



**NEBRASKA ASSOCIATION  
OF RESOURCES DISTRICTS**

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January 26, 2007

**TO: NARD Board, NRD Managers and Conservation Partners**  
**FROM: Dean E. Edson, NARD Executive Director**  
**RE: January 26 NARD UPDATE**

**NARD Legislative Conference** -- Almost 300 NRD board members and employees from all 23 NRDs attended the 2007 NARD Legislative Conference this week. Governor Dave Heineman opened the conference stressing the importance of working together to resolve water issues in Nebraska. Part of the Governor's budget includes \$2.7 million annually in new funding for water programs. The NARD delegates supported the Governor's budget and his proposed funding for water programs.

The NARD voting delegates reviewed the legislation before the Nebraska Unicameral this session. Several bills related to water management have been introduced. Two of those bills, LB 594 – well drilling moratorium and LB 701 – creating a new water management committee were discussed extensively by the delegates. Rather than taking a position to support or oppose the bills, the delegates adopted a policy statement to address those bills and to work with the legislature and interested parties to find solutions to the issues. The policy statement is as follows:

*“We support efforts of the local NRDs to address management of water resources within their district. We encourage local NRDs to utilize existing authorities to manage resources pro-actively to assure the public a safe, abundant supply of water for all beneficial uses.*

*We oppose additional intentional transfers of water from one river basin to another for the purpose of augmenting water supplies in the receiving river basin. We believe the districts in these basins should be provided adequate management authorities, resources and funding to manage their water for beneficial purposes. In areas where additional resources are needed, we support adequate funding and technical assistance from state sources to assist the NRDs with management activities.”*

Delegates also voted to oppose the Department of Natural Resources' proposed legislative modifications to water management, but offered to work with the department to clarify the bill. During the conference, several NRD managers worked with employees of the department to resolve conflicting language in the bill. After short discussion, the conflicts were alleviated and an amendment will be offered by the department at the hearing next week to make the changes.

**Kill motion filed on LB 17** – Senator Ernie Chambers filed a motion to indefinitely postpone LB 17 on the second day of General File debate on the bill. Senator Mick Mines quickly asked to pass over the bill to avoid taking up the IPP motion. As proposed the bill adds NRD office holders to the list of high elective offices that would be prohibited from filing as a candidate for another high elective office. Current law defines higher elective office as a member of the Legislature, county, city, or school district. Of the bill comes up again, the IPP motion will have to be addressed first.

**Livestock Waste Ground Water Monitoring Workshops:** For several years, The Nebraska Department of Environmental Quality (NDEQ) has been reviewing new and modified livestock waste facility permits for the potential for those facilities to impact ground water quality. In cases where that impact appears likely, NDEQ has required the installation of monitoring well networks, periodic sampling of those wells, and submittal of the monitoring results. A knowledge of the basic purposes and procedures for monitoring can improve the overall process. To help provide information to owners/operators about the monitoring, as well as care and maintenance of the monitoring wells, NDEQ is collaborating with the UNL Water Sciences Lab and NARD to sponsor four workshops across the state. The dates and locations are as follows; all are scheduled to run from 10:00 AM to 3:00 PM local time:

Tuesday, February 20: Holdrege: City Council Chambers, 502 East Avenue  
Wednesday, February 21: Scottsbluff: Panhandle Research Center, 4502 Avenue I  
Tuesday, February 27: Norfolk: Public Library, 308 Prospect Avenue  
Thursday, March 1: Lincoln: NDEQ Van Dorn Complex, 2717 South 8th Street

The workshops are geared specifically for owners/operators of livestock facilities, but NRD water staff are encouraged to attend. There is no fee for attendance, but NDEQ is requesting that attendees register so they can be sure to have enough space and materials. If you have any questions or need further information, contact Dave Miesbach at NDEQ (402-471-4982 or [David.Miesbach@ndeq.state.ne.us](mailto:David.Miesbach@ndeq.state.ne.us)).

**UNL Irrigation Workshops** – The Irrigation and Energy Conservation Workshops for Corn Growers, sponsored by the Nebraska Corn Board and the Nebraska Corn Growers Association in partnership with University of Nebraska-Lincoln Extension, will be available next month free of charge to corn growers in the area. The workshops for irrigated corn growers will focus on the fundamentals of irrigation systems and agricultural water management.

Individuals are encouraged to register in advance as seating is limited. Dates and locations include: Feb. 13, Norfolk, Lifelong Learning Center; Feb. 14, Cozad, Elk's Club; and Feb. 15 Geneva, Ag Hall-Fairgrounds. Register by contacting the location's local UNL Extension office at: Madison County Extension Office in Norfolk, (402) 370-4040, [madison-county@unl.edu](mailto:madison-county@unl.edu); Dawson County Extension Office in Lexington, (308) 324-5501, [dawson-county@unl.edu](mailto:dawson-county@unl.edu); or Fillmore County Extension Office in Geneva, (402) 759-3712, [fillmore-county@unl.edu](mailto:fillmore-county@unl.edu). Certified Crop Advisor credits are available. For more information call (800) 529-8030, visit the [ARDC Web site](http://www.ardc.unl.edu), fax (402) 624-8010 or e-mail [kalewenl@unl.edu](mailto:kalewenl@unl.edu).

#### **Hearings next week**

**LB 295 – Makes several changes to the groundwater management act, Natural Resources Committee.** This bill makes a number of changes at the request of the Nebraska Department of Natural Resources.  
**Hearing 1/31 Natural Resources Committee, 1:30 Room 1525**

**LB314 – Redefine water well for purposes of registration, Loudon.** This bill adds dug pits to the definition of water wells. **Hearing 1/31 Natural Resources Committee, 1:30, Room 1525**

**LB391 – Change provisions relating to public records and meetings, Mines.** This bill makes a number of changes regarding copy requests and the Open Meetings Act. **Hearing 2/1 Government Committee, 1:30, Room 1507**

**LB568 – Extend a scrap tire grant program, Natural Resources Committee.** This bill extends the grant program for recycling tires under the Waste Reduction and Recycling Incentive Fund from June 30, 2007 to June 30, 2012. **Hearing 1/31 Natural Resources Committee, 1:30, Room 1525**

**LB622 – Require training courses in public records and the Open Meetings Act, Pirsch.** **Hearing 2/1 Government Committee, 1:30, Room 1507**

<b>NARD Bill Summary Tracking Sheet</b>				<i>Last Updated: 01.26.07</i>				
<b>Bill or CA</b>	<b>Description</b>	<b>Sponsor(s)</b>	<b>Priority</b>	<b>NARD POSITION</b>	<b>Committee</b>	<b>Hearing Date</b>	<b>Status</b>	<b>Amendments</b>
7	New provisions for Open Meetings Act	Preister		Monitor	Government	1/18/2007		
13	New procedures and oversight for interlocal agreements under Interlocal Cooperation Act	Mines		Oppose	Government	1/19/2007		
17	Prohibit NRD dual office holding	Mines		Oppose	Government	1/17/2007	IPP pending	AM71
20	Require public recreation access to NRD water projects	Mines		Oppose	Judiciary			
42	Change distribution of cigarette taxes	Hudkins		Monitor	Appropriations			
78	Recoverable amounts	Nantkes		Oppose	Judiciary			
79	NDEQ reporting under Litter Reduction & Recycling Act	Nat. Res. Comm.		Monitor	Natural Resources	1/17/2007	Select File	
80	NDEQ funding of Safe Drinking Water projects	Nat. Res. Comm.		Support	Natural Resources	1/17/2007	Select File	AM30
105	Nebraska Forest Service funding	Louden		Support	Appropriations			
187	Interlocal agreement prohibitions and rules	Mines		Monitor	Government	1/24/2007		
197	Political Subdivisions Tort Claims Act	Schimek		Monitor	Judiciary			
202	Liens under Integrated Solid Waste Management Act	Louden		Monitor	Natural Resources	1/19/2007		
224	Well drilling moratorium	Kopplin					Withdrawn	MO00003
272	NRD bonding authority	Kopplin		Support	Revenue	2/22/2007		
289	Records of elections to exceed tax levy limits	Louden		Monitor	Government			
291	Change membership on Nebraska Environmental Trust Board	Hansen		Monitor	Natural Resources	1/25/2007		
295	Irrigation well spacing and permits	Nat. Res. Comm.		Oppose as written	Natural Resources	1/31/2007		
301	Extend NETF distribution	Janssen		Support	General Affairs	2/5/2007		
313	Clarify engineering requirements under Livestock Waste Management Act	Nat. Res. Comm.		Support	Natural Resources	1/24/2007		
314	Add dug pits to definition of water well	Louden		Support	Natural Resources	1/31/2007		
321	Mainline appropriation bill	Speaker Flood, at request of Governor		Support	Appropriations			
322	Water Resources Cash Fund & other funds	Speaker Flood, at request of Governor		Support	Appropriations			
333	Authorize fee schedule for Private Onsite Wastewater System Contractors Certification	Johnson		Monitor	Natural Resources	1/24/2007	General File	AM90
362	Interlocal agreements	Raikes		Oppose	Revenue	2/22/2007		
387	Require water meters on new construction	Langemeier		Oppose	Urban Affairs			
391	Copies of records and speaking at public meetings	Mines		Oppose	Government	2/1/2007		
420	Change cigarette tax distribution and create funds	Erdman		Monitor				
448	Extend timeframe for filing lawsuits against political subdivisions	Ashford		Oppose	Judiciary			
458	Integrated Management Plans and removing vegetation	Carlson <i>et al.</i>		Oppose as written	Natural Resources			
477	Change insurance requirements	Wightman		Oppose	Government			
488	Income tax credit for perpetual conservation easement donations	Wallman		Support	Revenue	2/8/2007		
493	Change meetings of Water Policy Task Force and require review of UNL research	Langemeier		Monitor	Natural Resources			
503	Change NRD board vacancy appointments	Mines		Oppose	Natural Resources			
530	Change allocation formula for Storm Water Management Plan program	Nantkes		Support	Natural Resources			
534	Funding storm water programs	Schimek		Support	Natural Resources			
564	Add state and political subdivisions to those who receive recreational liability protection	Friend <i>et al.</i>		Support	Judiciary			
566	Adopt Public Recreational Liability Act	Louden <i>et al.</i>		Support	Judiciary			
567	Extend recreational liability protection to landowners that charge for access	Louden <i>et al.</i>		Support	Judiciary			
568	Extend Scrap Tire Grant Program	Nat. Res. Comm.		Support	Natural Resources	1/31/2007		
594	Temporary suspension of new well permits and surface water rights for irrigation	Kopplin		Reference policy statement	Natural Resources			
622	Open Meetings Act training sessions	Pirsch		Monitor	Government	2/1/2007		
652	Mandatory energy audits	White		Oppose	Natural Resources			
701	Create a basin-wide management authority & committee	Christensen		Reference policy statement	Natural Resources			
704	Adopt Fishable & Swimmable Waters Act	Preister		Monitor	Natural Resources			
11CA	Reduce funding to NETF & create a new Crime Fund	Flood		Oppose	General Affairs	2/26/2007		

**NARD CA & BILL SUMMARY**  
**2007 LEGISLATIVE SESSION**  
***(WITH NARD POSITIONS)***

**NARD LEGISLATIVE  
CONFERENCE**

**EMBASSY SUITES**

**LINCOLN, NE**

**JANUARY 23-24, 2007**

## Chemigation and Wells

**LB 314, Adds Dug Pits to definition of Water Wells, Louden.** The bill adds to the definition of water well any excavation made for any purpose if ground water flows into the excavation under natural pressure and a pump or other device is placed in the excavation for the purpose of withdrawing water from the excavation for irrigation. For such excavations, construction means placing a pump or other device into the excavation for the purpose of withdrawing water for irrigation. **Hearing 1/31 Natural Resources Committee 1:30 Room 1525**

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

## Directors and Elections

### Elections

**LB 17, Prohibit NRD Dual Office Holding, Mines.** Adds NRD office holders to the list of high elective offices that would be prohibited from filing as a candidate for another high elective office. Current law defines higher elective office as a member of the Legislature, county, city, or school district. **Hearing 1/17 Government Committee 1:30 Room 1507**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

**LB 503 – Change NRD Board Vacancy Appointments, Mines.** The bill eliminates the provision that appointments for vacancies of NRD directors fill the unexpired term. The new provisions would require:

- If a vacancy occurs on or after August 1 in an even-numbered year, the appointee shall serve for the remainder of the unexpired term.
- If the vacancy occurs at any other time, the appointee shall serve until the first Tuesday following the first Monday in January following the next regular general election and at the next regular general election a member of the board shall be elected to serve the unexpired term.

**Hearing Natural Resources Committee**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

### Open Meetings Act

**LB 7 – Open Meetings Act, Preister.** Adds to the definition of new business to include any item not on the agenda of a meeting which is not of an emergency nature. The bill also outlines that if a citizen speaks on an item of new business, members of such body may engage in discussion with the citizen but shall not take any action on such business that requires a vote of the body at that meeting. Finally, the bill prohibits a public body from requiring members of the public to identify themselves as a condition for admission to the meeting or require that members of the public be placed on the agenda prior to such meeting in order to speak to the body regarding items on the agenda or any new business. **Hearing 1/18 Government Committee 1:30 Room 1507**

Manager Recommendation: Monitor  
NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

**LB 391 -- Copies of records and speaking at public meetings, Mines.** The bill makes several changes to copy requests of public records and the open meetings act as follows:

- 1) If an individual requests copies of all public records within a certain time frame, the request would also require a request of the specific subject matter.
- 2) Authorizes a public body to allow a member of the public or any other witness other than a member of the public body to appear speak on agenda items by means of video or telecommunications equipment.
- 3) Clarifies that the presiding officer at a public meeting can limit public comment to agenda items at the meetings.
- 4) Requires that each public body shall have a form on which citizens may recommend subjects for discussion as possible agenda items at a future meeting. Copies of such form shall be made available at every meeting and at the principal office of the public body during normal business hours.
- 5) Within ten business days after receiving such form, the secretary or other designee of the public body shall, by first class mail, send the citizen a written statement regarding the status of the request.

**Hearing 2/1 Government Committee 1:30 Room 1507**

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

**LB 622 – Open Meetings Act Training Sessions, Pirsch.** The bill requires any public officer, public records coordinator, or public employee to complete a training course regarding the powers and duties of a public body and its members under the Open Meetings Act no later than one year after the day the member (a) takes the oath of office, or (b) assumes his or her duties as a member of a public body.

The Department of Justice may provide the training course and shall approve any training course offered by a governmental agency or any other entity. The Attorney General shall make at least one approved training course available on a widely available medium at no cost. An approved training course may be provided on the Internet.

The training course shall include instruction in: (a) The legal requirements for open meetings; (b) The applicability of the Open Meetings Act to public bodies; (c) Procedures for conducting open meetings and closed sessions under the act; and (d) Penalties for failure to comply with the Act. **Hearing 2/1**

**Government Committee 1:30 Room 1507**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

## Funding and Taxes

**LB42 – Change Distribution of Cigarette Tax, Hudkins.** This bill provides that, commencing October 1, 2007, and continuing until October 1, 2012, the State Treasurer shall place the equivalent of forty-nine cents of cigarette tax in the Highway Allocation Fund, to be distributed in the same manner as all other funds accruing to the Highway Allocation Fund. **Hearing Appropriations Committee**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

**LB 105, Nebraska Forest Service, Louden.** Appropriates \$425,000 from the General Fund for FY2007-08 and \$425,000 from the General Fund for FY2008-09 to the Nebraska Forest Service for forest fuels management. It is intended that funds appropriated be used in conjunction with federal and private resources to reduce forest fuel loads. **Hearing Appropriations Committee**

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

**LB 272 – NRD Bonding Authority, Kopplin.** Allows the board of directors of a natural resources district encompassing a city of the metropolitan class to issue negotiable bonds and refunding bonds of the district, entitled flood control dam and reservoir bonds, with terms determined appropriate by the board of directors, payable from an annual special flood control dam and reservoir levy upon the taxable value of all taxable property in the district. The additional levy shall not exceed three cents on each one hundred dollars of taxable valuation of the district unless a majority of the registered voters of the district, at an election called by the board for such purpose, vote in favor of exceeding such limitation. Such levy is not includable in the computation of other limitations. **Hearing 2/22 Revenue Committee 1:30 Room 1524**

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

**LB 289 – Elections to Exceed Tax Levy Limit, Louden.** Provides that, at a meeting of a political subdivision for the purpose of exceeding established tax levy limits, a record shall be made of the registered voters residing in the political subdivision or village who are present at the meeting, and that the method of voting at the meeting shall protect the secrecy of the ballot. **Hearing Government Committee**

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

**LB 321, Mainline Appropriations Bill, Flood (at the request of the Governor).** The bill outlines Governor Heineman’s budget recommendations. Since the new water fund is created by another bill (LB 322), it is not included in the mainline appropriations bill. Below are funding of interest to the Natural Resources Districts.

**Funding for Natural Resources Programs**

<b>Program</b>	<b>FY 07-08</b>	<b>FY 08-09</b>
<b>State Aid to NRDs</b>	<b>1,545,502</b>	<b>1,545,502</b>
<b>Small Watersheds</b>	<b>500,000</b>	<b>500,000</b>
<b>Soil and Water Conservation Fund</b>	<b>3,193,454</b>	<b>3,193,454</b>
<b>Water Well Decommissioning</b>	<b>240,840</b>	<b>240,840</b>
<b>Resources Development Fund</b>	<b>3,638,368</b>	<b>3,638,368</b>
<b>Soil Survey Fund</b>	<b>143,051</b>	<b>143,051</b>
<b>Natural Resources Water Quality Fund</b>	<b>1,250,000</b>	<b>1,250,000</b>
<b>Water Resource Development</b>	<b>1,257,299</b>	<b>1,264,348</b>
<b>Interrelated Water Mgt Plan Program</b>	<b>2,500,877</b>	<b>2,501,773</b>

<b>Nebraska Water Rights</b>	<b>1,067,873</b>	<b>1,084,140</b>
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Beginning in FY 2008, the new Water Resources Cash Fund would be created and include \$2.7 million in general funds each year over the next 12 years, in addition to seeking \$300,000 each year from the Nebraska Environmental Trust. Beginning in October 2013, the corn check-off that currently goes to ethanol promotion would go to the new fund. The proposal also seeks \$1 million a year in federal funds for conservation programs. **Hearing Appropriations Committee**

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

**LB 322 – Establishment of Water Resources Cash Fund and Other Funds, Flood (at the request of the Governor).** – Appropriates \$2.7 million per year for FY2008 through FY2018-19 to create the Water Resources Cash Fund. The fund is to be expended by the Nebraska Department of Natural Resources to aid compliance efforts and reduction of consumptive uses of water in regards to programs dealing with those natural resources districts which are deemed overappropriated by the department pursuant to section 46-713 or are bound by an interstate compact or decree. The fund shall not be used to pay for administrative expenses or any salaries for the department or any political subdivision.

The bill also extends the sunset date for the 7/8ths cent/bushel check-off on corn for Ethanol Promotion from October 1, 2010 to October 1, 2012. After October 1, 2012 and until October 1, 2019, a 1/2 cent/bushel check-off will be imposed and directed to the Water Resources Cash Fund. **Hearing Appropriations Committee**

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

**LB420 – Change Cigarette Tax Distribution and Create Funds, Erdman.** This bill creates the Agricultural Research Fund and the Water Resources Cash Fund. Both funds would be supported by cigarette taxes, and beginning July 1, 2008, \$1.5 million and \$1 million annually would be placed in the Agricultural Research Fund and the Water Resources Cash Fund, respectively. **Hearing Appropriations Committee**

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

**LB488 – Income Tax Credit for Perpetual Conservation Easement Donations, Wallman.** Provides an income tax credit for donated conservation easements on areas designated a quick response water shortage areas in overappropriated basins and areas subject to interstate compacts, agreements, and decrees and on areas designated as biologically unique landscapes in the Nebraska Natural Legacy plan. The easements must prescribe specific limitations on use, including pumping of ground water with exceptions, etc. The credit shall be an amount equal to 50% of the appraised value of the donated portion of the conservation easement, not to exceed \$250,000, and shall be transferable. **Hearing 2/8 Revenue Committee 1:30 Room 1524**

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



# General Administration

## Interlocal Agreements

**LB 13 -- Interlocal Cooperation Act, Mines.** The bill outlines new procedures and oversight for entering into interlocal agreements. Any existing joint entities would be required to complete this application and certification process. In order to establish an interlocal agreement, each governing body would have to follow the following process:

- 1) The governing body would adopt a resolution determining that there is a need for this joint entity and setting forth the names of the proposed participating public agencies.
  - 2) In determining the need for the joint entity, the governing body would take into consideration the present and future needs of the public agency with respect to the materials, goods, property, and services which a joint entity may utilize or provide, the adequacy, suitability.
  - 3) The availability of such materials, goods, property, and services to meet the needs of the participating public agency if no joint entity is formed, and economic or other advantages or efficiencies which may be realized by cooperative action through a joint entity.
  - 4) The resolution must be published, and after publication, the resolution could then be adopted by the governing body.
  - 5) For the interlocal agreements with state agencies, approval would be required from the governing board of the agency or the Governor.
  - 6) For the interlocal agreements with federal government agencies, approval would be required from the governing board of the agency or the President.
  - 7) Within 30 days after adoption of the resolution for creation of a joint entity, the governing body must file with the Secretary of State a statement signed by the proposed representatives that would set forth:
    - a) The names of all the proposed participating public agencies.
    - b) A certified copy of each of the resolutions of the participating public agencies determining the need for such a joint entity.
    - c) Proof of publication as required.
    - d) A brief description of the nature of the joint entity's activities.
    - e) The name of the joint entity.
  - 8) The Secretary of State would issue of a certificate of creation if all procedures were followed.
- After the certificate of creation is issued, the new entity would be structured in the following manner:

- 1) Each participating public agency would appoint representatives for creation of the joint entity.
- 2) The representatives would constitute the board in which all powers of the joint entity are vested.
- 3) Each representative would serve for a term specified in the agreement, not to exceed four years and each participating public agency would at all times be entitled to appoint at least one representative.
- 4) Each representative would have one vote, unless the agreement provides for allowing a representative to cast more than one vote.
- 5) The bill outlines procedures for the board, including the manner of scheduling meetings, electing officers, creating an executive committee and other committees.
- 6) The board would be subject to the Open Meetings Act.

**Hearing 1/19 Government Committee 2:30 Room 1507**

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

**LB 187 – Interlocal Agreements, Mines.** Prohibits agreements pursuant to the Interlocal Cooperation Act between: (a) A school district and a public power district for the purpose of contracting for utilities for use by the school district; or (b) A school district and an educational service unit for the purpose of contracting for the services of full-time or part-time employees for use by the school district. **Hearing 1/24 Government Committee 1:30 Room 1507**

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

**LB362 – Interlocal Agreements, Raikes.** Removes from budget limit allowable exemptions, restricted funds budgeted under an interlocal cooperative agreement. Makes interlocal agreements subject to tax limits. Also increases base limitation from 2.5% to 2.75%. The bill also adds joint entity to the State Auditor’s list of subdivisions which they can audit. **Hearing 2/22 Revenue Committee 1:30 Room 1524**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

### Legal

**LB 78 – Recoverable Amounts, Nantkes.** Increases amounts recoverable against any employee for claims filed pursuant to section 13-920 or under the Political Subdivision Tort Claims Act from \$1 million per occurrence and \$5 million aggregate to \$3 million per occurrence and \$12 million aggregate. **Hearing Judiciary Committee**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

**LB 197 – Political Subdivisions Tort Claims Act, Schimek.** Provides that, if a political subdivision is transacting business under a name other than the true name of the political subdivision and has not registered a trade name as required, the time period for beginning suit under the Act shall commence upon the registration of the trade name. **Hearing Judiciary Committee**

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

**LB 448 – Extend the time-frame to file lawsuit against political subdivisions, Ashford.** The bill extends the time frame for claims to be filed against a political subdivision or a employee of a political subdivision permitted under the Political Subdivisions Tort Claims Act from 1 year to 2 years. The bill maintains the limitations of two years to begin a lawsuit against a political subdivision. **Hearing Judiciary Committee**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

**Environmental Trust**

**LB 291 – Change membership on the Nebraska Environmental Trust Board, Hansen.** The bill changes the requirements of appointing board members. The bill reduces the board from 9 to 8 and eliminates the requirement that 3 appointees shall be chosen from each of the three congressional districts. The eight regions would represent specific counties. Lancaster and Douglas County would each have 1 member. **Hearing 1/25 Natural Resources, Room 1525**

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

**LB301 – Extend NETF Distribution, Janssen.** Extends current distribution of NETF Lottery funds from January 1, 2008 until January 1, 2013. **Hearing 2/5 General Affairs Committee 1:30 Room 1510**

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

**LR 11CA -- Reduce Funding to the NETF and create a new Crime Fund, Flood.** A constitutional amendment to reduce the distribution of state lottery proceeds to the Nebraska Environmental Trust from 44.5% to 41.5% and established that 3% of the money remaining be transferred to a new fund for funding grants on the basis of local matching funds for local law enforcement efforts to enforce laws that deal with drug offenses, violent crime, and serious offenders. **Hearing 2/26 General Affairs Committee 1:30 Room 1510**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

**Other**

**LB 652 – Mandatory Energy Audits, White.** The bill would require every agency, department, commission and every political subdivision of the State of Nebraska to conduct an audit of its energy usage. Such audit shall examine the following: (1) Methods of reducing energy usage by such agency, subdivision; (2) The costs of implementing such energy efficiency measures; (3) The projected benefits, including long-term cost reductions, from such energy efficiencies; and (4) Whether there are alternative energy resources that may be used in combination with energy efficiencies to provide further benefits.

A report of each audit conducted this act shall be provided to the Clerk of the Legislature on or before December 31, 2007. Entities required to conduct such an audit are authorized to seek technical assistance from public utilities, the Nebraska Energy Office, the University of Nebraska, and other available resources. **Hearing Natural Resources Committee**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

## Land Use & Acquisition

**LB 20 – NRD Projects and Public Access, Mines.** Requires public recreation access to NRD water project properties and private lands under NRD easements if NRD contributions are 5 percent of the cost of the project. Current law, adopted in 2006, requires public access if the NRD cost is 20 percent of the total cost. **Hearing Judiciary Committee**

Manager Recommendation: Oppose  
NARD Legislative Committee Recommendation: Oppose  
NARD Position: Oppose

**LB 564 – Recreational Liability Act, Friend, *et al.*** The bill is in response to a Nebraska Supreme Court decision that struck recreational liability protection for political subdivision and state-owned property. The bill adds the State of Nebraska, a state agency, a political subdivision, to the list of private landowners, tenants, lessee, occupant or other person in control of the premises who receive recreational liability protection if they do not charge the public for access. **Hearing Judiciary Committee**

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

**LB 566 – Recreational Liability Act, Loudon, *et al.*** The bill adopts the Public Recreation Liability Act which extends some recreational liability protection the land owners (defined as the state, a state agency, including the University of Nebraska and any state college or community college, or a political subdivision that is the title holder, tenant, lessee, occupant, or otherwise in control of the land). The liability protection would apply to the owner who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes. If there is no charge, the owner does not thereby (1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

The liability protection would not extend for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or for injury suffered in any case where the owner of land charges the person or persons who enter or go on the land. **Hearing Judiciary Committee**

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

**LB 567 – Extend Recreational Liability Protection to Private landowners that charge access, Loudon, *et al.*** The bill extends recreational liability protection to private landowner and private entities that charge for access. Current law provides this protection if they do not charge for access. **Hearing Judiciary Committee**

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

## Solid Waste

**LB79 – Nebraska Litter Reduction and Recycling Act, Natural Resources Committee.** This bill eliminates some duplication by providing that NDEQ will report on activities under the act for the previous state fiscal year, and that this report shall be presented to the Governor as well as the Clerk of the Legislature. **Hearing 1/17 Natural Resources Committee 1:30 Room 1525**

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

**LB 202 – Integrated Solid Waste Management Act, Loudon.** Provides that, beginning January 1, 2008, a joint entity or joint public agency created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act that provides services under the Integrated Solid Waste Management Act shall not place a lien on property for nonpayment of debt unless the agreement creating the joint entity or joint public agency provides or is modified to provide for a governing board that consists of elected officials. **Hearing 1/19 Natural Resources Committee 1:30 Room 1525**

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

**LB 568 – Extend the Scrap Tire Grant Program, Natural Resources Committee.** Extends the grant program for recycling tire under the Waste Reduction and Recycling Incentive Fund from June 30, 2007 to June 30, 2012. **Hearing 1/31 Natural Resources Committee 1:30 room 1525**

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

## Water Quality

**LB 80 – Safe Drinking Water Act Projects, Natural Resources Committee.** Extends and defines the ability of NDEQ to use the Administrative Cash Fund of the Safe Drinking Water Revolving Fund for drinking water projects involving public water systems operated by political subdivisions up to and including 10,000 residents. **Hearing 1/17 Natural Resources Committee 1:30 Room 1525**

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

**LB 313 – Engineering Requirements under the Livestock Waste Management Act, Natural Resources Committee.** The bill clarifies that livestock operations required to obtain a National Pollutant Discharge Elimination System permit and large livestock operations as defined in federal requirements are subject to the requirements of the Engineers and Architects Regulation Act. Small and medium size operations not required to obtain a National Pollutant Discharge Elimination System permit, would be exempt from the Engineers and Architects Regulation Act. **Hearing 1/24 Natural Resources, 1:30 Room 1525**

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

**LB 333 – Private Onsite Wastewater System Contractors Certification and System Registration Act, Johnson.** This bill makes a number of provisions, including clarification of the requirement of employing a certified professional for the abandonment of an onsite system and the issuance of permits and requirements necessary for operation and maintenance. It also authorizes NDEQ to adopt fee schedules for administration, enforcement, late fees, and special project, subdivision, and development area permit reviews. Finally, the bill provides that NDEQ may waive certification and examination fees for agency inspectors if that agency has adopted inspection and compliance programs that are at least as stringent as those in the Act. **Hearing 1/24 Natural Resources Committee 1:30 Room 1525**

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

**LB 530 – Change the allocation formula for the Storm Water Management Plan Program, Nantkes.** The bill adds a requirement that, for distributing grant funds to a county, the proportion shall be based on the county population, less the population of city applicants within that county. **Hearing Natural Resources Committee**

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

**LB 534 – Funding Storm Water Programs and Sewage, Schimek.** The bill allows cities, villages and counties in urbanized areas to issue revenue bonds to pay for development of storm water programs, including any storm sewer systems. An urbanized area means a statistical geographic area defined by the United States Department of Commerce, Bureau of the Census, consisting of a central place or places and adjacent densely settled territory that together contain at least fifty thousand inhabitants and have an overall population density of at least one thousand inhabitants per square mile.

The programs would be paid for by development of charges for the use of a storm sewer system which would be proportionate to the storm water contribution of the premises served and based upon sound engineering principles, as determined by the city or village, and may include allowances or adjustments for impervious land surfaces and land uses and credits for storm water quantity and quality best management practices.

Finally the bill requires a city or village that is implementing a program to establish a system of exemption from storm water charges for the property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. **Hearing Natural Resources Committee**

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

**LB704 – Adopt the Fishable and Swimmable Waters Act, Preister.** This bill attempts to ensure that all Nebraska streams, lakes, and public reservoirs meet state and federal standards by January 1, 2027. It requires the Nebraska Department of Environmental Quality to develop, publish, and put in place a plan by January 1, 2008, that will ensure that:

1. The Department will complete, on or before January 1, 2011, total maximum daily loads (TMDLs) for all waterbodies that have failed to meet existing state standards as of January 1, 2007;
2. The Department will complete, on or before January 1, 2017, assessments of every waterbody in Nebraska;

3. The Department will complete, on or before January 1, 2019, TMDLs for all waterbodies determined on or after January 1, 2007, to not meet state or federal standards; and
4. The Department will implement each TMDL completed according to the above within three years of its completion, and in no case later than January 1, 2022, with the highest priority given to streams that supply water for public water systems.

The bill further directs that the Department ensure that implementation measures are adequate to bring waterbodies into compliance with state and federal standards by January 1, 2027. It also creates the Surface Water Quality Cash fund for TMDL assessments, load allocations, and for incentives, and allows the Governor to appoint a 14-member Surface Water Quality Blue Ribbon Task Force to review the plan and funding and to report to the Governor and Legislature on its findings. Finally, the bill expresses the intent to appropriate \$5 million in FY2007-08 and \$10 million in FY2008-09 to carry out the Act. **Hearing Natural Resources Committee**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

## Water & Wetlands

**LB 224 – Well Drilling Moratorium, Kopplin (THIS BILL HAS BEEN WITHDRAWN)** Directs the Department of Natural Resources to not accept registrations for irrigation water wells on and after July 1, 2006, through June 30, 2008, unless the water well is a replacement water well. **THIS BILL HAS BEEN WITHDRAWN. (See LB 594)**

**LB 295 – Irrigation and Water Wells, Natural Resources Committee.** This bill makes a number of changes at the request of the Nebraska Department of Natural Resources:

- It includes the U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse.
- It provides that NDNR will issue an order of cancellation of a surface water right within sixty days after receipt of a voluntary unconditional relinquishment.
- It adds the following new language regarding wells that are entitled to spacing protection: (i) Registered irrigation wells unless (A) the water well's location is incorrect in the department's water well registration data base and the well's actual location cannot be determined or (B) the irrigation well is used to irrigate two acres or less; and (ii) Unregistered irrigation wells that have been constructed within the last sixty days.
- It prohibits irrigation from a well registered for another purpose until the well registration has been changed to irrigation and then only if the well is not within six hundred feet of an existing registered irrigation well or an irrigation well that has been constructed within the last sixty days.
- It extends the time period for nonuse of a permit under the Municipal and Rural Domestic Ground Water Transfers Permit Act from 3 to 5 years before revocation or modification by the director of NDNR.
- It prohibits increases in irrigated acres watered from an unconstructed water well that has been permitted prior to the stay once NDNR declares the area overappropriated.

### **Hearing 1/31 Natural Resources Committee 1:30 Room 1525**

Manager Recommendation: Oppose as written but offer to work w/ NDNR and interested parties to clarify issues.

NARD Legislative Committee Recommendation: Oppose as written but offer to work w/ NDNR and interested parties to clarify issues.

NARD Position: Oppose as written but offer to work w/ NDNR and interested parties to clarify issues.

**LB 387 – Require Water Meters on new Construction, Langemeier.** Beginning January 1, 2008, the bill would require all new residential construction equipped with plumbing shall have water meters and plumbing installed in such a way as to separate potable water used outside the residence from potable water used inside the residence. Beginning January 1, 2015, all new construction equipped with plumbing and all new water service changes shall have water meters and plumbing installed in such a way as to separate potable water used outside the building or residence from potable water used inside the building or residence. The costs of implementing this section shall be borne by the property owner, except that water meters shall be supplied and maintained by the water service provider. **Hearing Urban Affairs Committee**

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose

**LB 458 – Integrated Management Plans and removing vegetation, Carlson, et al.** The bill requires as part of an integrated management plan adopted pursuant to section 46-715, the plan shall include provisions to remove vegetation that has a negative impact on those river basins, subbasins, or reaches that have been declared fully appropriated or overappropriated. Any integrated management plan in existence on the effective date of this act shall be amended to include provisions pertaining to such vegetation. The amendment to the integrated management plan shall be commenced within six months after the effective date of this act. For purposes of this section, negative impact shall mean vegetation within the banks of the natural stream and any vegetation identified as a nonnative invasive species. **Hearing Natural Resources Committee**

Manager Recommendation: Oppose as written but willing to work with interested parties to resolve issues.  
NARD Legislative Committee Recommendation: Oppose as written but willing to work with interested parties to resolve issues.

NARD Position: Oppose as written but willing to work with interested parties to resolve issues.

**LB 493 – Change requirements of the Water Policy Task Force, Langemeier.** The bill reduces the minimum number of meeting times the Water Policy Task Force from 2 to 1 time annually. The bill also requires the task force to review of the research done at the University of Nebraska relating to implementation of Laws 2004, LB 962, and a recommendation with respect to necessary research for continued implementation of LB 962. **Hearing Natural Resources Committee**

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

#### **Policy Statement to Address LB 594 and 701**

*We support efforts of the local NRDs to address management of water resources within their district. We encourage local NRDs to utilize existing authorities to manage resources pro-actively to assure the public a safe, abundant supply of water for all beneficial uses.*

*We oppose additional intentional transfers of water from one river basin to another for the purpose of augmenting water supplies in the receiving river basin. We believe the districts in these basins should be provided adequate management authorities, resources and funding to manage their water for beneficial purposes. In areas where additional resources are needed, we support adequate funding and technical assistance from state sources to assist the NRDs with management activities.*

**LB 594 – Temporary suspension of new well permits and surface water rights for irrigation, Kopplin.** The bill finds that it is in the best interest of the State of Nebraska to temporarily restrict the issuance of new



surface water appropriations and water well permits for irrigation purposes. Applications for water well permits and surface water appropriations made on or after January 1, 2007, shall not be granted prior to January 1, 2009. Exceptions would include:

- 1) Domestic purposes.
- 2) Public water suppliers
- 3) Test holes;
- 4) Dewatering wells with an intended use of one year or less;
- 5) Wells constructed pursuant to a ground water Protection Act;
- 6) Water wells designed and constructed to pump fifty gallons per minute or less, except two or more water wells that each pump fifty gallons per minute or less connected or otherwise combined to serve a single project such that the collective pumping exceeds fifty gallons;
- 7) Water wells for range livestock;
- 8) New surface water uses or water wells that are necessary to alleviate an emergency situation involving the provision of water for human consumption or public health and safety;
- 9) New surface water uses and water wells to which a right or permit is transferred in accordance with state law, but the consumptive use of any such new use can be no greater than the historic consumptive use of the surface water use or water well from which the right or permit is being transferred;
- 10) Water wells for which permits have been approved by the Department of Natural Resources pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act prior to January 1, 2007;
- 11) Increases in ground water irrigated acres as described in subdivision (3) (k) of section 46-714; Here is that language --- *“(k) subject to any conditions imposed by the applicable natural resources district, to the extent permitted by the applicable natural resources district, increases in ground water irrigated acres that result from the use of water wells that were permitted prior to the effective date of the determination made in subsection...”*
- 12) Surface water uses for which temporary permits are issued pursuant to subsection (8) of section 46-233. This section requires that under no circumstances shall such date be longer than one calendar year after the date the temporary permit was granted. Temporary permits shall be administered during times of shortage based on priority. **Hearing Natural Resources Committee**

Manager Recommendation: Reference Policy Statement to Address LB594 and LB701.

NARD Legislative Committee Recommendation: Reference Policy Statement to Address LB594 and LB701.

NARD Position: Reference Policy Statement to Address LB594 and LB701.

**LB 701 – Create a Basin-wide Management Authority and Committee, Christensen.** The bill creates a basin-wide management authority and committee for any river basin which as of July 1, 2007, is subject to the interstate compact. Water users in the basin shall be subject to regulation by a basin administration committee. The basin administration committee would be made up of the following members:

- (1) One representative from each eligible Natural Resources District in the river basin which has at least fifty thousand irrigated acres within the basin, appointed by the board of directors of the Natural Resources District;
- (2) The Director of Natural Resources;
- (3) A representative of surface irrigation districts, chosen by caucus, within the river basin who is either a landowner with at least two hundred acres irrigated by surface water or an employee of an irrigation district within the river basin; and
- (4) A representative of municipalities, chosen by caucus, within the river basin having a population of at least one thousand five hundred inhabitants who is either an employee of one of such municipalities or an employee of an economic development organization of which one of such municipalities is a member.

The bill sets out intent language that the State of Nebraska should take fiscal responsibility for consumptive uses which are greater than the allocation allowed by the Final Settlement Stipulations of the Republican River Basin Settlement Agreement with the State of Kansas prior to December 31, 2012. On and after January 1, 2013, four-fifths of the costs of basin administration committee programs associated with keeping the river basin in compliance with the interstate compact shall be paid by the State of Nebraska and one-fifth of such costs shall be paid by the basin administration committee.

In order to accomplish that intent, the Republican River basin will be managed by a basin-wide authority. The basin-wide authority shall have the power to quantify responsibility and assign responsibility to regulatory entities, to conduct basin-wide activities such as vegetation management, water supply augmentation, and irrigation acreage retirement programs to responsibly use both surface water and ground water irrigation.

The basin administration committee would be required to:

- 1) Formulate a balanced water budget and perform activities that result in basin-wide compliance with the interstate compact;
- (2) Formulate and manage a financial budget that will result in basin-wide compliance with the interstate compact. The Basin administration committee shall provide notice to the eligible Natural Resources Districts of required funding by October 31 of each year.

The Natural Resources District would be authorized to levy a tax up to ten cents per one hundred dollars of taxable valuation of property subject to the levy within such district and transferred to the basin administration committee up receipt.

Revenue raised by such levy shall be matched by funds from the state's General Fund at a rate of four General Fund dollars for each dollar generated by such tax levy, up to a maximum of nine million General Fund dollars in 2007 adjusted dollars. Such General Fund matching funds shall be appropriated to the basin administration committee for management. In addition to the matching funds, the Legislature shall for FY2008-09 appropriate ten million dollars to the basin administration committee to implement activities required or permitted

The basin administration committee would be permitted to do the following:

- 1) Assign water allowances to each regulatory agency within the river basin.
- 2) Supplement and augment river basin water supplies;
- 3) Manage vegetation;
- 4) Implement irrigation acreage retirement programs only after the basin administration committee conducts and publishes an economic impact study showing the cost to each county in which irrigation retirement would occur;
- 5) Provide incentives to responsibly manage surface water and ground water irrigation;
- 6) Purchase surface water rights, on either an annual or a permanent basis;
- 7) Apply for and hold water permits;
- 8) Develop and manage a basin-wide water bank;
- 9) Contract with private entities or individuals for services; and
- 10) Spend not more than three percent annually of the funds available from the property tax funds from the natural resources districts.

Other provisions of the act allow for:

- 1) Transfers of groundwater and surface water from other river basins.

- 2) For each calendar year in which the Elwood Reservoir is above seventy-five percent of capacity for at least six months of such year, the Legislature shall appropriate to the Central Nebraska Public Power and Irrigation District forty thousand dollars when the reservoir is at least thirty-three percent full and an additional fifty dollars per acre-foot in excess of thirty-three percent capacity.
- 3) Any program involving a state agency which is designed to reduce or offset beneficial consumptive uses shall estimate the ten-year economic impact of the program on the community where the program is planned and the community shall be compensated for any negative economic change.
- 4) Any program involving a state agency which is designed to reduce or offset beneficial consumptive uses shall estimate the ten-year economic impact of the program on property owners in the location in where the program is planned and shall compensate such property owners for any negative economic impact.
- 5) The Governor, in cooperation with the Attorney General, shall seek financial compensation from the federal government for the effects of conservation programs on streamflow.
- 6) The Department of Natural Resources and the State of Nebraska would be required to include a representative of the basin administration committee in negotiations, planning, and recreation of future interstate compacts and agreements, as well as meetings and negotiations regarding the interstate compact.

**Hearing : Natural Resources Committee**

Manager Recommendation: Reference Policy Statement to Address LB594 and LB701

NARD Legislative Committee Recommendation: Reference Policy Statement to Address LB594 and LB701

NARD Position: Reference Policy Statement to Address LB594 and LB701.

## Other

**LB477 – Change insurance requirements, Wightman.** This bill would move current state employee health insurance from its current 79% employer, 21% employee contribution breakdown to 75% employer, 25% employee in one-year increments through July 1, 2011. The bill also expresses legislative intent that political subdivisions receiving state aid should contribute in a comparable amount; if not, the subdivision could face a reduction in state aid. **Hearing Government Committee**

Manager Recommendation: Oppose

NARD Legislative Committee Recommendation: Oppose

NARD Position: Oppose