parks Commission for projects at Arbor Lodge State Historical Park. The appropriation shall be used for deferred repairs and maintenance improvements at the mansion, carriage house, and grounds and to comply with the requirements of the federal Americans with Disabilities Act standards.

The bill also outlines that it is the intent of the Legislature that the Game and Parks Commission negotiate a contractual agreement that will transfer the responsibility for annual operations and maintenance at Arbor Lodge State Historical Park to a local partner. Up to \$317,000 of the funds appropriated in the proposal may be expended until such time as such contractual agreement is in place.

**Hearing Date:** Not Posted      **Committee:** Appropriations      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## ***General Administration***

### **A. Medical Leave**

**LB 955 - Adopt the Paid Family Medical Leave Act. Dubas.** The bill creates the Paid Family Medical Leave Act. The bill would require that an employee who is entitled to leave under the federal Family and Medical Leave Act of 1993, the employer would be required to provide that leave as paid leave.

Paid family medical leave is defined as paid leave taken by an employee from work to (a) participate in providing care for a family member made necessary by a serious health condition of the family member or (b) be with a child during the first twelve months after the child's birth,



if the employee is a biological parent of the child or the first twelve months after a placement for adoption.

An employee may take up to six consecutive work weeks or up to forty-two days on an intermittent basis of paid family medical leave per year if eligible for such leave under the Paid Family Medical Leave Act. Paid family medical leave taken for a family member who has a serious health condition may be taken intermittently, when medically necessary, if the total time within which the leave is taken does not exceed twelve months.

The wages paid during such leave shall be the average wage of the employee over the last calendar quarter, or portion thereof, while employed by his or her current employer.

An employee, who is entitled to leave under the federal Family and Medical Leave Act of 1993, shall take any paid family medical leave under the Paid Family Medical Leave Act concurrently with leave taken pursuant to the federal Family and Medical Leave Act of 1993.

**Hearing Date:** Not Posted      **Committee:** Business      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

## **B. Employment**

**LB 1075 - Prohibit employment of certain persons leaving public positions. B. Harr.** The bill would require a person elected or appointed to a position to wait two years after leaving the position to be employed by the entity.

**Hearing Date:** Not Posted      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 1084 - Change provisions governing the filling of certain vacancies. Garrett.** Under current law, all political subdivisions have a requirement to fill vacancies within 45 days of the vacancy, unless good cause is shown. The bill eliminates the language “unless good cause is shown”.

**Hearing Date:** Not Posted      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

## C. Natural Resources Commission

**LB 1098 - Change membership and powers and duties of the Nebraska Natural Resources Commission. Carlson.** The bill expands the Nebraska Natural Resources Commission to twenty seven members as recommended by the Water Funding Task Force Report in December 2013. The bill maintains all of sixteen current members and adds eleven members to be appointed by the Governor.

Currently there are twelve members representing river basins and one additional member representing the metropolitan class elected by caucus of natural resources districts. Under the bill, the caucus process would remain. The bill would require the commission to provide notice to the public by issuing press releases for publication in a newspaper of general circulation in each county that comprises the river basin for which a caucus election will be held.

Also there are currently three governor appointees representing ground water users, surface water users and municipalities which would remain in place until the terms are served.

The additional appointed membership on the commission would include:

- agribusiness interests
- agricultural interests
- ground water irrigators (current appointment)
- irrigation districts
- manufacturing interests
- metropolitan utilities districts
- municipal users of water from a city of the primary class
- municipal users of water from a city of the first or second class or a village; (current appointment)
- outdoor recreation users
- public power districts
- public power and irrigation districts
- range livestock owners
- surface water irrigators (current appointment)
- wildlife conservation interests

Under the bill, the Governor would appoint the initial members within thirty days of the effective date of the act. The initial appointments shall be for staggered four-year terms, as determined by the Governor, taking into account the terms remaining of the current members of the commission appointed under such subdivision.

Members whose terms have expired shall continue to serve until their successors have been appointed.

In appointing the members, the Governor shall: (i) Create a broad-based commission which has knowledge of, has experience with, and is representative of Nebraska's water use and economy; ii) Give recognition to the importance of both water quantity and water quality; and (iii) Appoint members who represent diverse geographic regions of the state, including urban and rural areas.

After all members have been appointed, the commission shall revise, adopt, and promulgate rules and regulations as necessary to ensure that the commission's funding process establishes and utilizes criteria upon which projects, programs, and activities will be ranked and prioritized according to the water sustainability goals established by the commission.

Finally, the commission would be required to utilize the resources and expertise of the University of Nebraska, the Department of Environmental Quality, and the Game and Parks Commission relating to funding and planning for water projects, programs, or activities.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

## **D. One-Call**

### **LB 736 - Change the service of notice provision in the One-Call Notification System Act.**

**Dubas.** The bill changes the notice requirement for excavators that serve notice for excavation from calling the toll free number to submitting a location request to one call center.

**Hearing Date:** 1/27/2014      **Committee:** Transportation      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

### **LB 892 - Change enforcement provisions of the One-Call Notification System Act. Smith.**

The bill proposes to add a provision to the One-Call statutes that authorizes the operator of an underground facility to institute a civil suit for injunctive relief to restrain an excavator if it appears that an excavator has repeatedly violated, or is violating or threatening to violate any provision of the One-Call Notification Act.

**Hearing Date:** Not Posted      **Committee:** Transportation      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 930 - Require an operator's presence at an excavation under the One-Call Notification System Act. Watermeier.** The bill proposes that unless otherwise agreed by the operator and excavator in writing, no excavation shall be performed within twenty five feet of an underground natural gas transmission line or any underground facility designated a critical facility by an operator unless a representative of the operator of the underground natural gas transmission line or critical facility is present at the planned excavation area.

The operator of the transmission lines would be required to stake, flag, paint or provide any other clearly identifiable marking or reference point for such facilities prior to excavation.

The bill also proposes that any excavator who fails to give notice of an excavation, or who fails to comply and damages an underground facility by such excavation shall be strictly liable to the operator of the underground facility for the cost of all repairs to the underground facility.

**Hearing Date:** Not Posted      **Committee:** Transportation      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 1045 - Redefine the term underground facility for purposes of the One-Call Notification System Act. Harr.** The bill requires that underground facilities subject to the one-call notification system be buried or placed below ground at a depth of at least twelve inches.

**Hearing Date:** Not Posted      **Committee:** Transportation      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## **E. Public Records, Notices & Reports**

**LB 710 - Provide requirements for entering into certain ground water augmentation projects. Christensen.** The bill adds a requirement that a NRD cannot enter into a groundwater augmentation project outside the district boundaries unless there was a public hearing and notices as required under the Nebraska Ground Water Management and Protection Act (46-743) and the project received two-thirds majority support.

**Hearing Date:** 1/30/2014      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

**LB 718 - Change procedures for adoption of rules and regulations and require publication of certain information. Crawford.**

The bill would require each state agency to prepare a semiannual agenda for rules and regulations under development or review or planned development or review. The agencies would have to file these with the Secretary of State within thirty days following the end of each regulation legislative session and by October 15<sup>th</sup>.

The Secretary of State would be required to keep a permanent file of all the agendas, and any amended agendas, and be open to public inspection during regular business hours. At a minimum, the agenda would have to include a brief summary of the action, the relevant legal authority, any appropriate deadlines, and the name, telephone number, and means of electronic communication with a knowledgeable agency official.

The bill also adds a requirement to the agency's public notice requirements for rules and regulations to include the identification of the specific authorizing statute and the specific statute interpreted or implemented by the rule and regulation.

Further, the fiscal impact statement for the proposed rule would have to be available on the Secretary of State's web site.

Finally, the Secretary of State would be required to establish and maintain a list of subscribers who wish to receive notice of the filing of an agenda for rules and regulations under development or review and of public hearing on proposed rules and regulations.

**Hearing Date:** 1/24/2014      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 719 - Provide a report requirement for the adoption of rules and regulations. Crawford.**

The bill proposes to add an additional requirement to the existing report filed by state agencies when they finalize their proposed rules. The additional reporting requirement would include a summary of the testimony offered at the public hearing which lists any specific issues or questions that were presented by individuals or organizations at the hearing or in written testimony.

The bill also requires the report to be submitted to the Executive Board of the Legislature.

**Hearing Date:** 1/24/2014      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 720 - Provide and change complaint procedures for rules and regulations. Crawford.**

The bill creates an avenue for individuals and a governmental body of any political subdivision to file a complaint with the Chair of the Executive Board of the Legislature over rules and regulations of a state agency. Currently, this complaint process can only be used by a member of the Legislature.

The bill also expands the matters of the complaint petition to the Executive Board can contain. For a member of the Legislature and political subdivisions, the complaint would have to outline how the rule or regulation or the adoption, amendment, or repeal is (1) in excess of the statutory authority or jurisdiction of the agency, is unconstitutional, is inconsistent with the legislative intent of the authorizing statute, or creates an undue burden in a manner that significantly outweighs its benefit to the public, (2) circumstances have changed since the passage of the statute which the rule or regulation implements, or (3) the rule or regulation or the amendment or repeal overlaps, duplicates, or conflicts with federal, state, or local laws, rules, regulations, or ordinances, the member or governing body can file a complaint with the Executive Board.

For a member of the public to file a complaint with the Executive Board of the Legislature, they would need to have a petition signed by one hundred registered voters and include one of the same matters listed above.

**Hearing Date:** 2/6/2014      **Committee:** Executive Board      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 778 - Require certain entities to comply with provisions on open meetings, public records, and conflicts of interest. Chambers.**

The bill would require a joint entity formed between a political subdivision and another entity to follow the Open Meetings Act. In addition, the documents and records would have to be made available except for trade secrets and other proprietary or commercial information owned by the entity that would give advantage to business competitors and serve no public purpose.

**Hearing Date:** 1/30/2014      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 996 - Require state agencies to respond to legislative requests for information. McGill.**

The bill proposes that all state agencies would have four days to provide information upon written request for information by a member of the Legislature or by an employee of the Legislature working for a member of the Legislature or working in the office of the Legislative Fiscal Analyst or the office of Legislative Research.

State agency is defined in the bill as any state entity which receives appropriations from the Legislature and includes the Legislature, legislative committees, executive agencies, courts, and probation officials but does not include political subdivisions.

**Hearing Date:** 2/6/2014      **Committee:** Executive Board      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 1037 - Authorize Auditor of Public Accounts to examine certain entities formed under the Interlocal Cooperation Act. McGill.**

The bill provides that any entity formed under the Interlocal Cooperation Act consisting of more than one natural resources district could be audited at the expense of the political subdivision by the Auditor of Public Accounts.

**Hearing Date:** Not Posted      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

**LB 1065 - Eliminate secret ballot provisions under the Open Meetings Act. Lautenbaugh.**

The bill eliminates the ability for public bodies to elect leadership within the public body by secret ballot. Current law allows for such but requires the votes to be recorded in the minutes.

**Hearing Date:** Not Posted      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LR 397 CA - Constitutional amendment to require public recording and preservation of votes of public officials. Lautenbaugh.**

The constitutional amendment would require every vote by an elected official in the conduct of public duties to be recorded in a public meeting and preserved for public inspection. The amendment would be offered at the November 2014 General Election.

**Hearing Date:** Not Posted      **Committee:** Executive Board      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## **F. Retirement Plans**

**LB 759 - Require annual reports from various defined benefit retirement plans. Mello.** The bill would require all governmental entities that offer a defined benefit retirement plan to file an additional report to the Nebraska Retirement Systems Committee if the plan: (1) The contributions do not equal the actuarial requirement for funding; or (2) the funded ratio is less than eighty percent.

The report shall include, but not be limited to, an analysis of the conditions and a recommendation for the circumstances and timing of any future benefit changes, contribution changes, or other corrective action, or any combination of actions, to improve the conditions. The Nebraska Retirement Systems Committee may require a governing entity to present its report to the committee at a public hearing. The report shall be submitted electronically.

Currently this would not apply to the NARD 414(h) and 457 Employee Retirement Plans because they are defined contribution plans. If the plan was ever changed back to a defined benefit plan, the proposed requirement would apply.

**Hearing Date:** 1/22/2014      **Committee:** Retirement Systems      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## **G. Procedures for Aid**

**LB 945 - Provide procedures for aid to political subdivisions from the Governor's Emergency Program. Davis.** The bill proposes time limits for repayments to political subdivisions for services provided under emergency programs. Once the political subdivision submits documentation for aid under the program, the Adjutant General or his or her representative shall acknowledge receipt of such and within 30 days provide the political subdivision of any additional documentation required. After all documentation has been provided, aid shall be remitted to the political subdivision within 60 days.

**Hearing Date:** Not Posted      **Committee:** Government      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Support (Vote: 5 - 0- 1)

**NARD Position:** Support



## ***Land Use & Acquisition***

### **A. Eminent Domain**

**LB 890 - Change provisions relating to procedures for acquiring private property for public use. Dubas.** The bill proposes several changes to the eminent domain laws. First the bill would require the Attorney General to develop and make available, in printed or electronic format, a pamphlet describing a private property owner's rights relating to an agency proposing to acquire private property for a public purpose in the State of Nebraska.

The pamphlet shall be in simple language and readable format. The pamphlet shall include, but not be limited to, the following information: 1) Why the property owner is receiving the pamphlet; 2) that negotiations for acquisition of the property and the compensation for such acquisition is the first step in the process of an agency proposing to acquire private property for a public purpose; 3) that eminent domain is involved only if good faith negotiations fail to reach an agreement; and 4) an explanation of what eminent domain is, the procedures involved, and the rights of a private property owner relating to eminent domain. The Attorney General shall make the pamphlet available to all agencies at a price fixed to cover costs of publication.

The bill adds notice requirements to landowners by agencies acquiring private property on and after January 1, 2015, the notice shall also include; 1) The pamphlet described above; 2) make it clear that the notice is for negotiations for acquisition of the property; 3) the compensation to be paid by the agency for such acquisition, and 4) that eminent domain will not be an issue unless good faith negotiations fail.

The bill also eliminates the term “offer of damages which will be sustained” and replaces it “compensation to be given for” the proposed acquisition.

**Hearing Date:** Not Posted      **Committee:** Judiciary      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Support Pamphlet with clarification of language on compensation (Vote: 6 – 0)

**NARD Position:** Support Pamphlet

## ***Water Quality***

### **A. Storm Water**

**LB 683 - Change a reference to federal rules and regulations relating to storm water management. Scheer.** The bill updates references for storm water management requirement to the 2010 census.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## **B. Training Requirements**

### **LB 767 - Change provisions relating to operator training for underground storage tanks and provide funding. Schilz.**

The bill allows 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:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## ***Water & Wetlands***

### **A. Erosion Control**

**LB 896 - Change provisions of the Erosion and Sediment Control Act. Carlson.** 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 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.

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.

Once the new program is developed, each NRD would then need to update their respective plans to the new requirements. 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.

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.

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:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

## **B. Water Appropriations**

**LB 985 - Provide standing to natural resources districts and provide requirements for water appropriations. Davis.** The bill would grant natural resources districts the power and authority to bring, defend, or intervene in judicial and quasi-judicial actions to protect and conserve the quantity or quality of groundwater and surface water resources within the district.

In addition, before granting any application to appropriate surface water for non-municipal purposes, the Department of Natural Resources would be required to consult with each natural resources district through which the stream from which water will be appropriated flows.

Each natural resources district would then be required to make a written determination as to whether granting the appropriation is contrary to the public interest. If a natural resources district finds that granting the appropriation is contrary to the public interest, the department shall not grant the appropriation without first allowing the natural resources district a hearing unless the natural resources district waives such hearing.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LB 1113 - Provide powers and duties relating to surface water appropriations. Christensen.** The bill would require a irrigation district, reclamation district, public power and irrigation district, or mutual irrigation company or canal company to allocate, in any irrigation year, the volume of water to the owner of a water right based upon such owner's acreage of water right as a percentage of the total acreage of water right which is owned, controlled, and distributed to the total ownership of the allocated volume of water of such district or company.

Under the bill, the owner would be allowed to distribute the water to any portion or all acreage for which such owner holds an appropriation. The bill also allows the Department of Natural Resources to limit the amount of land upon which such water may be distributed by the owner.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

## **D. Integrated Management**

**LB 762 - Change provisions relating to integrated management plans. Christensen.** The bill would impose new conditions on the development and requirements of all integrated water management plans (local and basin). First, it would require the Department of Natural Resources to represent the interest of surface water appropriators or designate an individual to do so. The bill does not change the role of the department as the regulating entity of surface water users. Second, the bill would require the plan to provide allocations of water to surface water appropriators and ground water users equal to the average of delivered allocations to surface water appropriators from calendar years 2009 to 2011.

**Hearing Date:** 1/23/2014      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

**LB 1005 - Create the Surface Water and Ground Water Review Board and provide powers and duties. Avery.** The bill proposes to eliminate the Inter-related Water Review Board, which was created by LB 962 in 2004 to resolve water disputes when developing integrated management plans and replaces it with a new entity called the Surface Water and Ground Water Review Board. The Inter-related Water Management Review Committee has never been requested to convene to resolve a dispute since its creation in 2004.

The ten member Surface Water and Ground Water Review Board would consist of the Director of Natural Resources or his or her designee, the chairperson of the Game and Parks Commission or his or her designee, and the following members appointed by the Governor: A member of the Nebraska Environmental Trust Board, one representative from each of municipalities, natural resources districts, and irrigators, and a certified hydrologist. The Governor shall appoint three additional members of his or her choosing who shall have a minimum of seven years water-related experience, one from each congressional district.

Appointed members shall serve four-year terms not to exceed three terms. The members shall select a chairperson and vice chairperson.

A person is not eligible for membership on the board if the decisions to be made by the board would or could cause financial benefit or detriment to the person, a member of his or her immediate family, or a business with which the person is associated, unless such benefit or detriment is indistinguishable from the effects of such action on the public generally or a broad segment of the public.

The Surface Water and Ground Water Review Board shall promote good stewardship of the shared limited resource and balance the municipal, agricultural, and conservation interests of the state. The board shall respect all federal water interests, permits, and federally owned assets

across the state. The board shall represent the state in all water-related interstate compacts and decrees.

The board shall adopt and promulgate rules and regulations, including a standard of review and procedures for unified management and development of surface water and ground water policy that are consistent with balancing multiple interests in sustained water usage in perpetuity. Standards and review shall be applicable to all water-related decisions, including integrated management plans and interstate compacts and decrees in the State of Nebraska.

The board shall review and approve ground water and surface water usage and conservation in all twenty-three water basins. The board shall issue and review all new and existing water well permits. The board shall identify statewide priorities and water management activities to achieve the goals of increased productivity, sustainability, and conservation.

The board shall hold public hearings consistent with the Open Meetings Act and shall solicit public opinion. The board shall issue an annual report summarizing Nebraska's yearly water usage and include detailed assessments of consumptive use, water supply, and regional and local aquifer trends by river basin. The board shall review and assess water usage and make an annual report and recommendation to the Legislature on state water priorities, policy, and funding by December 15 of each year.

The report shall also include all final decisions issued by the board for the reporting period. The report shall be submitted electronically. The board shall have authority to negotiate and enter contracts with other states. The board may partner with or solicit advice from external entities or academic institutions to the extent such relationship fulfills advancement of water policy initiatives.

When the board concludes that the issues have been fully presented and commented upon by all stakeholders in the development of an integrated management plan, decree, or compact, which conclusion shall be made not more than forty-five days after submission by a natural resources district or the Department of Natural Resources, the board shall select the proposals, provisions, or portions of proposals that the board will consider for adoption and shall schedule one or more public hearings to take testimony on the selected proposals.

The hearings shall be held within forty-five days after the board's selection of proposals to consider for adoption and shall be within or in reasonable proximity to the area that would be affected by implementation of any of the proposals to be considered at the hearings. Notice of the hearings shall be published as provided in section 46-743. The cost of publishing the notice shall be shared by the department and the affected natural resources districts. All interested persons may appear at the hearings and present testimony or provide other evidence relevant to the issues being considered.

Within forty-five days after the final hearing pursuant to subdivision (5)(a) of this section the board shall by order, as applicable, adopt a basin-wide plan or an integrated management plan for the affected river basin, subbasin, or reach and, in the case of an integrated management plan, shall designate a ground water management area for integrated management or an integrated

management subarea for such river basin, subbasin, or reach. An integrated management plan shall be consistent with subsection (2) of section 46-715, and the surface water and ground water controls and any applicable incentive programs adopted as part of that plan shall be consistent with subsection (4) of section 46-715.

The controls adopted by the board shall not be substantially different from those described in the notice of hearing. The area designated as a ground water management area or an integrated management subarea shall not include any area that was not identified in the notice of the hearing as within the area proposed to be subject to the controls in the plan.

The order adopted under this subsection shall be published in the manner prescribed in section 46-744.

Surface water controls adopted by the board shall be implemented and enforced by the department. Ground water controls adopted by the board shall be implemented and enforced by the affected natural resources districts. The ruling of the board shall be binding and final unless challenged in a court of jurisdiction.

When an integrated management plan is adopted pursuant to section 46-718 as reviewed by the board, the department or a natural resources district responsible in part for implementation and enforcement of an integrated management plan may propose modification of the goals or objectives of that plan, of the area subject to the plan, or of the surface water controls, ground water controls, or incentive programs adopted to implement the plan.

The department and the affected natural resources districts may raise objections during a public hearing concerning the implementation or enforcement of previously adopted surface water or ground water controls. The department and the affected natural resources districts shall utilize the procedures in sections 46-715 to 46-718 in an attempt to reach agreement on such implementation or enforcement issues.

A decision by the board to terminate and reassign jurisdiction of any portion of the plan or controls shall take effect immediately upon that decision. Notice of such reassignment shall be published at least once in one or more newspapers as necessary to provide general circulation in the area affected by such reassignment.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

**LB 1111 - Provide duties relating to integrated management plans. Christensen.** The bill would require that natural resources districts that have developed an integrated management plan and utilize the occupation tax would have to amend such integrated management plan to provide procedures to implement and achieve district-wide and basin-wide water sustainability by January 1, 2025.

Water sustainability is defined in the bill to mean the maximum annual amount of water per irrigated acre determined and provided by the United States Geological Survey which, if used as a base allocation, would sustain an area's water resource levels in the short-term and the long-term. If such numbers are not available from the United States Geological Survey, such maximum annual amount shall be determined and provided by the Department of Natural Resources for the purposes determining water sustainability.

The amended integrated management plan to achieve district-wide and basin-wide water sustainability shall include the following:

- the annual per-acre-inch water sustainability level;
- the annual reduction in base allocation levels divided equally over ten years that will be required to reach water sustainability;
- clearly state that for the ensuing ten years, surface water available within the applicable area shall be used for compliance during compact-call years within those ten years;
- clearly state that the maximum amount of banked or carry-forward water that a district can allow to be carried forward over the ten years beginning on January 1, 2015 and ending December 31, 2024, shall be limited to an amount equal to one year of the base allocation in the district during the 2013 irrigation season;
- clearly state that beginning January 1, 2025, all accounts of banked or carry-forward water shall be reduced to an amount equal to one year of a water sustainability allocation for such district and the base allocation shall become the water sustainability level for each district on and after January 1, 2025, by which any new accumulation of banked or carry-forward water may begin with a maximum amount of banked or carry-forward water not exceeding the annual water sustainability level;
- clearly state that the director shall ensure that surface water allocations delivered to the field do not exceed ground water allocations plus any ground water carry-forward allowed by a district to be used in any one year.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose (Sustainability already required under existing law)

**NARD Position:** Oppose (Sustainability already required under existing law)



## **E. Department of Natural Resources**

### **LB 959 - Provide a permit application exemption for certain water storage reservoirs.**

**Carlson.** The bill proposes to exempt any reservoir with a maximum water storage capacity of fifty acre-feet and constructed prior to 1973 from NDNR permitting requirements if such reservoir is maintained in accordance with department safety guidelines, not altered to increase its storage capacity, and not utilized for irrigation purposes. The bill would also exempt such reservoirs from calls by the department to release water.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

**LB 1074 - Change provisions relating to the regulation of ground water. Lathrop.** The bill provides that any river basin in Nebraska could be determined to be over-appropriated and provides for annual evaluations of each river basin. Currently, basins that were determined to be over-appropriated had to be declared such by July 16, 2004.

The new evaluation procedure would allow the Department of Natural Resources to declare a river basin, subbasin, or reach to be over-appropriated if the department determines based upon its evaluation or reevaluation if information presented at a required hearing shows that current uses of hydrologically connected surface water and ground water in the river basin, subbasin, or reach have already caused;

- (a) the surface water supply to be insufficient to sustain over the long term the beneficial or useful purposes for which existing natural-flow or storage appropriations were granted and the beneficial or useful purposes for which, at the time of approval, any existing instream appropriation was granted,
- (b) the streamflow to be insufficient to sustain over the long term the beneficial uses from wells constructed in aquifers dependent on recharge from the river or stream involved, or
- (c) reduction in the flow of a river or stream sufficient to cause noncompliance by Nebraska with an interstate compact or decree, other formal state contract or agreement, or applicable state or federal laws.

The bill would allow a fully appropriated basin to be re-evaluated at least three times.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Oppose

**NARD Legislative Committee Recommendation:** Oppose

**NARD Position:** Oppose

## ***Recreation & Trails***

### **A. Bicycle Use**

**LB 756 - Redefine bicycle and motor vehicle. Smith.** The bill would include in the definition of bicycle 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:** Not Posted      **Committee:** Transportation      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support

## ***Other***

### **A. Climate Change**

**LB 882 - Change duties of the Climate Assessment Response Committee. Haar.** The bill proposes to eliminate the report requirements passed last year on the impacts of cyclical climate change in Nebraska. The bill proposes to allow reports and communication to the Governor, Legislature and other interested persons with information and research on the impacts of cyclical climate change in Nebraska which shall include all climate forcings considered relevant by scientists, including human influence, and response strategies.

**Hearing Date:** 2/4/2014      **Committee:** Agriculture      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

**LB 1008 - Change duties of the Climate Assessment Response Committee. Haar.** The bill proposes to change the December 1, 2014 final report to the legislature from the Climate Assessment Response Committee. The original report required a report on cyclical climate change. Under the bill the final report could include other reports and recommendations submitted to the Climate Assessment Response Committee.

**Hearing Date:** Not Posted      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Monitor

**NARD Legislative Committee Recommendation:** Monitor

**NARD Position:** Monitor

## **B. Solid Waste**

**LB 844 - Extend the termination date of the Nebraska Litter Reduction and Recycling Act. Schilz.** The bill proposes to extend the Nebraska Litter Reduction and Recycling Act from October 30, 2015, to October 30, 2020.

**Hearing Date:** 1/24/2014      **Committee:** Natural Resources      **Bill Status:** Committee

**Manager Recommendation:** Support

**NARD Legislative Committee Recommendation:** Support

**NARD Position:** Support