

MEMORANDUM

TO THE BOARD:

SUBJECT: General Manager Report

DATE: February 6, 2009

FROM: John Winkler, General Manager

- A. **INFORMATION/EDUCATION REPORT:** A copy of the I&E Report detailing Information and Education activities for the month of January, 2009, is attached for your review.
- B. **MISCELLANEOUS/PERSONNEL ITEMS:**
1. **Part-Time District Accountant – Barbara Sudrla** has been hired as the Part Time District Accountant. Barbara's first day with the District was Monday, February 2, 2009. She will be working approximately 20 hours a week. She has a bachelor's degree in Accounting and has several years of work experience in accounting related field to include financial reporting, project management and preparation, monitoring and analysis of department budgets. We all welcome Barbara as the newest P-MRNRD team member.
- C. **REPORT ON PURCHASES – CONSTRUCTION SERVICES, PROFESSIONAL SERVICES, PERSONAL PROPERTY:** Pursuant to Board direction, attached is a report indicating construction services, professional services and personal property purchases for the month of January, 2009. Please review this report and contact me if you have any questions.
- D. **CURRENT AND ON-GOING PROJECTS – P-MRNRD LEGAL COUNSEL:** Attached is a copy of the current and on-going projects for District Legal Counsel, Paul Peters, as of January 12, 2009. I would ask each Director to review this listing. If you have any questions, please feel free to contact me.
- E. **PAPILLION CREEK WATERSHED PARTNERSHIP REPORT:** The January, 2009 Papillion Creek Watershed Partnership Monthly Update is attached for your review. The next Partnership meeting will be held on February 26, 2009, at 9:00 a.m. at the NRC.
- D. **LEGISLATIVE UPDATE:** The following information is attached for your information:
1. 2009 NARD Legislative Conference CA and Bill Summary
 2. January 9, 2009 NARD Update
 3. January 16, 2009 NARD Update
 4. January 23, 2009 NARD Update
 5. January 30, 2009 NARD Update

F. NEWS CLIPS:

- ✓ January 7, 2009, Lincoln Journal Star article – Committee chairs wield power in Legislature
- ✓ January 8, 2009, Omaha World Herald article - McConaughy's owner says water restrictions aren't enough
- ✓ January 9, 2009, Kearney Hub article – LRNRD officials angry at being called “cheaters” by UNL law expert
- ✓ January 16, 2009, Kearney Hub article – Budgets tight this year, says Heineman
- ✓ January 19, 2009, Omaha World Herald editorial – Water Rights. Lawsuit may unclog issue
- ✓ January 20, 2009, Omaha World Herald article – Public can comment on water proposal
- ✓ January 22, 2009, Lincoln Journal Star, MoPac East Trail extension project heats up with petition drives
- ✓ January 22, 2009, Washington County Pilot Tribune – Many in county plan to oppose NRD bonding bill
- ✓ January 28, 2009, Lincoln Journal Star article – NRDs to do own Lower Platte assessment
- ✓ February 3, 2009, Lincoln Journal Star editorial – NRDs make ominous move on Platte
- ✓ February 3, 2009, Douglas County Post-Gazette article – Waterloo Board of Trustees to host second public update on levee
- ✓ February 5, 2009, Lincoln Journal Star Local View: Protect state's legacy of living rivers, written by Sandra Zellmer, Professor at the University of Nebraska College of Law

January 2009

Information & Education Report

Information:

- Completed design of ad for Washington County Progress Edition newspaper supplement.
- Began planning for PCWP elected officials meeting
- Sponsorship of Omaha Trails.com web site began
- Continued working on media campaigns – scheduling for spring campaigns
- Attended I&E Group meeting in Lincoln.
- Continued working on Web site redesign
- Continued work with PCWP
- Began work on Spring Spectrum

Education:

- GPS Curriculum Conference Call
- Site Planning Team Meetings for Sandoz Elementary
- Environmental Committee Meeting
- Met with Little House Publications to work on Envirothon, NRD Day Camps, MORE Nature
- Held MORE Nature Meeting
- Edited February MORE Nature ad for the Omaha Family Magazine
- Continued working with Countryside on Richard Louv/Susan Linn Engagement
- updated and mailed tree and seed postcards
- Animal Adaptation programs: Westside Middle School = 275 7th grade students (7 programs)
LaVista West Elementary = 50 2nd grade students
Benson West Elementary = 60 1st grade students
- Earth Day Omaha meeting-- Continued work on Earth Day Omaha children's tent
- Statewide I&E meeting
- MORE Nature meeting
- Planned LEP workshop for March
- Updated outdoor classroom files
- Mailed Water Works registration postcards

Report On Purchases

Construction Services, Professional Services, Personal Property

January, 2009

Date	Project Name	Item / Task	Company	Cost
1/7/09	Washington Co. Rural Water	Purchase of water meters	Dakota Supply Group	\$3,977.10
1/14/09	P-MRNRD Promotion	40,000 wildflower seed packets	J. Michael Murphy	\$7,052.61
1/22/09	Miscellaneous Trails	Safety inspection of pedestrian bridges	Kirkham Michael	\$15,500.00
1/29/09	Papio/Buffalo Crk. Structures	Prepare breach inundation studies for 5 existing dams	Olsson Associates	\$19,990.00
1/1-30/09	Project Maintenance	Screened rock	Martin Marietta	\$12,675.00

Updated: January 12, 2009

Current and On-Going Projects P-MRNRD Legal Counsel

★ = Top Priority

F = Future Work – No Assignment

N = New Assignment

O = Others Handling

W = Work in Progress

P = PFP's Portion Completed

- **Little Papio**: (Cleveland)
 - UNL Foundation ROW transfer (P)
- **Big Papio**: (Cleveland)
- **West Branch** (Cleveland):
 - Land Exchange with Sarpy Co. (96th St.) (P)
- **Western Sarpy Dike** (Cleveland):
 - ★ Mel Bundy ROW easement preparation (P)
- **Floodway Purchase Program** (Grint):
 - Prepare revised purchase agreement with Parkway Properties for 69th and T St. (P)
 - Floodway Property purchase agreements as needed (F)
 - ★ King Lake – Johnson closing (W)
- **Trail Projects** (Bowen):
 - ★ Western Douglas County Trail – purchase agreements, deeds, easements, etc. (W)
- **Missouri River Corridor Project** (Becic):
 - Agreement for Omaha to maintain Missouri River Trail at N.P. Dodge North (P)
 - ★ Agreement Review – Rumsey Station Green Hearts/Big Muddy Workshop (W)

- **USDA P.L. 566 Projects, Silver Creek and Pigeon/Jones Watershed** (Puls/Cleveland):
 - Pigeon/Jones Creek Site Easements – as needed (F)
 - ✦ Silver Creek Site Easements– as needed (Site #11 and #9 ROW) (W)
 - Release of Site S-7 Easement (W)
 - ✦ Revise P/J Site 15 Agreement w/Dakota County (F)

- **Papio Watershed Dam Sites** (Grint/Petermann):
 - ✦ Review appraisals and prepare purchase agreements for WPRB-5 Properties (N)
 - ✦ Review WPRB-5 professional services contract w/HRD and City of Papillion Agreement (N)

- **Papio Creek Watershed Partnership (Stormwater)** (Grint):

- **Rural Water Projects:** (Sklenar)

- **Elkhorn River Public Access Sites** (Sklenar):

- **Other:**
 - Kennard Wastewater Closing (Grint) (F)
 - ✦ Glacier Creek Heritage purchase agreement (Becic) (W)
 - ✦ Dakota County office lease with Dakota County Extension (Puls) (N)
 - ✦ Cinnamon Acres easement documents (Martin) (N)
 - Radio system service agreement (Cleveland) (N)

MONTHLY UPDATE

JANUARY 2009



A Partnership meeting was held on January 14th and Subcommittee meetings held on January 7th and January 30th. Meeting minutes and other materials are updated regularly on the Partnership's website: www.papiopartnership.org.

NPDES Permit Renewal

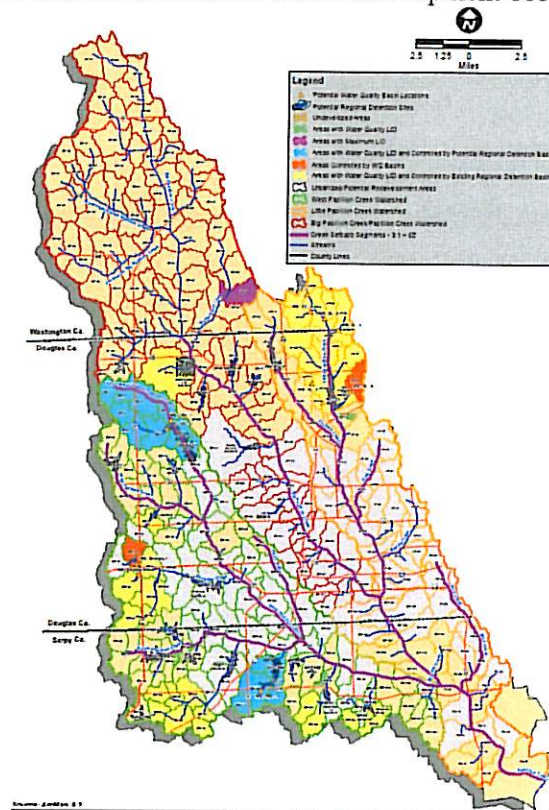
The Phase II communities in the Partnership (Boys Town, Bellevue, Douglas County, La Vista, Papillion, Ralston and Sarpy County) had to send notice of intent to renew their NPDES stormwater permits issued by NDEQ this month. Throughout the month the group completed a Storm Water Management Plan to submit with their notice of intent. Blayne Renner, NDEQ, was present at the Partnership meeting and worked with the group to complete the renewal forms so we hope for a seamless transition between permits. Current permits expire on July 31, 2009.

Watershed Management Plan Update

During January's meetings the Executive Summary of the Stage IV Study was distributed and reviewed by the Partnership. The summary provides a background of the development of the Watershed Management Plan and description of the two components that the plan addresses, water quality and water quantity. The key elements of this plan include:

- Water Quality LID (control and treatment of the first one half inch of stormwater runoff) for all new development and significant redevelopment
- Providing no net increase in peak flows from the 2 year storm event to minimize streambank erosion for all new development and significant redevelopment
- 12 Water Quality Basins to protect existing and proposed regional detention basins as shown on the Watershed Management Plan
- Max LID in Washington County which limits peak discharge from new development and significant redevelopment to 0.2 cfs per acre for the 2 year storm and 0.5 cfs per acre for the 100 year storm
- 15 Regional Detention Basins in Douglas and Sarpy County

The Partners also discussed the Implementation Plan. This plan, pictured below, shows the group's planned projects for a three year period (2011-2013). Those proposed projects include 4 water quality basins, 2 regional detention basins, water quality LID and maximum LID where development occurs.



The Partners plan to present the Watershed Management Plan, Implementation Plan, and updated Stormwater Management Policies to public officials at a February 14th Workshop.

Upcoming Events

The Partnership is hosting a Public Officials Workshop on February 14th from 9am-Noon at the Scott Conference Center. A presentation will begin at 9:30am with Q&A following. The time before the presentation and after will be an open house format.

Next Meeting: The next full Partnership meeting is scheduled for February 26th at 10:00AM at the NRD office.



NARD CA & BILL SUMMARY
2009 LEGISLATIVE SESSION

**NARD LEGISLATIVE
CONFERENCE**

EMBASSY SUITES HOTEL

LINCOLN, NE

January 27-28, 2009

Voting Procedures

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

Tuesday Morning Business Session

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

Tuesday Afternoon Caucus

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

Tuesday Afternoon Business Session

- 5) At the session following the caucus, votes will be taken on motions made in the morning session. Each district will have five votes and a simple majority is needed to pass a motion. Simple majority is 58 of 115.
- 6) 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.
- 7) 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.

2009 NARD Voting Delegates
 NARD Legislative Conference
 January 27-28, 2009

District	Delegate's Name	Alternate's Name
<i>Central Platte NRD</i>	Jerry Wiese	
<i>Lewis & Clark NRD</i>	Gary Howey	
<i>Little Blue NRD</i>	Lyle Heinrichs	
<i>Lower Big Blue NRD</i>	Lawrence Gronewold	
<i>Lower Elkhorn NRD</i>	Ken Peitzmeier	
<i>Lower Loup NRD</i>	Dean Rasmussen	
<i>Lower Niobrara NRD</i>	Sterling Schultz	
<i>Lower Platte North NRD</i>	Dean Johnson	
<i>Lower Platte South NRD</i>	Dan Steinkruger	
<i>Lower Republican NRD</i>	Nelson Trambly	
<i>Middle Niobrara NRD</i>	Dean Jochem	
<i>Middle Republican NRD</i>	Josh Friesen	
<i>Nemaha NRD</i>	Orval Gigstad	
<i>North Platte NRD</i>	Dave Ostdiek	
<i>Papio-Missouri River NRD</i>	Rich Tesar	
<i>South Platte NRD</i>	Jim Johnson	
<i>Tri-Basin NRD</i>	Dave Nelson	
<i>Twin Platte NRD</i>	Joe Wahlgren	
<i>Upper Big Blue NRD</i>	Doug Dickinson	
<i>Upper Elkhorn NRD</i>	Dale Wiles	
<i>Upper Loup NRD</i>	Judy Ridenour	
<i>Upper Niobrara White NRD</i>	Curt Roth	
<i>Upper Republican NRD</i>	Jeff wallin	

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Bill or CA	Description	Sponsor(s)	Page #
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54	Integrated Water Management Procedures	Fischer	26-27
56	Modify Livestock Waste Management	Fischer	24
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134	Limit NRD Eminent Domain Authorities	Pankonin	19
160	Bond Authority for PMRNRD	Gay	8-9
162	Change provisions relating to contractor registration and income tax withholding	Carlson	6
179	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources	9
180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources	24
184	Authorize Department of Natural Resources to administer riparian water rights	Louden	27
209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier	26
210	Change provisions relating to aid to natural resources districts	Langemeier	9
218	Change, eliminate, and provide state aid to various political subdivisions	Cornett	10
235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams	29
246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas	29-30
263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert	16
286	Change the distribution of lottery funds	General Affairs Committee	10
289	Appropriate funds to the Game and Parks Commission	Christensen	11
304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council	17
315	Mainline appropriations for state government operations	Flood	11-13
316	Budget cash fund transfers	Flood	13
336	Exempt municipal water from sales tax	Friend	14
361	Change roll call provisions under the Open Meeting Act	Avery	17
362	Change requirements for candidate filing forms	Avery	6
379	Extend the scrap tire grant program	Haar	24
389	Change appointment provisions for the Climate Assessment Response Committee	Carlson	30
438	Prohibits in-stream appropriations in fully or over-appropriated areas	Fisher	18
466	Eliminate an excise tax on corn and grain sorghum	Wallman	14
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480	Change budget limit and tax levy limitation provisions	Dierks	17
482	Change provisions of the Nebraska Ground Water Management and Protection Act	Langemeier	28
483	Change Provisions relating to water well permits.	Langemeier	28
486	Require certain governmental entities to identify themselves in their official name	Karpisek	18

504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier	25
520	Provide for an income tax credit for perpetual conservation easement donations	Hadley	20
535	Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts	Stuthman	20
565	Adopt the Woody Biomass Energy Act	Louden	30
577	Change provisions relating to improvement project area of natural resources districts	Rogert	21
581	Change disposition of funds from Pesticide Act fess and weed book sales	Carlson	14
582	Create the Nebraska Invasive Species Council	Dierks	23
624	Provide for energy efficiency loans for public buildings	Haar	15
626	Change prohibited activities for public officials and public employees use of public resources	Karpisek	7
632	Adopt the Nebraska Green Building Advantage Act and authorize a sales tax refund	Mello	31
639	Telephone Conferencing for Risk Pool public Meetings	Karpisek	31
656	Adopt the Health Care Accessibility Act	Harms	31-32
643	Change and provide notice requirements of road construction near electric lines	Schliz	21
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651	Create Water Resources Revolving Loan Fund Act	Christensen	15-16
666	Change provisions relating to the Niobrara Council	Langemeier	22
678	Change provisions relating to minutes of public meetings	Haar	18

Chemigation & Wells

LB 162 -- Change provisions relating to contractor registration and income tax withholding, Carlson.

Hearing Date:
Committee: Revenue
Bill Status: Committee

The bill specifically eliminates the exemption for contractors involved in the construction of water wells or installation of septic systems and makes them subject to the Contractor Registration Act. The bill also expands the definition of contractor to include:

An individual, firm, partnership, limited liability company, corporation, or other association of persons engaged in the business of the construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, water wells, pipelines, transmission and power lines, and every other type of structure, project, development, or improvement within the definition of real property and personal property, including such construction, repairing, or alteration of such property to be held either for sale or rental.

Withholding requirements would apply to work done over \$600.

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

Directors & Elections

LB 362 -- Change requirements for candidate filing forms, Avery.

Hearing Date:
Committee: Government, Military, and Veterans Affairs
Bill Status: Committee

The bill adds the following requirements to all candidate filing forms: 1) The candidate's name; 2) residence address; 3) mailing address if different from the residence address; 4) telephone number; 5) office sought; and 6) party affiliation if the office sought is a partisan office.

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

LB 626 -- Change prohibited activities for public officials and public employee's use of public resources, Karpisek.

Hearing Date:

Committee: Government, Military and Veterans Affairs

Bill Status: Committee

The bill makes several changes and clarifications regarding incidental use of governmental property by governmental employees. First, the bill outlines that use of public resources by a public official or public employee which is incidental, de minimis, or unintentional shall not constitute a violation of the Nebraska Political Accountability and Disclosure Act.

Second, the bill proposes that an employment contract, a collective-bargaining agreement, or a written agreement or policy with a provision regarding the use of personnel, resources, or property which is approved by a government body shall be exempt from the Nebraska Political Accountability and Disclosure Act.

Third, and unless otherwise provided by an employment contract, a collective-bargaining agreement, or a written agreement or policy approved by a government body, a public official or public employee may use a telecommunication system or computer under the control of a government body for email, a text message, a local call, or a long-distance call to a child at home, a teacher, a doctor, a day care center, a baby-sitter, or a family member to inform any such person of an unexpected schedule change or for other essential personal business. Any such communication shall be kept to a minimum and shall not interfere with the conduct of public business. Any such communication made by way of a long-distance call shall be made by collect call, charged to a personal credit card, or charged to a third-party number which does not belong to a government body.

Fourth, the bill allows public employees to respond to specific inquiries by the press or the public as to his or her opinion regarding a ballot question or providing information in response to a request for information. It also allows public officials or public employees under the direct supervision of a public official to make use of public resources in expressing his or her opinion regarding a candidate or a ballot question or to communicate that opinion. These authorities are currently extended to members of the Legislature.

Finally, the bill outlines that nothing shall prohibit a public official or public employee from identifying himself or herself by his or her official title.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Funding and Taxes

LB 12 - Increase Nebraska Resources Development Fund, Langemeier. (See NARD Policy #2000-9, pg. 11)

Hearing Date:
Committee: Appropriations
Bill Status: Committee

Increases the annual general fund appropriation for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000 for FY 2009-10 and 2010-11.

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

LB 43 -- Eliminate the Department of Natural Resources Interstate Water Rights Cash Fund, Flood.

Hearing Date: Jan. 21, 2009
Committee: Natural Resources
Bill Status: Committee

Repeals a fund that was used exclusively for the payment of expenses directly related to interstate water rights litigation. Language in that section of statute specifically called for the fund to terminate on June 30, 2003.

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

LB 160 – Bond Authority for PMRNRD, Gay. (See NARD Policy 1991-1, pg. 13)

Hearing Date: Jan. 23, 2009
Committee: Natural Resources
Bill Status: Committee

Authorizes the PMRNRD to issue bonds to pay costs of design, rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management within the natural resources district issuing such bonds, including flood control and water quality. For purposes of this section, flood control and water quality projects and practices include, but are not limited to, low-impact development best management measures, flood plain buyout, dams, reservoir basins, and levees.

The bonds would be paid back from a levy, includable in the computation of other limitations upon the district's tax levy, and shall not to exceed two cents on each one hundred dollars of taxable valuation. A levy above that amount for bonding purposes would have to be approved by a majority of the registered voters within the district at a primary or general election.

Other limitations on the bond process and projects include:

- o No such project shall include a reservoir or water quality basin having a permanent pool greater than four hundred surface acres.

- Any project having a permanent pool greater than twenty surface acres shall provide for public access.
- Can not acquire real property for a project under this section by eminent domain proceedings if the real property is to be conveyed to a private entity or private enterprise after such acquisition.

Projects funded under this section that result in a reservoir or other body of water having a permanent pool suitable for recreational purposes greater than twenty surface acres, the district shall provide public access for recreational use at designated access points and shall include access to the land area a minimum distance of one hundred feet from the permanent pool.

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

LB 179 -- Change project limit adjustments under the Nebraska Resources Development Fund, Natural Resources Committee. (DNR/NRC Bill)

Hearing Date: Jan. 21, 2009
 Committee: Natural Resources
 Bill Status: Select File

Current law established a cap of \$10 million for any individual project from the NRDF. The law also requires the fund to be adjusted each year by an amount equal to the average percentage change in a readily available construction cost index for the prior three years. The proposed change would update the adjustments for each year starting July 1, 1993.

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

LB 210 -- Change provisions relating to aid to natural resources districts, Langemeier. (NARD Bill – See Policy #2008-3, pg. 10)

Hearing Date:
 Committee: Revenue
 Bill Status: Committee

Changes the state aid formula for natural resources districts so that the amount of property tax levied by the district shall not include the property tax levied to principal or interest on bonds. State aid to NRDs is calculated on the ratio of property taxes levied by a district compared to the total property taxes levied by all districts.

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

LB 218 -- Change, eliminate, and provide state aid to various political subdivisions, Cornett.

Hearing Date: Jan. 28, 2009

Committee: Revenue

Bill Status: Committee

The bill primarily makes changes to aid for counties by incorporating changes relating to jail standards and reimbursements for incarceration of prisoners. The bill also strikes language in statute relating to the outdated specific amount to be appropriated to counties and NRDs. However, the appropriations committee has not followed those amounts for several years. This may just be a bill to watch.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 286 -- Change the distribution of lottery funds, General Affairs Committee. (See NARD Policy #1996-13, pg. 13)

Hearing Date:

Committee: General Affairs Committee

Bill Status: Committee

The bill proposes to change the way lottery proceeds are transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund.

Current law starting July 1, 2009 would require the transfer of at least 25 percent of the dollar amount of the lottery tickets which have been sold on an annualized basis.

The proposal would transfer the greater of (a) the dollar amount transferred to the funds in fiscal year 2002-03 or (b) any amount which constitutes at least 22 percent and no more than 25 percent of the dollar amount of the lottery tickets which have been sold on an annualized basis.

To the extent that funds are available, language is also added for the Tax Commissioner to authorize a transfer exceeding 25 percent of the dollar amount of the lottery tickets sold on an annualized basis.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 289 -- Appropriate funds to the Game and Parks Commission, Christensen.

Hearing Date:
Committee: Appropriations
Bill Status: Committee

Appropriates \$55,554.25 from the General Fund for FY 2008-09 to the Game and Parks Commission, to match federal dollars for the repair of flood damage done to the dam at Champion Mill State Historical Park.

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

LB 315 – Mainline appropriations for state government operations, Speaker Flood on behalf of the Governor.

Hearing Date:
Committee: Appropriations
Bill Status: Committee

One of the changes in the budget for agencies is to allow some programs to keep the unexpended balances they have at the end of the fiscal year. The previous practice had been to capture and redirect the saved funds and reduce the appropriation by similar amount in the next fiscal year. The approach attempts to encourage agencies to “save it and keep it” rather than the past practice of “spend it or lose it.”

The following chart includes items of interest relating to natural resources and compares them to the previous fiscal year appropriation levels. Please refer to footnotes and individual one line notes for details on unexpended balances.

Funding for Natural Resources Programs

Program	Previous Biennium		Governor Heineman Proposed		Percent Change	
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 07-09	FY 09-11
State Aid to NRDs	1,545,502	1,545,502	1,545,502	1,545,502	0.0%	0.0%
Small Watersheds	500,000	500,000	500,000	500,000	0.0%	0.0%
Soil and Water Conservation Fund	3,193,454	3,193,454	3,093,454	3,093,454	0.0%	-3.1%
Water Well Decommissioning	240,840	240,840	240,840	240,840	0.0%	0.0%
Resources Development Fund	3,373,066	3,373,066	3,423,066	3,423,066	-7.3%	1.5%
*Soil Survey Fund	75,000	0	0	0	100%	n/a
Natural Resources Water Quality Fund	1,250,000	1,250,000	1,250,000	1,250,000	0.0%	0.0%
*Water Resource Development	0	0	0	0	See note	See note
Interrelated Water Mgt Plan Program	2,500,877	2,501,773	2,412,854	2,412,854	0.0%	-3.2%
*Nebraska Water Rights	1,067,873	1,084,140	0	0	100.0%	100.0%
*DNR Agency Operations Fund	8,789,160	9,054,149	13,430,199	13,441,253	3.4%	48.2%

* Programs merged in 2008. See narrative below.

* Eliminate Soil Survey program funding. This modification would reduce funding for the Soil Survey program to \$75,000 in FY07-08 and eliminates the program in FY08-09. This program is a cooperative venture between the

department and the University of Nebraska, and soil surveys have been completed for all the counties of Nebraska. The FY07-08 funding would allow for completion of an existing project, and to close out the program.

* In 2008, consolidation of staffing and operations into Program 334. Programs 310 (Water Resource Development) and 331 (Water Rights) were consolidated into Program 334 (DNR Agency Operations Fund) in the Appropriations Committee recommendation. The transfer of staff into this program would give the agency greater flexibility in the management of work assignments. There is no net increase or decrease to the agency budget, and the changes are administrative in nature.

* In 2008, reduce current base funding for the Resources Development Fund. (Prog 307 Resources Develop Fund) by \$215,302.

* Reduce General Funds due to a one-time appropriation and decrease federal funds (Prog 310 Water planning process) by \$2,547,500. The reduction shown in this program is an adjustment due to a one-time appropriation in FY06-07. Reduced funding is based upon the agency request.

AGENCY NO. 11 — ATTORNEY GENERAL

Program No. 496 - Interstate Water Litigation

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	1,000,000	-0-
PROGRAM TOTAL	1,000,000	-0-

AGENCY NO. 12 — STATE TREASURER

Program No. 119 - Aid to Natural Resources Districts

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	1,545,502	1,545,502
PROGRAM TOTAL	1,545,502	1,545,502

AGENCY NO. 29 — DEPARTMENT OF NATURAL RESOURCES

Program No. 303 - State Aid - Small Watersheds

	<u>FY2009-10</u>	<u>FY2010-11</u>
CASH FUND	500,000	500,000
PROGRAM TOTAL	500,000	500,000

Program No. 304 - Nebraska Soil and Water Conservation Fund

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	2,688,454	2,688,454
CASH FUND	405,000	405,000
PROGRAM TOTAL	3,093,454	3,093,454

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

Program No. 306 - Water Well Decommissioning

	<u>FY2009-10</u>	<u>FY2010-11</u>
CASH FUND	240,840	240,840
PROGRAM TOTAL	240,840	240,840

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

Program No. 307 - Nebraska Resources Development Fund

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	3,373,066	3,373,066
CASH FUND	50,000	50,000
PROGRAM TOTAL	3,423,066	3,423,066

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

The bill also provides direction for the use of the funds as follows: 1) Appropriation to this program for state aid shall first be utilized for projects which have been allocated funds but for which only a portion of the allocation has been actually obligated. 2) The total amount of funds allocated for projects less the amounts obligated for such projects shall not exceed \$18,500,000.

The definitions of the terms allocated and obligated shall be based on the terminology utilized by the Department of Natural Resources in the Nebraska Resources Development Fund Status Report.

Program No. 309 - Natural Resources Water Quality Fund

	<u>FY2009-10</u>	<u>FY2010-11</u>
CASH FUND	1,250,000	1,250,000
PROGRAM TOTAL	1,250,000	1,250,000

Notwithstanding other provisions of this bill, all appropriations within this program existing on June 30, 2009, in excess of expended or encumbered amounts are hereby lapsed.

Program No. 311 - Interrelated Water Management Plan Program

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	2,412,854	2,412,854
PROGRAM TOTAL	2,412,854	2,412,854

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

Program No. 334 - Soil and Water Conservation, General Operation

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	9,417,678	9,417,678
CASH FUND	3,499,475	3,500,729
Estimated FEDERAL FUND	513,046	522,846
PROGRAM TOTAL	13,430,199	13,441,253
SALARY LIMIT	5,593,370	5,718,503

Re-appropriates the unexpended General Fund balance allocated in budget subprograms 19 (integrated management), 20 (Water Resources Cash Fund), and 21 (Interstate Compacts) of Program 334 existing on June 30, 2009.

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

LB 316 -- Budget cash fund transfers, Speaker Flood on behalf of the Governor.

Hearing Date:
Committee: Appropriations
Bill Status: Committee

The bill makes several transfers from the general fund and cash reserve fund for several programs. For natural resources programs the bill transfers \$2,700,000 from the General Fund to the Water Resources Cash Fund for Fiscal Years 09-10 and 10-11.

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

LB 336 -- Exempt municipal water from sales tax, Friend. (See NARD Policy 1998-1, pg 12)

Hearing Date:
Committee: Revenue
Bill Status: Committee

The bill exempts water supplied by a municipal water supplier from sales tax.

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

LB 466 -- Eliminate an excise tax on corn and grain sorghum, Wallman.

Hearing Date:
Committee: Revenue
Bill Status: Committee

The bill eliminates the corn and grain sorghum check-off that is scheduled to go into the Water Resources Cash Fund for FY's 2012-13 through 2018-2019 and replaced it with a \$10 million annual General Fund appropriation.

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

LB 581 -- Change disposition of funds from Pesticide Act fees and weed book sales, Carlson.

Hearing Date:
Committee: Agriculture
Bill Status: Committee

The bill makes changes to the distribution of pesticide fees to increase funding to the noxious weed program. The bill shifts \$10 per product from the Buffer Strip Program to the Noxious Weed Program as shown in the chart below:

Pesticide Product Registration Fee

	Specialty (5700 Products)		Non-Specialty (5,490 Products)	
	Current Fee	Proposed	Current Fee	Proposed
Pesticide Act Administration	\$70	\$70	\$0	\$0
Noxious Weed Regulatory	\$30	\$40	\$30	\$40
Buffer Strip Program	\$60	\$50	\$60	\$50
Water Resources Fund	\$0	\$0	\$110	\$110
Total	\$160	\$160	\$200	\$200

The bill also transfers \$100,000 from the Buffer Strip Program to the Noxious Weed Program in FY 09-10 for a contract between the Department of Ag and UNL for water conservation research.

Manager Recommendation: Motion to support failed 7-12. Motion to monitor passed 18-2. Recommendation: Monitor
NARD Legislative Committee Recommendation: Monitor
NARD Position: Monitor

LB 624 -- Provide for energy efficiency loans for public buildings, Haar.

Hearing Date:

Committee: Natural Resources

Bill Status: Committee

The bill creates the Public Building Energy Efficiency Fund for use by any political subdivision for a public building energy efficiency loan.

Loans received pursuant to this section shall be used only for energy-efficiency projects approved by the State Energy Office at the time the loan is approved. Energy-efficiency projects may include building and equipment improvements. Building and equipment improvements include, but are not limited to, lighting, heating, ventilation and air conditioning, windows, insulation, and energy control or management systems.

The State Energy Office shall compile records of all loan applications and the amount of energy and financial savings resulting from approved loans. Loans would be distributed geographically throughout the state to the extent possible.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

LB 651 – Create Water Resources Revolving Loan Fund Act, Christensen. (NARD Bill – See NARD Policy #2008-2, pg. 10)

Hearing Date:

Committee: Natural Resources

Bill Status: Committee

The bill creates the Water Resources Revolving Fund to provide low interest loans to natural resources districts or any joint entity with a joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have oversight over the program and an administrative fee would be allowed to pay for operational cost of the program.

The loans under the program would be for activities related to financing or refinancing the costs of eligible projects including,

- (1) acquisition by purchase or lease of water rights in accordance with Chapter 46, article 6, pertaining to ground water, and Chapter 46, article 2, pertaining to surface water, including storage water rights with respect to a river or any of its tributaries,
- (2) acquisition by purchase or lease or the administration and management, pursuant to mutual agreement, of canals and other works, including reservoirs, constructed for irrigation from a river or any of its tributaries,
- (3) vegetation management, including, but not limited to, the removal of invasive species in or near a river or any of its tributaries,

- (4) the augmentation of river flows consistent with the authority granted under Chapter 2, article 32, and
- (5) to develop, store and transport water, and to provide, contract for, and furnish water for domestic purposes, agriculture, manufacturing, and any and all other beneficial uses.

The initial funding source for the program would come from the repayment of the loan provided by the State of Nebraska to the natural resources districts in the Republican River Basin last year under LB 1094.

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

General Administration

LB 263 -- Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act, Rogert.

Hearing Date:
Committee: Agriculture
Bill Status: Committee

The bill proposes that the Nebraska Seed Law and any rules and regulations adopted under the act shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of seeds. No political subdivision would be able to prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of seeds based upon the type, nature, or genetic makeup of such seeds.

The bill outlines that the Nebraska Commercial Fertilizer and Soil Conditioner Act and any rules and regulations adopted and promulgated thereunder shall supersede and pre-empt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of fertilizer and soil conditioners. No political subdivision would be able to prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of fertilizer and soil conditioners. No political subdivision shall prohibit or in any other manner regulate any matter relating to the storage, transportation, distribution, notification of use, or use that are in addition to or in conflict with the Nebraska Fertilizer and Soil Conditioner Act and any rules and regulations adopted under the act.

Regarding the fertilizer and soil conditioners, the bill outlines that nothing in this proposal shall be construed to pre-empt or otherwise limit the authority of any city or county to adopt and enforce zoning regulations.

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

LB 304 -- Change limitation of action provisions under the Political Subdivisions Tort Claims Act, Council.

Hearing Date:
Committee: Judiciary
Bill Status: Committee

Extends the time frame in which to file a claim against an employee of a political subdivision or against a political subdivision permitted under the Political Subdivisions Tort Claims Act from one year to two years.

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

LB 361 -- Change roll call provisions under the Open Meetings Act, Avery.

Hearing Date:
Committee: Government, Military, and Veterans Affairs
Bill Status: Committee

Current law requires that the vote on any question or motion moved and seconded to be on a roll call vote in an open session. There is a provision to allow a municipality to satisfy this requirement by voice vote if an electronic voting device is used and can be viewed by the public. The bill proposes to add a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to the list that can utilize an electronic voting device.

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

LB 480 -- Change budget limit and tax levy limitation provisions, Dierks

Hearing Date:
Committee: Revenue
Bill Status: Committee

The bill changes the definition of capital improvements by specifying that such improvements must have a useful life of five years or more. The bill also states that property tax levies for capital improvements as so defined are not included in property tax levy limits.

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

LB 486 -- Require certain governmental entities to identify themselves as such in their official name, Karpisek

Hearing Date:
Committee: Government, Military, and Veterans Affairs
Bill Status: Committee

The bill provides that the state, its agencies, the University of Nebraska, and each political subdivision of the state, including any county, municipal county, city, village, school district, public power district, and any other unit of local government, which includes any entity created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act, shall include as part of its official name the words political subdivision, a government entity, or other similar words that identify it as a unit of government. Such similar words may include state, village, city, county, public, school district, or other words that clearly identify the entity as a unit of government.

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

LB 678 -- Change provisions relating to minutes of public meetings, Haar.

Hearing Date:
Committee: Government, Military and Veterans Affairs
Bill Status: Committee

The bill allows minutes of meetings subject to the Open Meetings Act to be written or in an electronic recording, including audio or video recording of the meeting.

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

Instream Flow

LB 438 -- Prohibits instream appropriations in fully or overappropriated areas, Fischer.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill prohibits the Director of Natural Resources from approving an instream flow appropriation in a river basin, subbasin, or reach that has been determined or designated by the department to be fully appropriated or overappropriated. Current law already prohibits new appropriations of water in such areas.

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

Land Use & Acquisition

LB 134 – Limit NRD Eminent Domain, Pankonin.

Hearing Date: Jan. 23, 2009
Committee: Natural Resources
Bill Status: Committee

Prohibits the NRDs' use of eminent domain for development or management of recreational trails unless they are associated with a flood control structure.

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

LB 477 -- Change provisions relating to water transfer permits, Carlson. (See NARD Policy #2008-1, pg. 16)

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill also clarifies in law that districts can certify irrigated acres and other beneficial uses of water. The bill then requires that participation in any financial incentive program and/or any transfer of certified acres or uses, include similar evidence of the lien holder's agreement to allow the transfer.

In the case of certified uses of groundwater, the person seeking such transfer or participation in such program would have to submit to the district a report of title issued by an attorney or a licensed abstractor, on a form prescribed by the DNR. If the transfer is approved, an instrument of transfer of water rights shall be recorded by a natural resources district with the register of deeds in each county in which is situated the real estate, or any part thereof, from which a transfer of certified water uses or certified irrigated acres occurred.

In the case of surface water transfers approved by the department or any groundwater transfer permits issued by the department, the application for such approval shall be accompanied by a report of title issued by an attorney or a licensed abstractor, on a form prescribed by the department, similar to the requirement for issues before NRDs. However, filing an instrument of transfer of water rights would not be required.

Manager Recommendation: Support w/ clarification of terms regarding water rights and *de minimis* uses
NARD Legislative Committee Recommendation: Support w/ clarification of terms regarding water rights and *de minimis* uses
NARD Position: Support w/ clarification of terms regarding water rights and *de minimis* uses

LB 520 -- Provide for an income tax credit for perpetual conservation easement donations, Hadley.

Hearing Date:
Committee: Revenue
Bill Status: Committee

The bill allows for a refundable income tax credit to a taxpayer who donates all or part of the value of a perpetual conservation easement upon real property the taxpayer owns to the state, to a political subdivision of the state, or to a charitable organization.

The income tax credit would be an amount equal to 15% of the appraised value of the donated portion of the perpetual conservation easement, not to exceed \$50,000 per tax year or a total of \$250,000 over five years. A taxpayer would be limited to claim the income tax credit on only one conservation easement per taxable year.

The Department of Agriculture would have oversight and would approve qualifying conservation easements by November 1 each year. The department shall not approve applications for tax credits which would total more than 5 million dollars for any one year. If qualified applications would result in tax credits totaling more than 5 million dollars in the year, including qualifying carryover credits from previous years, the department shall prioritize qualifying applications.

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

LB 535 -- Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts, Stuthman.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill increases from 3 to 15 members appointed by the Governor to the Natural Resources Commission. The additional 12 appointments would be representatives of the business community.

The bill also requires that all programs and projects of natural resources districts shall first be shown to be wanted by a majority of the residents of the watershed. If the residents approve, then surveys may be used for general programs or projects to determine potential utilization of the program or project. Any surveys used shall be consistent with state and federal agency statistics and shall not include the same population areas to justify more than one of the same kind of project in a 50-year period of time. All projects shall be bid in total, not by part, and all expenses shall be included when determining a rate of return for a project.

Finally, the bill prohibits the NRD use of eminent domain powers until all other requirements for a dam or any other improvement project have been complied with.

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

LB 577 – Change provisions relating to improvement project areas of natural resources districts, Rogert.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill limits the power or authority of NRDs to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid relates to real property taken by the district through the use of eminent domain.

The bill also makes major changes to the improvement project statutes to limit the district's ability to utilize the act for improvement projects. Specifically, the bill would prohibit the authority for 1) development and management of fish and wildlife habitat and 2) development and management of recreational and park facilities.

The bill strikes all existing law relating to benefits, benefit areas, benefit units, special benefits, geographic areas, etc., under the program and creates new definitions for such. The bill also requires for districts that encompass a metropolitan class, owners of land outside the benefit area would have to approve of a project if they felt they may be impacted.

The bill further prohibits a project and any cooperation, agreement or financial aid with any person, company, firm, corporation, or other entity that owns land within the proposed improvement project area at the time the project is proposed if they have owned the land for less than ten years.

Finally, the bill limits the total bonding authority for a project to no more than 12 percent of the taxable value of the property.

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

LB 643 -- Change and provide notice requirements of road construction near electric lines, Schilz.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill requires natural resources districts to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, poles, or anchors. If the line, poles, or anchors to be moved are within an area that will require Federal Aviation Administration approval, notice shall be given at least one year prior to the start of any work.

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

LB 666 – Changes to the Niobrara Scenic River Council, Langemeier.

Hearing Date:

Committee: Natural Resources

Bill Status: Committee

The bill removes the requirement that the Niobrara Scenic River Council has to approve of zoning requirements imposed by cities, villages and counties in the area covered by the designation. The change places the appointed council in an advisory role to local elected officials rather than an oversight role.

The bill redefines the mission of the council to provide local representation to the National Park Service and report to the county boards of Brown, Cherry, Keya Paha, and Rock counties. The bill changes the membership requirements of the council for three representatives on the council so that they must reside in a county that includes land in the Niobrara Scenic River corridor. These representatives include: 1) the recreational business representative; 2) the timber industry representative; and 3) the recognized, nonprofit, environmental, conservation, or wildlife organization representative.

The bill further encourages the use and enjoyment of the Niobrara River for recreational, fish and wildlife, geological, historical, cultural, or other assets, and encourage continuance of existing agricultural, horticultural, forestry, and open space land and water uses.

Finally, the bill strikes the authority of the council to hold titles to real estate, accept gifts of real estate, or obtain conservation easements in the name of the council.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Noxious Weeds

LB 98 – Extend the termination date for the Riparian Vegetation Management Task Force, Carlson

Hearing Date:

Committee: Agriculture

Bill Status: Committee

Extends the termination date for the Riparian Vegetation Management Task Force from 2009 to 2011. The bill also outlines legislative intent to appropriate \$2 million annually for the next two fiscal years. Finally, the bill makes fully appropriated river basins subject to compacts and decrees the priority for programs rather than just the initial priority when the programs started in 2007.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

LB 582 -- Create the Nebraska Invasive Species Council, Dierks.

Hearing Date:

Committee: Natural Resources

Bill Status: Committee

The bill establishes the Nebraska Invasive Species Council to recommend action to minimize the effects of harmful invasive vegetation in Nebraska. The 14-member council would consist of:

1) The regional director of the Midwest Region of the National Park Service or a designated representative; 2) The Executive Director of the Nebraska Association of Resources Districts or a designated representative; 3) The head of the Nature Conservancy, Nebraska Office, or a designated representative; 4) The Director of Agriculture or a designated representative; 5) The Secretary of the Game and Parks Commission or a designated representative; 6) The director of the Nebraska Forest Service or a designated representative; 7) A representative of the Nebraska Weed Control Association; 8) The Chancellor of the University of Nebraska-Lincoln or a designated representative; 9) The local representative of the Animal and Plant Health Inspection Service of the United States Department of Agriculture or a designated representative; 10) A representative of the Natural Resources Conservation Service of the United States Department of Agriculture or a designated representative; 11) A representative of the United States Geological Survey or a designated representative; 12) The unit leader of the Nebraska Cooperative Fish and Wildlife Research Unit or a designated representative; and 13&14) Two members-at-large appointed by the Governor.

The responsibilities of the council would include: 1) Develop and periodically update a statewide adaptive management plan for invasive vegetation; 2) Serve as a forum for discussion, identification, and understanding of invasive vegetation issues; 3) Facilitate the communication, cooperation, and coordination of local, state, federal, private, and non-governmental entities for the prevention, control, and management of non-native invasive vegetation; 4) Assist with public outreach and awareness of invasive vegetation issues; and 5) Provide information to the Legislature for decision making, planning, and coordination of invasive vegetation management and prevention.

The adaptive management plan will address the following: (1) Statewide coordination and intergovernmental cooperation; (2) Prioritization of invasive species response and management; (3) Early detection and prevention of new invasive species through deliberate or unintentional introduction; (4) Inventory and monitoring of invasive species; (5) Identification of re-vegetation, reclamation, or restoration of native vegetation following control or eradication of invasive vegetation; (6) Identification of research and information gaps; (7) Public outreach and education; (8) Identification of funding and resources available for invasive species prevention, control, and management; and (9) Recommendations for legislation regarding invasive species issues.

The adaptive management plan, submitted to the Governor and the Agriculture Committee of the Legislature, would be updated at least once every three years following its initial development. Prior to the start of the 2012 legislative session, the council shall prepare a report to the Agriculture Committee of the Legislature that makes recommendations as to the extension or modification of the council.

Manager Recommendation: Support with modifications to limit federal agency council membership and to expand definition of invasive species

NARD Legislative Committee Recommendation: Support with modifications to limit federal agency council membership and to expand definition of invasive species

NARD Position: Support with modifications to limit federal agency council membership and to expand definition of invasive species

Solid Waste

LB 56 -- Change the Livestock Waste Management Act, Fischer.

Hearing Date: Jan. 28, 2009
Committee: Natural Resources
Bill Status: Committee

Makes several changes to the permit system including: 1) Changes the standard for small operations to be subject to inspection, construction and operating permit system. Current law requires these to be subject if there has been a discharge to water of the state and the proposal would have it apply only if an intentional or willful intent to discharge occurred. 2) Defines discharge violations to be those discovered after investigation to be caused intentionally or by willful negligence. 3) Establishes that if a permit-holder loses his/her permit for violations on one operation, the revocation does not include any other person who is a relative, partner, member, shareholder, resident, parent company, subsidiary, or other affiliate of the permit holder.

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

LB 180 -- Change provisions relating to the Waste Reduction and Recycling Incentive Fund, Natural Resources Committee.

Hearing Date: Jan. 21, 2009
Committee: Natural Resources
Bill Status: Committee

The proposal would allow grants from the Waste Reduction and Recycling Incentive Fund to be used for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

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

LB 379 -- Extend the scrap tire grant program, Haar.

Hearing Date: Jan. 29, 2009
Committee: Natural Resources
Bill Status: Committee

Extends the grant program for scrap tires from June 30, 2009 to June 30, 2014.

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

LB 644 -- Adopt the Electronics Recycling Act, Mello.

Hearing Date:

Committee: Natural Resources

Bill Status: Committee

The bill creates a recycling program for electronic devices. Electronic device is defined in the bill to mean a computer, video display device, or television. The bill establishes fees on the manufacturer of these devices based upon the volume sold in Nebraska to generate funds for recycling.

The bill also requires manufacturers to develop a plan for recycling and file it with the Department of Environmental Quality. The fund from the fees would be earmarked to award grants for education and information about electronics recycling, infrastructure development, collection, transportation and recycling of electronic devices.

On or before January 31, 2010, and each January 31 thereafter, a manufacturer shall remit to the department the following registration fee based on the number of electronic devices sold in this state by the manufacturer in the previous calendar year: (a) \$1,000 for sales of 500 to 1,000 electronic devices; (b) \$7,500 for sales of 1,000 to 5,000 electronic devices; or (c) \$20,000 for sales of more than 5,000 electronic devices.

The fee would be reduced to the manufacturer or group of manufacturers based on a certain percentage of units recycled to units sold. These reductions would be as follows: 1) 10 to less than 20 percent, a 10% reduction in the fee; 2) 20 to less than 30 percent, a 20% reduction in the fee; or 3) 30 percent or more, a 50% reduction in the fee.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor

Water Quality

LB 504 - Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state, Langemeier.

Hearing Date:

Committee: Natural Resources

Bill Status: Committee

Authorizes the Nebraska Department of Environmental Quality to take over the 404 permit process from the U.S. Army Corps of Engineers.

Manager Recommendation: Support

NARD Legislative Committee Recommendation: Support

NARD Position: Support

Water & Wetlands

NRDF Projects

LB 209 -- Change provisions relating to time for construction of irrigation projects and dams, Langemeier. (NARD Bill – See NARD Policy # 2008-4, pg. 20)

Hearing Date: Jan. 30, 2009
Committee: Natural Resources
Bill Status: Committee

The bill changes the time frame from 6 months to 12 months after the approval of any application for water for irrigation, power, or other useful purpose by the department, to commence the excavation or construction of the project. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction.

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

Groundwater Management and Integrated Water Management

LB 18 – Prohibit irrigation on new school land leases, Christensen.

Bill Status: **Bill withdrawn – No Position Needed**

Upon the expiration of any lease of school lands existing on the effective date of this act, which are in any river basin, sub-basin, or reach that has been designated as fully or overappropriated, any subsequent lease negotiated by the Board of Educational Lands and Funds with respect to such school lands shall contain a condition that such school lands shall not be irrigated for the duration of the lease.

LB 54-- Change integrated management plan provisions under the Nebraska Ground Water Management and Protection Act, Fischer. (See NARD Policy # 2006-7, pg. 21)

Hearing Date: Jan. 28, 2009
Committee: Natural Resources
Bill Status: Committee

In order to provide a process for economic development opportunities and economic sustainability within a basin declared fully appropriated, the bill is creates a process for NRDs and DNR to use for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin. These would include:

- (a) Utilize generally accepted methodologies based on the best available information, data, and science;
- (b) Include a generally accepted methodology to be utilized to estimate depletions and gains to streamflows, which methodology includes location, amount, and time regarding gains to streamflows as offsets to new uses;
- (c) Identify means to be utilized so that new uses will not significantly adversely affect existing surface water users or ground water users;

- (d) Identify procedures the natural resources district and the department will use to report, consult, and otherwise share information on new uses, changes in uses, or other activities affecting water use in the river basin, subbasin, or reach;
- (e) Identify, to the extent feasible, potential water available to mitigate new uses, including, but not limited to, water rights leases, interference agreements, augmentation projects, conjunctive use management, and use retirement;
- (f) Develop, to the extent feasible, an outline of plans in consultation with irrigation districts, public power and irrigation districts, reclamation districts, municipalities, other political subdivisions, and other water users to make water available for offset to enhance and encourage economic development opportunities and economic sustainability in the river basin, subbasin, or reach; and
- (g) Clearly identify procedures that applicants for new uses shall take to apply for approval of a new water use and corresponding offset.

Nothing in this subsection shall require revision or amendment of an integrated management plan approved on or before the effective date of this act.

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

LB 184 -- Authorize Department of Natural Resources to administer riparian water rights, Louden.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

Authorizes the Department of Natural Resources to consider and administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. The court must find that the tract of land in question borders a natural stream, came into private ownership prior to April 4, 1895, and was not separated from the land contiguous to the stream at any time.

The bill also authorizes the department to close surface water appropriations for a riparian right only when the riparian right is used for watering livestock in the streambed. Surface water appropriations for livestock watering shall not be closed. The only surface water appropriations that may be closed for a riparian water right are appropriations held by persons who were parties to the lawsuit validating the riparian water right or appropriations with a priority date subsequent to the date of the court order.

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

LB 482 -- Change provisions of the Nebraska Ground Water Management and Protection Act, Langemeier.

Hearing Date: Jan. 29, 2009
Committee: Natural Resources
Bill Status: Committee

The bill eliminates obsolete language in the act that refers to initial start dates of LB 962 such as "Beginning in 2006", etc. The bill also increases the number of public hearings from "one or more" to "two or more" after a final determination by the department that a river basin, sub-basin, or reach is fully or over appropriated. The purpose for these public hearings is to determine whether the stays on the issuance of new water well permits, on the construction of new water wells, or on increases in ground water irrigated acres should be terminated.

A similar change is made to increase the public hearings from "one or more" to "two or more" relating to controls proposed by the Director of Environmental Quality for a management area for quality purposes. Current law requires these hearings prior to the adoption of controls.

Manager Recommendation: Monitor
NARD Legislative Committee Recommendation: Monitor
NARD Position: Monitor with recommendation to retain language in the act that refers to initial date for determination of over-appropriated basins

LB 483 - Change well moratoriums, Langemeier.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

The bill would require districts in either one of the situations to create and implement a policy for the prioritization and granting of water well permits for the four-year period following such situations. The policy shall include, but need not be limited to, the following:

- i) Water well permits may be issued that will result in no more than 2,500 irrigated acres within a basin, sub-basin, or reach for each calendar year of the four-year period following the date of a determination described above; and
- ii) A district may, after the initial four-year period has expired, annually determine whether water well permit limitations should continue and may enforce such limitations.

Manager Recommendation: Support as written by 17-3 vote
NARD Legislative Committee Recommendation: Support as written
NARD Position: Support as written

Other

LB 42 – Improvements to Rural Water Systems, Flood.

Hearing Date: Jan. 21, 2009
Committee: Natural Resources
Bill Status: Committee

Clarifies that plans for any proposed improvements to rural water systems need to comply with the Nebraska Safe Drinking Water Act and rules/regulations adopted and promulgated by the Department of Health and Human Services under the act.

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

Other Issues

LB 235 -- Provide the Board of Educational Lands and Funds with the power to issue leases relating to solar and wind energy and enter into contracts relating to carbon sequestration rights, Adams.

Hearing Date:
Committee: Education
Bill Status: Committee

Authorizes the board to issue leases solar or wind energy for such durations and under such terms and conditions as the board shall deem appropriate. In making such determinations, the board shall consider comparable arrangements involving other lands similarly situated and any other relevant factors bearing upon such leases.

For the sale of carbon sequestration rights, the board could enter into contracts not to exceed 10 years. The board shall consider comparable arrangements involving other lands similarly situated and any other relevant factors bearing upon such contracts.

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

LB 246 -- Reestablish the Biopower Steering Committee; to provide for a study, Dubas.

Hearing Date: Jan. 30, 2009;
Committee: Natural Resources
Bill Status: Committee

The bill re-establishes the Biopower Steering Committee terminated on December 31, 2008 and extends the term of the committee until December 31, 2012. The new study included in the bill is a study on the current and potential impact of bioindustry in the State of Nebraska and to prepare a strategic plan for developing biotechnology in the Nebraska. The strategic plan shall propose development over a five-year

period and shall include, but not be limited to, the production of valuable products from corn, second generation cellulosic technologies, bioplastics, and advanced biofuels.

The proposal requires the committee to present the study and plan to the Natural Resources Committee of the Legislature on or before December 1, 2010, and to present updates to the plan annually thereafter.

Finally, the bill outlines the intent of the Legislature to appropriate two hundred thousand dollars for fiscal year 2009-10 from the General Fund to the Biopower Development Cash Fund.

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

LB 389 -- Change appointment provisions for the Climate Assessment Response Committee, Carlson.

Hearing Date:
Committee: Agriculture
Bill Status: Committee

The bill eliminates the provision that members appointed by the governor to the Climate Assessment Response Committee be confirmed by the legislature. The bill also makes the chairpersons of the Committee on Agriculture and Natural Resources non-voting, ex-officio members of the committee.

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

LB 565 -- Adopt the Woody Biomass Energy Act, Louden.

Hearing Date:
Committee: Natural Resources
Bill Status: Committee

The bill creates the Woody Biomass Energy Revolving Loan Fund to be administered by the State Energy Office. The fund would be created from a \$2.5 million General Fund appropriation in each of the next two fiscal years.

The fund would be used for loans to convert heating and cooling systems in public buildings from current energy sources to the use of woody biomass. The State Energy Office would adopt and promulgate rules and regulations to carry out the act.

Any agency of state or local government would be eligible to apply to the State Energy Office for a loan from the fund. The Energy Office would be responsible for adopting and promulgating rules and regulations to implement the act.

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

LB 632 -- Adopt the Nebraska Green Building Advantage Act and authorize a sales tax refund, Mello.

Hearing Date:
Committee: Revenue
Bill Status: Committee

The bill adopts the Nebraska Green Building Advantage Act and provides a sales tax credit to those commercial buildings that use the Leadership in Energy and Environmental Design Green Building Rating System (LEED). Commercial building is defined to mean a building that will be or is being used for commercial activities, including retail, medical, distribution, wholesale, manufacturing, or rental property.

The sales tax refund would graduate from 10 to 50 percent as more LEED Standards are incorporated into the building.

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

INSURANCE ISSUES

LB 639 -- Change provisions relating to telephone conferencing for public meetings, Karpisek.

Hearing Date:
Committee: Government, Military and Veteran Affairs
Bill Status: Committee

Makes a change to allow advisory committees of a risk management pool organized under the Intergovernmental Risk Management Act to hold more than half of their meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

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

LB 656 -- Adopt the Health Care Accessibility and Affordability Act, Harms.

Hearing Date:
Committee: Health and Human Services
Bill Status:

Establishes a Health Care Plan Advisory Council to develop recommendations for a comprehensive plan to require all Nebraskans not covered by Medicare to have a basic health insurance plan which includes preventive services, behavioral health care, dental care, and long-term care, which is developed and reviewed periodically by health care professionals and members of the public, and which allows for purchase by employers or individuals.

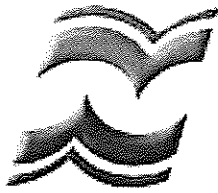
The council would be made up of six persons appointed by the chairperson of the Health and Human Services Committee of the Legislature and six persons appointed by the chairperson of the Banking, Commerce and Insurance Committee of the Legislature. The council shall include, but not be limited to, at least one representative from each of the following classes of persons: Health care providers, health care consumers, and consumer advocates, business representatives, insurers, and elected officials.

The recommendations for the plan would be submitted to the Legislature on or before September 1, 2010.

Manager Recommendation: Monitor

NARD Legislative Committee Recommendation: Monitor

NARD Position: Monitor



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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January 9, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 9 NARD Update

Session Begins -- The Nebraska Legislature convened its 90-day work session on January 7, 2009 and is tentatively scheduled to end on June 4th. Days off for Holidays (H) and Recess (R) are as follows: Jan 19 (H); Feb 13 (R), and 16 (H); March 6 (R), 13 (R), 16 (R), 27 (R), and 30 (R); April 10 (R), 13 (R), and 24 (H); May 1 (R), 4 (R), 15 (R), 22 (R) and 25 (H); June 1 (R). These are dates your senator(s) should be back in the district if you wish to schedule meetings with him or her.

NEW THIS YEAR – FREE NET Live Feeds – Nebraska Educational Telecommunications will be offering live web streaming (both audio and video) of the Unicameral floor, committee hearings, Nebraska Supreme Court, Court of Appeals, and the Governor's hearing room. You can view it at <http://www.netnebraska.org/publicmedia/capitol.html>, and it is free to the public. Simply click on the link, and then you can then select what you want to view. They also provide a schedule of what is showing on the website. They also provide an audio only option.

New Bills -- Introduction of legislative bills occurs in the first ten working days of the session. This is the beginning of a new session so there are no carry over bills from last year. The following are a few new bills of interest for the NRDs introduced in the first few days. Note, no bills were introduced on the first day. For more information on introduced legislation, visit the Nebraska Unicameral web-site at www.nebraskalegislature.gov.

- **LB 12 - Increase NRDF, Langemeier.** Increases the annual general fund appropriation for the Nebraska Resources Development Fund from from \$3,373,066 to \$7,000,000 for FY 2009-10 and 2010-11.
- **LB 54-- Change integrated management plan provisions under the Nebraska Ground Water Management and Protection Act, Fischer.** This bill originated from LB 924 last year and is a product of consultation with ag groups, irrigation districts, DNR and NARD. In order to provide a process for economic development opportunities and economic sustainability within a basin declared fully appropriated, the bill is creates a process for NRDs and DNR to use for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin. These would include:
 - (a) Utilize generally accepted methodologies based on the best available information, data, and science;
 - (b) Include a generally accepted methodology to be utilized to estimate depletions and gains to streamflows, which methodology includes location, amount, and time regarding gains to streamflows as offsets to new uses;
 - (c) Identify means to be utilized so that new uses will not significantly adversely affect existing surface water users or ground water users;
 - (d) Identify procedures the natural resources district and the department will use to report, consult, and otherwise share information on new uses, changes in uses, or other activities affecting water use in the river basin, subbasin, or reach;
 - (e) Identify, to the extent feasible, potential water available to mitigate new uses, including, but not limited to, water rights leases, interference agreements, augmentation projects, conjunctive use management, and use retirement;
 - (f) Develop, to the extent feasible, an outline of plans in consultation with irrigation districts, public power and irrigation districts, reclamation districts, municipalities, other political subdivisions, and other water users to make water available for offset to enhance and encourage economic development opportunities and economic sustainability in the river basin, subbasin, or reach; and
 - (g) Clearly identify procedures that applicants for new uses shall take to apply for approval of a new water use and corresponding offset.Nothing in this subsection shall require revision or amendment of an integrated management plan approved on or before the effective date of this act.
- **LB 98 – Extend the termination date for the Riparian Vegetation Management Task Force, Carlson.** Extends the termination date for the Riparian Vegetation Management Task Force from June 30, 2009 to June 30, 2011. The bill also outlines legislative intent to appropriate \$2 million annually for the next two fiscal years. Finally, the bill makes fully appropriated river basins which are subject to compacts and decrees the priority for riparian vegetation management programs rather than just the initial priority when the programs started in 2007.

- **LB 134 – Limit NRD Eminent Domain, Pankonin.** Prohibits the NRDs use of eminent domain for development or management of recreational trails unless they are associated with a flood control structure.

Committees – The first day of the session included the election of the Speaker, committee chairs and committee assignments. In the Speaker race, Senator Mike Flood won uncontested. In contested committee chair races: Senator John Wrightman defeated Senator Arnie Stuthman 33-16 for Chair of the Executive Board; Senator John Nelson defeated Amanda McGill for Vice-Chairperson 33-15; Senator Chris Langemeier defeated Senator LeRoy Loudon 36-13 for Natural Resources; Senator Tom Carlson defeated Senator Annette Dubas 29-20 for Agriculture. Senator Bill Avery defeated Senator Kent Rogert 28-20 for Military and Veterans Affairs. Other committee chair slots were not contested. The Standing Committee chairs and assignments are as follows:

Agriculture Committee. Meets: Tuesdays in Room 2102. **Chairperson:** Senator Tom Carlson. **Members:** Sens. Brenda Council, M.L. Dierks, Annette Dubas, Russ Karpisek, Scott Price, Ken Schilz, and Norman Wallman.

Appropriations Committee Meets: Mondays and Tuesdays in Room 1524; Wed., Thurs. and Fridays in Room 1003. **Chairperson:** Senator Lavon Heidemann. **Members:** Sens., Tony Fulton, Tom Hansen, John Harms, Heath Mello, Danielle Nantkes, John Nelson, Jeremy Nordquist, and John Wightman.

Banking Committee. Meets: Mondays and Tuesdays in Room 1507. **Chairperson:** Senator Rich Pahls. **Members:** Sens. Mark Christensen, Mike Gloor, Chris Langemeier, Beau McCoy, Dave Pankonin, Pete Pirsch, and Dennis Utter.

Business & Labor Committee. Meets: Mondays in Room 2102. **Chairperson:** Senator Steve Lathrop. **Members:** Sens. Tom Carlson, Brenda Council, Amanda McGill, Ken Schilz, Norman Wallman, and Tom White

Education Committee. Meets: Mondays and Tuesdays in Room 1525. **Chairperson:** Senator Greg Adams. **Members:** Sens. Brad Ashford, Bill Avery, Abbie Cornett, Robert Giese, Ken Haar, Gwen Howard, and Kate Sullivan.

General Affairs Committee. Meets: Mondays in Room 1510. **Chairperson:** Senator Russ Karpisek. **Members:** Sens. Colby Coash, Tanya Cook, M.L. Dierks, Annette Dubas, Mike Friend, Scott Price, and Kent Rogert.

Government, Military & Veterans Affairs Committee. Meets: Wednesdays, Thursdays and Fridays in Room 1507. **Chairperson:** Senator Bill Avery. **Members:** Sens. Robert Giese, Charlie Janssen, Russ Karpisek, Rich Pahls, Pete Pirsch, Scott Price, and Kate Sullivan.

Health and Human Services Committee. Meets: Wednesdays, Thursdays and Fridays in Room 1510. **Chairperson:** Senator Tim Gay. **Members:** Sens. Kathy Campbell, Mike Gloor, Gwen Howard, Dave Pankonin, Arnie Stuthman, and Norm Wallman.

Judiciary Committee. Meets: Wednesdays, Thursdays and Fridays in Room 1113
Chairperson: Senator Brad Ashford. **Members:** Sens. Mark Christensen, Colby Coash, Brenda Council, Steve Lathrop, Scott Lautenbaugh, Amanda McGill, and Kent Rogert.

Natural Resources Committee. Meets: Wednesdays, Thursdays and Fridays in Room 1525
Chairperson: Senator Chris Langemeier. **Members:** Sens. Tom Carlson, Tanya Cook, Annette Dubas, Debra Fischer, Ken Haar, Beau McCoy, and Ken Schilz.

Nebraska Retirement Systems Committee. Meets: At the call of the chairperson in Room 1525
Chairperson - Senator Dave Pankonin. **Members:** Sens. Lavon Heidemann, Russ Karpisek, LeRoy Loudon, Heath Mello, and Jeremy Nordquist.

Revenue Committee. Meets: Wednesdays, Thursdays and Fridays in Room 1524
Chairperson: Senator Abbie Cornett. **Members:** Sens. Greg Adams, M.L. Dierks, Mike Friend, Galen Hadley, LeRoy Loudon, Dennis Utter, and Tom White

Transportation Committee. Meets: Mondays and Tuesdays in Room 1113. **Chairperson:** Senator Debra Fischer. **Members:** Sens. Kathy Campbell, Tim Gay, Galen Hadley, Charlie Janssen, Scott Lautenbaugh, LeRoy Loudon, and Arnie Stuthman

Urban Affairs Committee. Meets: Tuesdays in Room 1510. **Chairperson:** Senator Mike Friend. **Members:** Sens. Colby Coash, Tanya Cook, Steve Lathrop, Amanda McGill, Kent Rogert, and Tom White.



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January 16, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 16 NARD Update

Governor's State of the State Address -- Gov. Dave Heineman delivered his State of the State address to the Nebraska Legislature on Wednesday focusing on four priorities: No tax increases, providing additional funding for K-12 and higher education, preserving services for vulnerable Nebraskans, and maintaining a strong cash reserve fund.

One of the changes in the budget for agencies is to allow some programs to keep the unexpended balances they have at the end of the fiscal year. The previous practice had been to capture and redirect the saved funds and reduce the appropriation by similar amount in the next fiscal year. The approach attempts to encourage agencies to "save it and keep it" rather than the past practice of "spend it or lose it."

Hearings Next Week -- The following are bills of interest up for hearings next week.

Wednesday, Jan 21, Natural Resources

LB 42 -- Improvements to Rural Water Systems, Flood. Clarifies that plans for any proposed improvements to rural water systems need to comply with the Nebraska Safe Drinking Water Act and rules/regulations adopted and promulgated by the Department of Health and Human Services under the act.

LB 43 -- Eliminate the Department of Natural Resources Interstate Water Rights Cash Fund, Flood. Repeals a fund that was used exclusively for the payment of expenses directly related to interstate water rights litigation. Language in that section of statute specifically called for the fund to terminate on June 30, 2003.

LB 179 -- Change project limit adjustments under the Nebraska Resources Development Fund, Natural Resources Committee. Current law established a cap of \$10 million for any individual project from the NRDF. The law also requires the fund to be adjusted each year by an amount equal to the average percentage change in a readily available construction cost index for the prior three years. The proposed change would update the adjustments for each year starting July 1, 1993.

LB 180 -- Change provisions relating to the Waste Reduction and Recycling Incentive Fund, Natural Resources Committee. The proposal would allow grants from the Waste Reduction and Recycling Incentive Fund to be used for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

Friday, Jan 23, Natural Resources

LB 134 -- Limit NRD Eminent Domain, Pankonin. Prohibits the NRD's use of eminent domain for development or management of recreational trails unless they are associated with a flood control structure.

LB 160 -- Bond Authority for PMRNRD, Gay. Authorizes the PMRNRD to issue bonds to pay costs of design, rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management within the natural resources district issuing such bonds, including flood control and water quality.

New bills introduced this week

LB 162 -- Change provisions relating to contractor registration and income tax withholding, Carlson. The bill specifically eliminates the exemption for contractors involved in the construction of water wells or installation of septic

systems and makes them subject to the Contractor Registration Act. The bill also expands the definition of contractor to include:

An individual, firm, partnership, limited liability company, corporation, or other association of persons engaged in the business of the construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, water wells, pipelines, transmission and power lines, and every other type of structure, project, development, or improvement within the definition of real property and personal property, including such construction, repairing, or alteration of such property to be held either for sale or rental.

Withholding requirements would apply to work done over \$600.

LB 179 -- Change project limit adjustments under the Nebraska Resources Development Fund, Natural Resources Committee. Current law established a cap of \$10 million for any individual project from the NRDF. The law also requires the fund to be adjusted each year by an amount equal to the average percentage change in a readily available construction cost index for the prior three years. The proposed change would update the adjustments for each year starting July 1, 1993.

LB 180 -- Change provisions relating to the Waste Reduction and Recycling Incentive Fund, Natural Resources Committee. The proposal would allow grants from the Waste Reduction and Recycling Incentive Fund to be used for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

LB 184 -- Authorize Department of Natural Resources to administer riparian water rights, Louden. Authorizes the Department of Natural Resources to consider and administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. The court must find that the tract of land in question borders a natural stream, came into private ownership prior to April 4, 1895, and was not separated from the land contiguous to the stream at any time.

The bill also authorizes the department to close surface water appropriations for a riparian right only when the riparian right is used for watering livestock in the streambed. Surface water appropriations for livestock watering shall not be closed. The only surface water appropriations that may be closed for a riparian water right are appropriations held by persons who were parties to the lawsuit validating the riparian water right or appropriations with a priority date subsequent to the date of the court order.

LB 209 -- Change provisions relating to time for construction of irrigation projects and dams, Langemeier (NARD Bill). The bill changes the time frame from 6 months to 12 months after the approval of any application for water for irrigation, power, or other useful purpose by the department, to commence the excavation or construction of the project. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction.

LB 210 -- Change provisions relating to aid to natural resources districts, Langemeier (NARD Bill). Changes the state aid formula for natural resources districts so that the amount of property tax levied by the district shall not include the property tax levied to principal or interest on bonds. State aid to NRDs are calculated on the ratio of property taxes levied by a district compared to the total property taxes levied by all districts

LB 218 -- Change, eliminate, and provide state aid to various political subdivisions, Cornett. The bill primarily makes changes to aid for counties by incorporating changes relating to jail standards and reimbursements for incarceration of prisoners. The bill also strikes language in statute relating to the outdated specific amount to be appropriated to counties and NRDs. However, the appropriations committee has not followed those amounts for several years. This may just be a bill to watch.

LB 235 -- Provide the Board of Educational Lands and Funds with the power to issue leases relating to solar and wind energy and enter into contracts relating to carbon sequestration rights, Adams. Authorizes the board to issue leases solar or wind energy for such durations and under such terms and conditions as the board shall deem appropriate. In

making such determinations, the board shall consider comparable arrangements involving other lands similarly situated and any other relevant factors bearing upon such leases.

For the sale of carbon sequestration rights, the board could enter into contracts not to exceed 10 years. The board shall consider comparable arrangements involving other lands similarly situated and any other relevant factors bearing upon such contracts.

LB 246 -- Reestablish the Biopower Steering Committee and to provide for a study, Dubas. The bill re-establishes the Biopower Steering Committee terminated on December 31, 2008 and extends the term of the committee until December 31, 2012. The new study included in the bill is a study on the current and potential impact of bioindustry in the State of Nebraska and to prepare a strategic plan for developing biotechnology in the Nebraska. The strategic plan shall propose development over a five-year period and shall include, but not be limited to, the production of valuable products from corn, second generation cellulosic technologies, bioplastics, and advanced biofuels.

The proposal requires the committee to present the study and plan to the Natural Resources Committee of the Legislature on or before December 1, 2010, and to present updates to the plan annually thereafter.

Finally, the bill outlines the intent of the Legislature to appropriate two hundred thousand dollars for fiscal year 2009-10 from the General Fund to the Biopower Development Cash Fund.

LB 263 - Provide that state law pre-empts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act, Rogert. The bill proposes that the Nebraska Seed Law and any rules and regulations adopted under the act shall supersede and preempt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of seeds. No political subdivision would be able to prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of seeds based upon the type, nature, or genetic makeup of such seeds.

The bill outlines that the Nebraska Commercial Fertilizer and Soil Conditioner Act and any rules and regulations adopted and promulgated thereunder shall supersede and pre-empt any ordinance, rule, regulation, or resolution enacted by any political subdivision of the state regarding the regulation of fertilizer and soil conditioners. No political subdivision would be able to prohibit or in any other manner regulate any matter relating to the registration, labeling, or sale of fertilizer and soil conditioners. No political subdivision shall prohibit or in any other manner regulate any matter relating to the storage, transportation, distribution, notification of use, or use that are in addition to or in conflict with the Nebraska Fertilizer and Soil Conditioner Act and any rules and regulations adopted under the act.

Regarding the fertilizer and soil conditioners, the bill outlines that nothing in this proposal shall be construed to pre-empt or otherwise limit the authority of any city or county to adopt and enforce zoning regulations.

LB 286 --Change the distribution of lottery funds, General Affairs Committee. The bill proposes to change the way lottery proceeds are transferred from the State Lottery Operation Trust Fund to the Education Innovation Fund, the Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund, the Nebraska State Fair Board, and the Compulsive Gamblers Assistance Fund.

Current law starting July 1, 2009 would require the transfer of at least 25 percent of the dollar amount of the lottery tickets which have been sold on an annualized basis.

The proposal would transfer the greater of (a) the dollar amount transferred to the funds in fiscal year 2002-03 or (b) any amount which constitutes at least 22 percent and no more than 25 percent of the dollar amount of the lottery tickets which have been sold on an annualized basis.

To the extent that funds are available, language is also added for the Tax Commissioner to authorize a transfer exceeding 25 percent of the dollar amount of the lottery tickets sold on an annualized basis.

LB 289 -- Appropriate funds to the Game and Parks Commission, Christensen. Appropriates \$55,554.25 from the General Fund for FY 2008-09 to the Game and Parks Commission, to match federal dollars for the repair of flood damage done to the dam at Champion Mill State Historical Park.

LB 304 – Change limitation of action provisions under the Political Subdivisions Tort Claims Act, Council. Extends the time frame in which to file a claim against an employee of a political subdivision or against a political subdivision permitted under the Political Subdivisions Tort Claims Act from one year to two years.

LB 315 – Mainline appropriations for state government operations. Speaker Flood on behalf of the Governor. The following are items of interest relating to natural resources.

AGENCY NO. 11 — ATTORNEY GENERAL

Program No. 496 - Interstate Water Litigation

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	1,000,000	-0-
PROGRAM TOTAL	1,000,000	-0-

AGENCY NO. 12 — STATE TREASURER

Program No. 119 - Aid to Natural Resources Districts

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	1,545,502	1,545,502
PROGRAM TOTAL	1,545,502	1,545,502

AGENCY NO. 29 — DEPARTMENT OF NATURAL RESOURCES

Program No. 303 - State Aid - Small Watersheds

	<u>FY2009-10</u>	<u>FY2010-11</u>
CASH FUND	500,000	500,000
PROGRAM TOTAL	500,000	500,000

Program No. 304 - Nebraska Soil and Water Conservation Fund

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	2,688,454	2,688,454
CASH FUND	405,000	405,000
PROGRAM TOTAL	3,093,454	3,093,454

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

Program No. 306 - Water Well Decommissioning

	<u>FY2009-10</u>	<u>FY2010-11</u>
CASH FUND	240,840	240,840
PROGRAM TOTAL	240,840	240,840

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

Program No. 307 - Nebraska Resources Development Fund

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	3,373,066	3,373,066
CASH FUND	50,000	50,000
PROGRAM TOTAL	3,423,066	3,423,066

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

The bill also provides direction for the use of the funds as follows: 1) Appropriation to this program for state aid shall first be utilized for projects which have been allocated funds but for which only a portion of the allocation has been actually obligated. 2) The total amount of funds allocated for projects less the amounts obligated for such projects shall not exceed \$18,500,000.

The definitions of the terms allocated and obligated shall be based on the terminology utilized by the Department of Natural Resources in the Nebraska Resources Development Fund Status Report.

Program No. 309 - Natural Resources Water Quality Fund

	<u>FY2009-10</u>	<u>FY2010-11</u>
CASH FUND	1,250,000	1,250,000
PROGRAM TOTAL	1,250,000	1,250,000

Notwithstanding other provisions of this bill, all appropriations within this program existing on June 30, 2009, in excess of expended or encumbered amounts are hereby lapsed.

Program No. 311 - Interrelated Water Management Plan Program

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	2,412,854	2,412,854
PROGRAM TOTAL	2,412,854	2,412,854

Re-appropriates the unexpended General Fund balance existing on June 30, 2009.

Program No. 334 - Soil and Water Conservation, General Operation

	<u>FY2009-10</u>	<u>FY2010-11</u>
GENERAL FUND	9,417,678	9,417,678
CASH FUND	3,499,475	3,500,729
Estimated FEDERAL FUND	513,046	522,846
PROGRAM TOTAL	13,430,199	13,441,253
SALARY LIMIT	5,593,370	5,718,503

Re-appropriates the unexpended General Fund balance allocated in budget subprograms 19 (integrated management), 20 (Water Resources Cash Fund), and 21 (Interstate Compacts) of Program 334 existing on June 30, 2009.

LB 316 - Budget cash fund transfers. Speaker Flood on behalf of the Governor. The bill makes several transfers from the general fund and cash reserve fund for several programs. For natural resources programs the bill transfers \$2,700,000 from the General Fund to the Water Resources Cash Fund for Fiscal Years 09-10 and 10-11.

LB 336 -- Exempt municipal water from sales tax, Friend. The bill exempts water supplied by a municipal water supplier from sales tax.

LB 361 -- Change roll call provisions under the Open Meetings Act, Avery. Current law requires that the vote on any question or motion moved and seconded to be on a roll call vote in an open session. There is a provision to allow a municipality to satisfy this requirement by voice vote if an electronic voting device is used and can be viewed by the public. The bill proposes to add a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to the list that can utilize an electronic voting devices.

LB 362 -- Change requirements for candidate filing forms, Avery. The bill adds the following requirements to all candidate filing forms: 1) The candidate's name; 2) residence address; 3) mailing address if different from the residence address; 4) telephone number; 5) office sought; and 6) party affiliation if the office sought is a partisan office.

LB 379 -- Extend the scrap tire grant program, Haar. Extends the grant program for scrap tires from June 30, 2009 to June 30, 2014.

LB 389 -- Change appointment provisions for the Climate Assessment Response Committee, Carlson. The bill eliminates the provision that members appointed by the governor to the Climate Assessment Response Committee be confirmed by the legislature. The bill also makes the chairpersons of the Committee on Agriculture and Natural Resources non-voting, ex-officio members of the committee.

NARD Bill Summary Tracking Sheet

Last Updated: 01/16/09

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Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments
LB 12	Increase NRDF	Langemeier			Appropriations		Committee	
LB 18	Prohibit irrigation on new school land leases	Christensen			Natural Resources		Committee	
LB 42	Improvements to Rural Water Systems	Flood			Natural Resources	1/21/2009	Committee	
LB 43	Eliminate Interstate Water Rights Fund	Flood			Natural Resources	1/21/2009	Committee	
LB 54	Integrated Water Management Procedures	Fischer			Natural Resources		Committee	
LB 56	Modify Livestock Waste Management	Fischer			Natural Resources		Committee	
LB 98	Extend Riparian Vegetation Management	Carlson			Agriculture		Committee	
LB 134	Limit NRD Eminent Domain Authorities	Pankonin			Natural Resources	1/23/2009	Committee	
LB 160	Bond Authority for PMNRD	Gay			Natural Resources	1/23/2009	Committee	
LB 162	Change provisions relating to contractor registration and income tax withholding	Carlson			Revenue		Committee	
LB 179	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee			Natural Resources	1/21/2009	Committee	
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee			Natural Resources		Committee	
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden			Natural Resources	1/21/2009	Committee	
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier			Natural Resources		Committee	
LB 210	Change provisions relating to aid to natural resources districts	Langemeier			Revenue		Committee	
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornell			Revenue		Committee	
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams			Education		Committee	
LB 246	Reestablish the Bipower Steering Committee; to provide for a study	Dubas			Natural Resources		Committee	
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert General Affairs Committee			Agriculture General Affairs Committee		Committee	
LB 286	Change the distribution of lottery funds	Christensen			Appropriations		Committee	
LB 289	Appropriate funds to the Game and Parks Commission	Council			Judiciary		Committee	
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Speaker Flood on behalf of the Governor			Appropriations		Committee	
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor			Appropriations		Committee	
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor			Appropriations		Committee	
LB 336	Exempt municipal water from sales tax	Friend			Revenue		Committee	
LB 361	Change roll call provisions under the Open Meetings Act	Avery			Not Referenced			
LB 362	Change requirements for candidate filing forms	Avery			Not Referenced			
LB 379	Extend the scrap tire grant program	Haar			Not Referenced			
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson			Not Referenced			



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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January 23, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 23 NARD Update

Nebraska Unicameral Floor Action

LB 18 -- Prohibit irrigation on new school land leases -- Sen. Mark Christensen filed a motion to withdraw LB 18 which prevailed. The bill would have prohibited irrigation on state school lands in fully appropriated basins when new leases are negotiated. Senator Christensen was the sponsor of the bill.

Hearings Next Week -- The following are bills of interest up for hearings next week.

Wednesday, Jan 28, Natural Resources

LB 54 – Change integrated management plan provisions under the Nebraska Ground Water Management and Protection Act, Fischer. This bill originated from LB 924 last year and is a product of consultation with ag groups, irrigation districts, DNR and NARD. In order to provide a process for economic development opportunities and economic sustainability within a basin declared fully appropriated, the bill creates a process for NRDs and DNR to use for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin.

LB 56 – Change the Livestock Waste Management Act, Fischer. Makes several changes to the livestock waste permit system including, but not limited to: 1) Changes the standard for small operations to be subject to inspection, construction permit and operating permit would apply only if an intentional or willful intent to discharge occurred; 2) defines discharge violations to be those discovered after investigation to be caused intentionally or by willful negligence; and 3) proposes to count those violations on a per facility basis, rather than the current per operator basis.

LB 184 – Authorize Department of Natural Resources to administer riparian water rights, Louden. Authorizes the Department of Natural Resources to consider and administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. The court must find that the tract of land in question borders a natural stream, came into private ownership prior to April 4, 1895, and was not separated from the land contiguous to the stream at any time.

LB 218 – Change, eliminate, and provide state aid to various political subdivisions, Cornett. The bill primarily makes changes to aid to counties by incorporating changes relating to jail standards and reimbursements for incarceration of prisoners. The bill also strikes language in statute relating to the outdated specific amount to be appropriated to counties and NRDs. However, the appropriations committee has not followed those amounts for several years. This may just be a bill to watch.

Thursday, Jan 29, Natural Resources

LB 379 – Extend the scrap tire grant program, Haar. Extends the grant program for scrap tires from June 30, 2009 to June 30, 2014.

LB 482 – Change provisions of the Nebraska Ground Water Management and Protection Act, Langemeier. The bill eliminates obsolete language in the act that refers to initial start dates of LB 962 such as “Beginning in 2006”, etc. The bill also increases the number of public hearings from “one or more” to “two or more” after a final determination by the department that a river basin, sub-basin, or reach is fully or over appropriated. The purpose for these public hearings is to determine whether the stays on the issuance of new water well permits, on the construction of new water wells, or on increases in ground water irrigated acres should be terminated.

LB 483 – Change well moratoriums, Langemeier. The bill changes the planning process for NRDs to allow limited growth when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

Friday, Jan 30, Natural Resources

LB 209 – Change provisions relating to time for construction of irrigation projects and dams, Langemeier. (NARD Bill) The bill changes the time frame from 6 months to 12 months after the approval of any application for water for irrigation, power, or other useful purpose by the department, the person making such application shall commence the excavation or construction of the project. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction.

LB 246 – Reestablish the Biopower Steering Committee; to provide for a study, Dubas. The bill re-establishes the Biopower Steering Committee terminated on December 31, 2008 and extends the term of the committee until December 31, 2012. The new study included in the bill is a study on the current and potential impact of bioindustry in the State of Nebraska and to prepare a strategic plan for developing biotechnology in the Nebraska.

NEW BILLS

The Legislature concluded introduction of bills on Wednesday, January 21st. The following bills were introduced this week.

LB 438 -- Prohibits instream appropriations in fully or overappropriated areas, Fischer. The bill prohibits the Director of Natural Resources from approving an instream flow appropriation in a river basin, subbasin, or reach that has been determined or designated by the department to be fully appropriated or overappropriated. Current law already prohibits new appropriations of water in such areas.

LB 466 -- Eliminate an excise tax on corn and grain sorghum, Wallman. The bill eliminates the corn and grain sorghum check-off that is scheduled to go into the Water Resources Cash Fund for FY's 2012-13 through 2018-2019 and replaced it with a \$10 million annual General Fund appropriation.

LB 477 -- Change provisions relating to water transfer permits, Carlson. The bill changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill also clarifies in law that districts can certify irrigated acres and other beneficial uses of water. The bill then requires that participation in any financial incentive program and/or any transfer of certified acres or uses, include similar evidence of the lien holder's agreement to allow the transfer.

In the case of certified uses of groundwater, the person seeking such transfer or participation in such program would have to submit to the district a report of title issued by an attorney or a licensed abstractor, on a form prescribed by the DNR. If the transfer is approved, an instrument of transfer of water rights shall be recorded by a natural resources district with the register of deeds in each county in which is situated the real estate, or any part thereof, from which a transfer of certified water uses or certified irrigated acres occurred.

In the case of surface water transfers approved by the department or any groundwater transfer permits issued by the department, the application for such approval shall be accompanied by a report of title issued by an attorney or a licensed abstractor, on a form prescribed by the department, similar to the requirement for issues before NRDs. However, filing an instrument of transfer of water rights would not be required.

LB 482 -- Change provisions of the Nebraska Ground Water Management and Protection Act, Langemeier. The bill eliminates obsolete language in the act that refers to initial start dates of LB 962 such as "Beginning in 2006", etc. The bill also increases the number of public hearings from "one or more" to "two or more" after a final determination by the department that a river basin, sub-basin, or reach is fully or over appropriated. The purpose for these public hearings is to determine whether the stays on the issuance of new water well permits, on the construction of new water wells, or on increases in ground water irrigated acres should be terminated.

A similar change is made to increase the public hearings from “one or more” to “two or more” relating to controls proposed by the Director of Environmental Quality for a management area for quality purposes. Current law requires these hearings prior to the adoption of controls.

LB 483 - Change well moratoriums, Langemeier. The bill changes the planning process for NRDs when a determination is made that the district is not fully appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully appropriated but a final determination finds that it is not fully appropriated.

The bill would require districts in either one of the situations to create and implement a policy for the prioritization and granting of water well permits for the four-year period following such situations. The policy shall include, but need not be limited to, the following:

- i) Water well permits may be issued that will result in no more than 2,500 irrigated acres within a basin, sub-basin, or reach for each calendar year of the four-year period following the date of a determination described above; and
- ii) A district may, after the initial four-year period has expired, annually determine whether water well permit limitations should continue and may enforce such limitations.

LB 504 - Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state, Langemeier. Authorizes the Nebraska Department of Environmental Quality to take over the 404 permit process from the U.S. Army Corps of Engineers.

LB 520 - Provide for an income tax credit for perpetual conservation easement donations, Hadley. The bill allows for a refundable income tax credit to a taxpayer who donates all or part of the value of a perpetual conservation easement upon real property the taxpayer owns to the state, to a political subdivision of the state, or to a charitable organization.

The income tax credit would be an amount equal to 15% of the appraised value of the donated portion of the perpetual conservation easement, not to exceed \$50,000 per tax year or a total of \$250,000 over five years. A taxpayer would be limited to claim the income tax credit on only one conservation easement per taxable year.

The Department of Agriculture would have oversight and would approve qualifying conservation easements by November 1 each year. The department shall not approve applications for tax credits which would total more than 5 million dollars for any one year. If qualified applications would result in tax credits totaling more than 5 million dollars in the year, including qualifying carryover credits from previous years, the department shall prioritize qualifying applications.

LB 535 -- Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts, Stuthman. The bill increases from 3 to 15 members appointed by the Governor to the Natural Resources Commission. The additional 12 appointments would be representatives of the business community.

The bill also requires that all programs and projects of natural resources districts shall first be shown to be wanted by a majority of the residents of the watershed. If the residents approve, then surveys may be used for general programs or projects to determine potential utilization of the program or project. Any surveys used shall be consistent with state and federal agency statistics and shall not include the same population areas to justify more than one of the same kind of project in a 50-year period of time. All projects shall be bid in total, not by part, and all expenses shall be included when determining a rate of return for a project.

Finally, the bill prohibits the NRD use of eminent domain powers until all other requirements for a dam or any other improvement project have been complied with.

LB 565 -- Adopt the Woody Biomass Energy Act, Louden. The bill creates the Woody Biomass Energy Revolving Loan Fund to be administered by the State Energy Office. The fund would be created from a \$2.5 million General Fund appropriation in each of the next two fiscal years.

The fund would be used for loans to convert heating and cooling systems in public buildings from current energy sources to the use of woody biomass. The State Energy Office would adopt and promulgate rules and regulations to carry out the act.

Any agency of state or local government would be eligible to apply to the State Energy Office for a loan from the fund. The Energy Office would be responsible for adopting and promulgating rules and regulations to implement the act.

LB 577 – Change provisions relating to improvement project areas of natural resources districts, Rogert. The bill limits the power or authority of NRDs to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid relates to real property taken by the district through the use of eminent domain.

The bill also makes major changes to the improvement project statutes to limit the district’s ability to utilize the act for improvement projects. Specifically, the bill would prohibit the authority for 1) development and management of fish and wildlife habitat and 2) development and management of recreational and park facilities.

The bill strikes all existing law relating to benefits, benefit areas, benefit units, special benefits, geographic areas, etc., under the program and creates new definitions for such. The bill also requires for districts that encompass a metropolitan class, owners of land outside the benefit area would have to approve of a project if they felt they may be impacted.

The bill further prohibits a project and any cooperation, agreement or financial aid with any person, company, firm, corporation, or other entity that owns land within the proposed improvement project area at the time the project is proposed if they have owned the land for less than ten years.

Finally, the bill limits the total bonding authority for a project to no more than 12 percent of the taxable value of the property.

LB 581 -- Change disposition of funds from Pesticide Act fees and weed book sales, Carlson. The bill makes changes to the distribution of pesticide fees to increase funding to the noxious weed program. The bill shifts \$10 per product from the Buffer Strip Program to the Noxious Weed Program as shown in the chart below

Pesticide Product Registration Fee

	Specialty (5700 Products)		Non-Specialty (5,490 Products)	
	Current Fee	Proposed	Current Fee	Proposed
Pesticide Act Administration	\$70	\$70	\$0	\$0
Noxious Weed Regulatory	\$30	\$40	\$30	\$40
Buffer Strip Program	\$60	\$50	\$60	\$50
Water Resources Fund	\$0	\$0	\$110	\$110
Total	\$160	\$160	\$200	\$200

The bill also transfers \$100,000 from the Buffer Strip Program to the Noxious Weed Program in FY 09-10 for a contract between the Department of Ag and UNL for water conservation research.

LB 582 -- Create the Nebraska Invasive Species Council, Dierks. The bill establishes the Nebraska Invasive Species Council to recommend action to minimize the effects of harmful invasive vegetation in Nebraska.

The 14-member council would consist of:

- 1) The regional director of the Midwest Region of the National Park Service or a designated representative;
- 2) The Executive Director of the Nebraska Association of Resources Districts or a designated representative;
- 3) The head of the Nature Conservancy, Nebraska Office, or a designated representative;
- 4) The Director of Agriculture or a designated representative;
- 5) The Secretary of the Game and Parks Commission or a designated representative;
- 6) The director of the Nebraska Forest Service or a designated representative;
- 7) A representative of the Nebraska Weed Control Association;
- 8) The Chancellor of the University of Nebraska-Lincoln or a designated representative;
- 9) The local representative of the

Animal and Plant Health Inspection Service of the United States Department of Agriculture or a designated representative; 10) A representative of the Natural Resources Conservation Service of the United States Department of Agriculture or a designated representative; 11) A representative of the United States Geological Survey or a designated representative; 12) The unit leader of the Nebraska Cooperative Fish and Wildlife Research Unit or a designated representative; and 13&14) Two members-at-large appointed by the Governor.

The responsibilities of the council would include: 1) Develop and periodically update a statewide adaptive management plan for invasive vegetation; 2) Serve as a forum for discussion, identification, and understanding of invasive vegetation issues; 3) Facilitate the communication, cooperation, and coordination of local, state, federal, private, and non-governmental entities for the prevention, control, and management of non-native invasive vegetation; 4) Assist with public outreach and awareness of invasive vegetation issues; and 5) Provide information to the Legislature for decision making, planning, and coordination of invasive vegetation management and prevention.

The adaptive management plan will address the following: (1) Statewide coordination and intergovernmental cooperation; (2) Prioritization of invasive species response and management; (3) Early detection and prevention of new invasive species through deliberate or unintentional introduction; (4) Inventory and monitoring of invasive species; (5) Identification of re-vegetation, reclamation, or restoration of native vegetation following control or eradication of invasive vegetation; (6) Identification of research and information gaps; (7) Public outreach and education; (8) Identification of funding and resources available for invasive species prevention, control, and management; and (9) Recommendations for legislation regarding invasive species issues.

The adaptive management plan, submitted to the Governor and the Agriculture Committee of the Legislature, would be updated at least once every three years following its initial development. Prior to the start of the 2012 legislative session, the council shall prepare a report to the Agriculture Committee of the Legislature that makes recommendations as to the extension or modification of the council.

LB 624 -- Provide for energy efficiency loans for public buildings, Haar. The bill creates the Public Building Energy Efficiency Fund for use by any political subdivision for a public building energy efficiency loan.

Loans received pursuant to this section shall be used only for energy-efficiency projects approved by the State Energy Office at the time the loan is approved. Energy-efficiency projects may include building and equipment improvements. Building and equipment improvements include, but are not limited to, lighting, heating, ventilation and air conditioning, windows, insulation, and energy control or management systems.

The State Energy Office shall compile records of all loan applications and the amount of energy and financial savings resulting from approved loans. Loans would be distributed geographically throughout the state to the extent possible.

LB 626 -- Change prohibited activities for public officials and public employee's use of public resources, Karpisek. The bill makes several changes and clarifications regarding incidental use of governmental property by governmental employees. First, the bill outlines that use of public resources by a public official or public employee which is incidental, de minimis, or unintentional shall not constitute a violation of the Nebraska Political Accountability and Disclosure Act.

Second, the bill proposes that an employment contract, a collective-bargaining agreement, or a written agreement or policy with a provision regarding the use of personnel, resources, or property which is approved by a government body shall be exempt from the Nebraska Political Accountability and Disclosure Act.

Third, and unless otherwise provided by an employment contract, a collective-bargaining agreement, or a written agreement or policy approved by a government body, a public official or public employee may use a telecommunication system or computer under the control of a government body for email, a text message, a local call, or a long-distance call to a child at home, a teacher, a doctor, a day care center, a baby-sitter, or a family member to inform any such person of an unexpected schedule change or for other essential personal business. Any such communication shall be kept to a minimum and shall not interfere with the conduct of public business. Any such communication made by way of a long-distance call shall be made by collect call, charged to a personal credit card, or charged to a third-party number which does not belong to a government body.

Fourth, the bill allows public employees to respond to specific inquiries by the press or the public as to his or her opinion regarding a ballot question or providing information in response to a request for information. It also allows public officials or public employees under the direct supervision of a public official to make use of public resources in expressing his or her opinion regarding a candidate or a ballot question or to communicate that opinion. These authorities are currently extended to members of the Legislature.

Finally, the bill outlines that nothing shall prohibit a public official or public employee from identifying himself or herself by his or her official title.

LB 632 -- Adopt the Nebraska Green Building Advantage Act and authorize a sales tax refund, Mello. The bill adopts the Nebraska Green Building Advantage Act and provides a sales tax credit to those commercial buildings that use the Leadership in Energy and Environmental Design Green Building Rating System (LEED). Commercial building is defined to mean a building that will be or is being used for commercial activities, including retail, medical, distribution, wholesale, manufacturing, or rental property.

The sales tax refund would graduate from 10 to 50 percent as more LEED Standards are incorporated into the building.

LB 639 -- Change provisions relating to telephone conferencing for public meetings, Karpisek. Makes a change to allow advisory committees of a risk management pool organized under the Intergovernmental Risk Management Act to hold more than half of their meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing.

LB 643 -- Change and provide notice requirements of road construction near electric lines, Schilz. The bill requires natural resources districts to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, poles, or anchors.

If the line, poles, or anchors to be moved are within an area that will require Federal Aviation Administration approval, notice shall be given at least one year prior to the start of any work.

LB644 - Adopt the Electronics Recycling Act, Mello. The bill creates a recycling program for electronic devices. Electronic device is defined in the bill to mean a computer, video display device, or television. The bill establishes fees on the manufacturer of these devices based upon the volume sold in Nebraska to generate funds for recycling.

The bill also requires manufacturers to develop a plan for recycling and file it with the Department of Environmental Quality. The fund from the fees would be earmarked to award grants for education and information about electronics recycling, infrastructure development, collection, transportation and recycling of electronic devices.

On or before January 31, 2010, and each January 31 thereafter, a manufacturer shall remit to the department the following registration fee based on the number of electronic devices sold in this state by the manufacturer in the previous calendar year: (a) \$1,000 for sales of 500 to 1,000 electronic devices; (b) \$7,500 for sales of 1,000 to 5,000 electronic devices; or (c) \$20,000 for sales of more than 5,000 electronic devices.

The fee would be reduced to the manufacturer or group of manufacturers based on a certain percentage of units recycled to units sold. These reductions would be as follows: 1) 10 to less than 20 percent, a 10% reduction in the fee; 2) 20 to less than 30 percent, a 20% reduction in the fee; or 3) 30 percent or more, a 50% reduction in the fee.

LB 651 -- Create Water Resources Revolving Loan Fund Act, Christensen. (NARD Bill) The bill creates the Water Resources Revolving Fund to provide low interest loans to natural resources districts or any joint entity with a joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have oversight over the program and an administrative fee would be allowed to pay for operational cost of the program.

The loans under the program would be for activities related to financing or refinancing the costs of eligible projects including,

- (1) acquisition by purchase or lease of water rights in accordance with Chapter 46, article 6, pertaining to ground water, and Chapter 46, article 2, pertaining to surface water, including storage water rights with respect to a river or any of its tributaries,
- (2) acquisition by purchase or lease or the administration and management, pursuant to mutual agreement, of canals and other works, including reservoirs, constructed for irrigation from a river or any of its tributaries,
- (3) vegetation management, including, but not limited to, the removal of invasive species in or near a river or any of its tributaries,
- (4) the augmentation of river flows consistent with the authority granted under Chapter 2, article 32, and
- (5) to develop, store and transport water, and to provide, contract for, and furnish water for domestic purposes, agriculture, manufacturing, and any and all other beneficial uses.

The initial funding source for the program would come from the repayment of the loan provided by the State of Nebraska to the natural resources districts in the Republican River Basin last year under LB 1094.

LB 656 Adopt the Health Care Accessibility and Affordability Act, Harms. Establishes a Health Care Plan Advisory Council to develop recommendations for a comprehensive plan to require all Nebraskans not covered by Medicare to have a basic health insurance plan which includes preventive services, behavioral health care, dental care, and long-term care, which is developed and reviewed periodically by health care professionals and members of the public, and which allows for purchase by employers or individuals.

The council would be made up of six persons appointed by the chairperson of the Health and Human Services Committee of the Legislature and six persons appointed by the chairperson of the Banking, Commerce and Insurance Committee of the Legislature. The council shall include, but not be limited to, at least one representative from each of the following classes of persons: Health care providers, health care consumers, and consumer advocates, business representatives, insurers, and elected officials.

The recommendations for the plan would be submitted to the Legislature on or before September 1, 2010.

LB 666 – Changes to the Niobrara Scenic River Council, Langemeier. The bill removes the requirement that the Niobrara Scenic River Council has to approve of zoning requirements imposed by cities, villages and counties in the area covered by the designation. The change places the appointed council in an advisory role to local elected officials rather than an oversight role.

The bill redefines the mission of the council to provide local representation to the National Park Service and report to the county boards of Brown, Cherry, Keya Paha, and Rock counties. The bill changes the membership requirements of the council for three representatives on the council so that they must reside in a county that includes land in the Niobrara Scenic River corridor. These representatives include: 1) the recreational business representative; 2) the timber industry representative; and 3) the recognized, nonprofit, environmental, conservation, or wildlife organization representative.

The bill further encourages the use and enjoyment of the Niobrara River for recreational, fish and wildlife, geological, historical, cultural, or other assets, and encourage continuance of existing agricultural, horticultural, forestry, and open space land and water uses.

Finally, the bill strikes the authority of the council to hold titles to real estate, accept gifts of real estate, or obtain conservation easements in the name of the council.

LB 678 -- Change provisions relating to minutes of public meetings, Haar. The bill allows minutes of meetings subject to the Open Meetings Act to be written or in an electronic recording, including audio or video recording of the meeting.

NARD Bill Summary Tracking Sheet										Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments			
LB 12	Increase NRDF	Langemeier			Appropriations		Committee				
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A	N/A	Natural Resources	N/A	Withdrawn	Christensen MO4-passed			
LB 42	Improvements to Rural Water Systems	Flood			Natural Resources	1/21/2009	Committee				
LB 43	Eliminate Interstate Water Rights Fund	Flood			Natural Resources	1/21/2009	Committee				
LB 54	Integrated Water Management Procedures	Fischer			Natural Resources	1/28/2009	Committee				
LB 56	Modify Livestock Waste Management	Fischer			Natural Resources	1/28/2009	Committee				
LB 98	Extend Riparian Vegetation Management	Carlson			Agriculture		Committee				
LB 134	Limit NRD Eminent Domain Authorities	Pankonin			Natural Resources	1/23/2009	Committee				
LB 160	Bond Authority for PMNRD	Gay			Natural Resources	1/23/2009	Committee				
LB 162	Change provisions relating to contractor registration and income tax withholding	Carlson			Revenue		Committee				
LB 179	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee			Natural Resources	1/21/2009	Committee				
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LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden			Natural Resources	1/28/2009	Committee				
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier			Natural Resources		Committee				
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LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams			Education		Committee				
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas			Natural Resources		Committee				
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert			Agriculture		Committee				
LB 286	Change the distribution of lottery funds	General Affairs Committee			General Affairs Committee		Committee				
LB 289	Appropriate funds to the Game and Parks Commission	Christensen			Appropriations		Committee				
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council			Judiciary		Committee				
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor			Appropriations		Committee				
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor			Appropriations		Committee				

NARD Bill Summary Tracking Sheet

Last Updated: 01/23/09

Bill Number	Description	Friend	Committee	Revenue	Date	Committee
LB 336	Exempt municipal water from sales tax	Friend		Revenue		Committee
LB 361	Change roll call provisions under the Open Meetings Act	Avery		Government, Military and Veterans Affairs		Committee
LB 362	Change requirements for candidate filing forms	Avery		Government, Military and Veterans Affairs		Committee
LB 379	Extend the scrap tire grant program	Haar		Natural Resources	1/29/2009	Committee
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson		Agriculture		Committee
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer		Natural Resources		Committee
LB 466	Eliminate excise tax on corn and grain sorghum	Wallman		Revenue		Committee
LB 477	Change provisions relating to water transfer permits	Carlson		Natural Resources		Committee
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier		Natural Resources	1/29/2009	Committee
LB 483	Change well moratoriums	Langemeier		Natural Resources	1/29/2009	Committee
LB 504	Authorize permits and provide penalties relating to discharge or dredged or fill material into the waters of the state	Langemeier		Natural Resources		Committee
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley		Revenue		Committee
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stuthman		Natural Resources		Committee
LB 565	Adopt the Woody Biomass Energy Act	Louden		Natural Resources		Committee
LB 577	Change provisions relating to improvement projects areas of NRDs.	Rogert		Natural Resources		Committee
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson		Agriculture		Committee
LB 582	Create the NE Invasive Species Council	Dierks		Natural Resources		Committee
LB 624	Provide for energy efficiency loans for public buildings	Haar		Natural Resources		Committee
LB 626	Change provisions relating to public utilities and atomic employee's use of public resources	Karpisek		Government, Military and Veterans Affairs		Committee
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Mello		Revenue		Committee
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek		Government, Military and Veterans Affairs		Committee
LB 643	Change and provide notice requirements of road construction near electric lines	Schliz		Natural Resources		Committee
LB 644	Adopt the Electronics Recycling Act	Mello		Natural Resources		Committee
LB 651	Create Water Resources Revolving Loan Fund Act	Christensen		Natural Resources		Committee
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms		Natural Resources Services		Committee
LB 666	Changes to the Niobrara Scenic River Council	Langemeier		Natural Resources		Committee
LB 678	Change provisions relating to minutes of public meetings	Haar		Natural Resources and Veterans Affairs		Committee



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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January 30, 2009

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 30 NARD Update

NARD Legislative Conference Highlights -- Almost 300 NRD board members and employees from all 23 NRDs attended the 2009 NARD Legislative Conference this week. Governor Dave Heineman expressed appreciation to the NRDs for their hard work on the controversial water issues and explained the financial issues and struggles that the State of Nebraska will have to face in the upcoming year. The NARD voting delegates reviewed the legislation before the Nebraska Unicameral this session.

The NRDs were proud to recognize two individuals at the conference for their service to Nebraska's natural resources. Leroy Stokes is retiring, and the NRDs wanted to recognize him for his dedication to the National Resources Conservation Service. The NRDs also recognized Ron Bishop, Manager of Central Platte NRD for 40 years of service in the natural resources field. He started as manager of the Mid-Platte Valley Watershed, and when the Unicameral formed the NRDs, it was incorporated into the Central Platte NRD. Both of these men are greatly respected throughout Nebraska, and Leroy will be sorely missed.

Delegates supported Legislation that would provide a variety of ways to help finance various projects within their districts. These bills include: **LB 12** -- Increase funding to the Nebraska Resources Development Fund (Langemeier), **LB 98** -- Extend Riparian Vegetation Management (Carlson), **LB 160** -- Bonding Authority for Papio-Missouri River NRD (Gay), **LB 179** Change project limit adjustments under the Nebraska Resources Development Fund, (Natural Resources Committee), **LB 210** -- Change provisions relating to aid to Natural Resources Districts (Langemeier), and **LB 651** -- Create the Water Resources Revolving Loan Fund Act (Christensen). Other key legislation supported included: **LB 666** -- Changes to the Niobrara Scenic River Council (Langemeier); **LB 209** -- Changes to the time for construction of irrigation projects and dams (Langemeier); **LB 54** -- changes in the integrated management plan under the Nebraska Ground Water Management and Protection Act (Fischer); and **LB 438** -- Prohibiting in-stream appropriations in fully or over-appropriated areas (Fischer).

NARD Recognizes Two 40-year Employees -- The Nebraska Association of Resources Districts recognized **Leroy Stokes** for 40 years of service with NRCS. Leroy has helped develop and implement conservation programs all across Nebraska over the years. All conservation partners in Nebraska appreciate his work and dedication. Leroy retired this year and will be moving to Atlanta in the near future to be near his grandchildren.

Also recognized was **Ron Bishop**, Manager of the Central Platte NRD, for 40 years of work for conservations districts and the NRDs. Ron was one of the leaders in the creation of the NRDs and continues to move the districts forward on conservation management and programs. Ron still leads the Central Platte NRD and shows no signs of slowing down.

Committee action this week

LB 54 -- Integrated Water Management Procedures. Senator Fischer. In order to provide a process for economic development opportunities and economic sustainability within a basin declared fully-appropriated, the bill creates a process for NRDs and DNR to use for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin. Ron Bishop, Central Platte NRD Manager, presented testimony in favor of the legislation on behalf of the NARD. The committee has not taken action on the bill.

LB 184 – Authorize Department of Natural Resources to administer riparian rights. Senator Louden.

Authorizes the Department of Natural Resources to consider and administer any riparian water right that has been validated and recognized in a court order from a court of lawful jurisdiction in the state. The court must find that the tract of land in question borders a natural stream, came into private ownership prior to April 4, 1895, and was not separated from the land contiguous to the stream at any time. There are only three or four of these rights in Nebraska. Ron Bishop, Central Platte NRD Manager, presented testimony in favor of the legislation on behalf of the NARD. No action has been reported from the committee on the bill.

LB 209 – Change provisions relating to time for construction of irrigation projects and dams. Senator Langemeier. The bill changes the time frame from 6 months to 12 months after the approval of any application for water for irrigation, power, or other useful purpose by the department, to commence the excavation or construction of the project. The bill also clarifies that the Department of Natural Resources may extend, for reasonable lengths of time, the time for commencing excavation or construction. Paul Zillig, LPSNRD Assistant Manager, and Tom Mountford, LPNNRD Assistant Manager, testified on behalf of the NARD in support of the bill. The Nebraska Department of Natural Resources sent a letter in support of the bill. There was no opposition. No action has been reported from the committee on the bill.

LB 379 – Extend the scrap tire grant program. Senator Haar. The bill extends the grant program for scrap tires from June 30, 2009 to June 30, 2014. The NARD submitted testimony in support of the bill at the hearing. No action has been reported from the committee on the bill.

LB 483 – Change well moratoriums. Senator Langemeier. The bill changes the planning process for NRDs when a determination is made that the district is not fully-appropriated and a stay on well drilling has expired or that a preliminary determination was made that a basin, sub-basin, or reach is fully-appropriated but a final determination finds that it is not fully-appropriated. John Miyoshi, Manager of the Lower Platte North NRD, testified in support of the bill. No action has been reported from the committee on the bill.

Floor Action

The Natural Resources Committee advanced LB 42 and LB 43 to General File. LB 42 proposes that any proposed improvements to rural water systems needs to comply with the Nebraska Safe Drinking Water Act and rules and regulations adopted and promulgated by the Department of Health and Human Services under the act. **LB 43** repeals an outdated fund that was once used exclusively for the payment of expenses directly related to interstate water rights litigation.

Senators also advanced **LB 179** and **LB 180** to Final Reading. **LB 179** clarifies a date for annual inflation adjustments to the cap on the Nebraska Resources Development Fund. **LB 180** proposes to allow grants from the Waste Reduction and Recycling Incentive Fund to be used for reimbursement of costs to cities of the second class, villages, and counties with population of five thousand or fewer for the deconstruction of abandoned buildings.

Rally of Senator Support – Several more senators added their names as co-sponsors of bills that are also supported by NARD delegates. The senators added their names to the bills after a flurry of negative calls and emails came in from some environmental groups attacking the main sponsors of the bills.

- **LB 438**, which clarifies in law that the Dept. of Natural Resources can not approve an in-stream flow appropriation in a river basin, subbasin, or reach that has been determined or designated by the department to be fully or over-appropriated. An Attorney General opinion issued earlier pointed out that new instream flow appropriations can not be granted in fully or over-appropriated basins. Senator Deb Fischer of Valentine is the sponsor and the following senators added their names to this bill this week, including Senators Carlson, Christensen, Coash, Dierks, Flood, Giese, Hadley, Hansen, Lautenbaugh, McCoy, Pankonin, Rogert, Schliz, Stuthman, Sullivan, Utter, and Wightman.
- **LB 666**, which proposes changes to the Niobrara Council so that this appointed council does not have veto authority over local elected boards on zoning issues. The bill is sponsored by Senator Langemeier and co-sponsored by Senator Fischer. The following senators added on as co-sponsors: Carlson, Christensen, Dierks,

Giese, Hadley, Hansen, Lautenbaugh, McCoy, Pankonin, Price, Rogert, Schliz, Stuthman, Sullivan, Utter, and Wightman.

Hearings next week

February 3 – Agriculture Committee

LB 389 – Change appointment provisions for the Climate Assessment Response Committee. Senator Carlson. The bill eliminates the provision that members appointed by the governor to the Climate Assessment Response Committee be confirmed by the legislature. The bill also makes the chairpersons of the Committee on Agriculture and Natural Resources non-voting, ex-officio members of the committee.

February 4 – Judiciary Committee

LB 304 – Change limitation of action provisions under the Political Subdivisions Tort Claims Act. Senator Council. Extends the time frame in which to file a claim against an employee of a political subdivision or against a political subdivision permitted under the Political Subdivisions Tort Claims Act from one year to two years.

February 4 – Natural Resources Committee

LB 565 – Adopt the Woody Biomass Energy Act. Senator Louden. The bill creates the Woody Biomass Energy Revolving Loan Fund to be administered by the State Energy Office. The fund would be created from a \$2.5 million General Fund appropriation in each of the next two fiscal years.

LB 624 – Provide for energy efficiency loans for public buildings. Senator Haar. The bill creates the Public Building Energy Efficiency Fund for use by any political subdivision for a public building energy efficiency loan.

February 5 – Natural Resources Committee

LB 438 – Prohibits in-stream appropriations in fully or over-appropriated areas. Senator Fischer. The bill prohibits the Director of Natural Resources from approving an in-stream flow appropriation in a river basin, subbasin, or reach that has been determined or designated by the department to be fully-appropriated or over-appropriated. Current law already prohibits new appropriations of water in such areas.

LB 477 – Change provisions relating to water transfer permits. Senator Carlson. The bill changes requirements when water is transferred to include evidence of lien holder's agreement to allow the transfer of water. The bill also clarifies in law that districts can certify irrigated acres and other beneficial uses of water. The bill then requires that participation in any financial incentive program and/or any transfer of certified acres or uses, include similar evidence of the lien holder's agreement to allow the transfer.

February 6 – Natural Resources Committee

LB 577 – Change provisions relating to improvement projects areas of NRDs. Senator Rogert. The bill limits the power or authority of NRDs to cooperate with or enter into agreements with, or to furnish financial or other aid to, any person who is in the business of selling or leasing, offering for sale or lease, or advertising for sale or lease, residential or commercial real property, when the cooperation, agreement, or financial or other aid relates to real property taken by the district through the use of eminent domain.

February 6 – Revenue Committee

LB 162 – Change provisions relating to contractor registration and income tax withholding. Senator Carlson. The bill specifically eliminates the exemption for contractors involved in the construction of water wells or installation of septic systems and makes them subject to the Contractor Registration Act.

LB 520 – Provide for an income tax credit for perpetual conservation easement donations. Senator Hadley. The bill allows for a refundable income tax credit to a taxpayer who donates all or part of the value of a perpetual conservation easement upon real property the taxpayer owns to the state, to a political subdivision of the state, or to a charitable organization.

NARD Bill Summary Tracking Sheet										Page 1 of 2	
Bill or CA	Description	Sponsor(s)	Priority	NARD POSITION	Committee	Hearing Date	Status	Amendments			
LB 12	Increase NRDF	Langemeier		Support	Appropriations		Committee				
LB 18	Prohibit irrigation on new school land leases	Christensen	N/A		Natural Resources	N/A	Withdrawn	Christensen MO4-passed			
LB 42	Improvements to Rural Water Systems	Flood		Monitor	Natural Resources	1/21/2009	General File				
LB 43	Eliminate Interstate Water Rights Fund	Flood		Monitor	Natural Resources	1/21/2009	General File				
LB 54	Integrated Water Management Procedures	Fischer		Support	Natural Resources	1/28/2009	Committee				
LB 56	Modify Livestock Waste Management	Fischer		Monitor	Natural Resources	1/28/2009	Committee				
LB 98	Extend Riparian Vegetation Management	Carlson		Support	Agriculture		Committee				
LB 134	Limit NRD Eminent Domain Authorities	Pankonin		Opposed	Natural Resources	1/23/2009	Committee				
LB 160	Bond Authority for PMNRD	Gay		Support	Natural Resources	1/23/2009	Committee				
LB 162	Change provisions relating to contractor registration and income tax withholding	Carlson		Monitor	Revenue	2/6/2009	Committee				
LB 179	Change project limit adjustments under the Nebraska Resources Development Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Final Reading				
LB 180	Change provisions relating to the Waste Reduction and Recycling Incentive Fund	Natural Resources Committee		Support	Natural Resources	1/21/2009	Final Reading	FA2 -Lost, FA3-lost, AM60-Lost			
LB 184	Authorize Department of Natural Resources to administer riparian water rights	Louden		Support	Natural Resources	1/28/2009	Committee				
LB 209	Change provisions relating to time for construction of irrigation projects and dams (NARD Bill)	Langemeier		Support	Natural Resources	1/30/2009	Committee				
LB 210	Change provisions relating to aid to natural resources districts (NARD Bill)	Langemeier		Support	Revenue		Committee				
LB 218	Change, eliminate, and provide state aid to various political subdivisions	Cornett		Monitor	Revenue	1/28/2009	Committee				
LB 235	Provide the Board of Educational Lands and Funds leases relating to solar, wind energy and carbon sequestration	Adams		Monitor	Education		Committee				
LB 246	Reestablish the Biopower Steering Committee; to provide for a study	Dubas		Monitor	Natural Resources	1/30/2009	Committee				
LB 263	Provide that state law preempts local law for the Nebraska Seed Law and the Nebraska Commercial Fertilizer and Soil Conditioner Act	Rogert		Opposed	Agriculture		Committee				
LB 286	Change the distribution of lottery funds	General Affairs Committee		Monitor	General Affairs Committee		Committee				
LB 289	Appropriate funds to the Game and Parks Commission	Christensen		Support	Appropriations		Committee				
LB 304	Change limitation of action provisions under the Political Subdivisions Tort Claims Act	Council		Monitor	Judiciary	2/4/2009	Committee				
LB 315	Mainline appropriations for state government operations	Speaker Flood on behalf of the Governor		Support	Appropriations		Committee				
LB 316	Budget cash fund transfers	Speaker Flood on behalf of the Governor		Support	Appropriations		Committee				

NARD Bill Summary Tracking Sheet		Last Updated: 01/30/09		Page 2 of 2	
Bill Number	Description	Friend	Monitor	Committee	Committee
LB 336	Exempt municipal water from sales tax	Friend	Monitor	Revenue	Committee
LB 361	Change roll call provisions under the Open Meetings Act	Avery	Monitor	Government, Military and Veterans Affairs	Committee
LB 362	Change requirements for candidate filing forms	Avery	Monitor	Government, Military and Veterans Affairs	Committee
LB 379	Extend the scrap tire grant program	Haar	Support	Natural Resources	Committee
LB 389	Change appointment provisions for the Climate Assessment Response Committee	Carlson	Monitor	Agriculture	Committee
LB 438	Prohibits instream appropriations in fully or over appropriated areas	Fischer	Support	Natural Resources	Committee
LB 466	Eliminate excise tax on corn and grain sorghum	Wallman	Monitor	Revenue	Committee
LB 477	Change provisions relating to water transfer permits	Carlson	Support w/ clarification	Natural Resources	Committee
LB 480	Change budget limit and tax levy limitation provisions	Dierks	Support	Revenue	Committee
LB 482	Change provisions of the NE GW Management and Protection Act	Langemeier	Monitor	Natural Resources	Committee
LB 483	Change well moratoriums	Langemeier	Support	Natural Resources	Committee
LB 486	Require certain governmental entities to identify themselves as such in their official name	Karpisek	Monitor	Government, Military and Veterans Affairs	Committee
LB 504	Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state	Langemeier	Support	Natural Resources	Committee
LB 520	Provide for an income tax credit for perpetual conservation easement donations	Hadley	Support	Revenue	Committee
LB 535	Change membership of the NE Nat. Res. Comm. And provisions relating to NRDs.	Stuthman	Oppose	Natural Resources	Committee
LB 565	Adopt the Woody Biomass Energy Act	Louden	Support	Natural Resources	Committee
LB 577	Change provisions relating to improvement projects areas of NRDs.	Rogert	Oppose	Natural Resources	Committee
LB 581	Change disposition of funds from Pesticide Act fees and weed book sales	Carlson	Monitor	Agriculture	Committee
LB 582	Create the NE Invasive Species Council	Dierks	Support w/ modifications	Natural Resources	Committee
LB 624	Provide for energy efficiency loans for public buildings	Haar	Monitor	Natural Resources	Committee
LB 626	Change prohibited activities for public officials and public employees's use of public resources	Karpisek	Support	Government, Military and Veterans Affairs	Committee
LB 632	Adopt the NE Green Building Advantage Act and authorize a sales refund	Mello	Monitor	Revenue	Committee
LB 639	Change provisions to telephone conferencing for public meetings	Karpisek	Monitor	Government, Military and Veterans Affairs	Committee
LB 643	Change and provide notice requirements of road construction near electric lines	Schliz	Monitor	Natural Resources	Committee
LB 644	Adopt the Electronics Recycling Act	Mello	Monitor	Natural Resources	Committee
LB 651	Create Water Resources Revolving Loan Fund Act (NARD Bill)	Christensen	Support	Natural Resources	Committee
LB 656	Adopt the Health Care Accessibility and Affordability Act	Harms	Monitor	Natural Resources Health and Human Services	Committee
LB 666	Changes to the Niobrara Scenic River Council	Langemeier	Support	Natural Resources	Committee
LB 678	Change provisions relating to minutes of public meetings	Haar	Monitor	Government, Military and Veterans Affairs	Committee

Committee chairs wield power in Legislature

BY NANCY HICKS / Lincoln Journal Star

Wednesday, Jan 07, 2009 - 06:13:45 pm CST

Two of the state's most powerful political leaders have names that sound alike — Gov. Dave Heineman and state Sen. Lavon Heidemann.

Heineman is the veteran governor, a man with political savvy and a keen intellectual grasp of the budget and most major issues. Because of legislative term limits, Heineman has more experience with state government than 48 of the 49 state senators.

Heidemann, 50, is chairman of the Appropriations Committee, the group responsible for putting together a \$7 billion, two-year budget and selling it to the rest of the Legislature.

Under term limits, Heidemann of Elk Creek is also among the more experienced senators, with four years under his belt, all of them with the Appropriations Committee. This is his second two-year term as chair.

Several senators will also be key players this year by virtue of their skills — and their positions as chairs of key legislative committees.

Sen. Mike Flood of Norfolk was elected to his second two-year term as Speaker of the Legislature, the person who sets the agenda and decides how the Legislature will do its work during this 90-day, long session.

Last year senators credited Flood, 33, who understands the political landscape, with being a fair and forceful leader, assuring that individual senators were able to get action on their favorite bills.

Abbie Cornett, 42, of Bellevue is among the power group by virtue of her election to chair of the Revenue Committee, which deals with tax legislation.

Continued

Brad Ashford of Omaha will head the Judiciary Committee, which handles the most bills and often deals with some of the most controversial issues, including the death penalty and most abortion-related bills. Ashford, 59, is serving his second two-year term as chair.

In other states, with partisan two-house legislatures, the dominant party holds the key positions. Generally, the party fills the key committee chairmanships, and the dominant party controls the legislative agenda.

But in Nebraska, with its unique single house and nonpartisan legislative body, individuals gain power by virtue of their position as the chair of a committee, by seniority and knowledge of the system, and by their personal skills getting bills into law.

With term limits there are few senior members in the Nebraska Legislature. Thirty-six of the 49 senators have served two years or less. Just two senators have served more than eight years, Sens. Brad Ashford of Omaha and Cap Dierks of Ewing returned two years ago after an absence from the body.

So leadership at the beginning of the 2009 session lies with committee chairs, who have some control over what bills get to the full Legislature and in what form.

That committee chair list reflects the nonpartisan nature of the Unicameral and includes three Democrats and 13 Republicans, all elected by the 49 senators on Wednesday morning, in a secret ballot if more than one person was running for a chairmanship. The three Democrats elected from a total of 17 were Bill Avery of Lincoln, Russ Karpisek of Wilber and Steve Lathrop of Omaha.

The committee election process shows the grass-roots power structure of the Unicameral, said Larry Ruth, a retired lobbyist who teaches political science at Wesleyan University.

In most legislatures, committee chairs are selected by party caucuses, often in secret, he said.

But in Nebraska, the secret ballot for chairmanships by the entire body allows people to cross party lines to vote for leaders.

“We typically see leadership positions going to both Democrats and Republicans, which is astounding to people in other states,” he said.

The legislative process in Nebraska relies heavily on committees, which hold public hearings on each bill, screen the bills, often rewriting them before they are considered by the full Legislature.

Committees work through the issues and bring bills to the floor that have as much consensus as possible, said former Sen. Don Wesely, who headed the Health and Human Services Committee.

Continued

Because Nebraska doesn't have a partisan party structure, the Legislature needs to have strong committees, said Wesely, now a lobbyist. So the chairmanship of committees is key.

Reach Nancy Hicks at 473-7250 or nhicks@journalstar.com.

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Committee chairs

The Legislature elected chairmen for its major committees Wednesday. They include:

Executive Board (deals with legislative staff and policy issues): Sen. John Wightman of Lexington; vice chairman is John Nelson of Omaha.

Agriculture: Tom Carlson of Holdrege

Appropriations: Lavon Heidemann of Elk Creek*

Banking, Commerce and Insurance: Rich Pahls of Omaha*

Business and Labor: Steve Lathrop of Omaha

Education: Greg Adams of York

General Affairs: Russ Karpisek of Wilber

Government, Military and Veterans Affairs: Bill Avery of Lincoln

Health and Human Services: Tim Gay of Papillion

Judiciary: Brad Ashford of Omaha*

Natural Resources: Chris Langemeier of Schuyler

Nebraska Retirement Systems: Dave Pankonin of Louisville

Revenue: Abbie Cornett of Bellevue (previously served as chair of Business and Labor)

Transportation and Telecommunications: Deb Fischer of Valentine*

Urban Affairs: Mike Friend of Omaha*

* second two-year term as chairman

Committee assignments

Tentative committee assignments were made Wednesday, the opening day of the 101st Legislature:

Agriculture: Tom Carlson (chair), Annette Dubas, Brenda Council, Cap Dierks, Russ Karpisek, Scott Price, Ken Schilz, Norm Wallman

Appropriations: Lavon Heidemann (chair), John Nelson, John Harms, Tony Fulton, Heath Mello; John Wightman, Danielle Nantkes, Jeremy Nordquist, Tom Hansen

Continued

Banking, Commerce and Insurance: Rich Pahls (chair), Mark Christensen, Chris Langemeier, Pete Pirsch, Mike Gloor, Dave Pankonin, Beau McCoy, Dennis Utter

Business and Labor: Steve Lathrop (chair), Tom Carlson, Norm Wallman, Tom White, Ken Schilz, Amanda McGill, Brenda Council

Education: Greg Adams (chair), Abbie Cornett, Robert Giese, Bill Avery, Gwen Howard, Kate Sullivan, Ken Haar, Brad Ashford

General Affairs: Russ Karpisek (chair), Tanya Cook, Cap Dierks, Annette Dubas, Scott Price, Kent Rogert, Colby Coash, Mike Friend

Government, Military and Veterans Affairs: Bill Avery (chair), Pete Pirsch, Kate Sullivan, Russ Karpisek, Scott Price, Robert Giese, Charlie Janssen, Rich Pahls

Health and Human Services: Tim Gay (chair), Mike Gloor, Arnie Stuthman, Gwen Howard, Kathy Campbell, Dave Pankonin, Norm Wallman

Judiciary: Brad Ashford (chair), Mark Christensen, Amanda McGill, Steve Lathrop, Kent Rogert, Colby Coash, Scott Lautenbaugh

Natural Resources: Chris Langemeier (chair), Tanya Cook, Tom Carlson, Annette Dubas, Ken Schilz, Deb Fischer, Ken Haar, Beau McCoy

Nebraska Retirement Systems: Dave Pankonin (chair), Jeremy Nordquist, LeRoy Loudon, Russ Karpisek, Heath Mello, Lavon Heideman

Revenue: Abbie Cornett (chair), Cap Dierks, Greg Adams, Tom White, LeRoy Loudon, Galen Hadley, Mike Friend, Dennis Utter

Transportation and Telecommunications: Deb Fischer (chair), Arnie Stuthman, Tim Gay, LeRoy Loudon, Kathy Campbell, Scott Lautenbaugh, Galen Hadley, Charlie Janssen

Urban Affairs: Mike Friend (chair), Kent Rogert, Amanda McGill, Steve Lathrop, Tanya Cook, Colby Coash, Tom White

Executive Board: John Wightman (chair), John Nelson, Mark Christensen, Deb Fischer, Mike Flood, Russ Karpisek, Chris Langemeier, Rich Pahls, Tom White, Lavon Heidemann (nonvoting ex officio)

Continued

Published Thursday January 8, 2009

McConaughy's owner says water restrictions aren't enough

BY DAVID HENDEE

WORLD-HERALD STAFF WRITER

Nebraska is on the edge of a historic natural resources disaster: Lake McConaughy drying up, the reservoir's owner said in a lawsuit filed Wednesday.

Timeline

September 1999: Lake McConaughy is full.

2000: Drought settles into western Nebraska and the West.

2001: North Platte Natural Resources District bans new irrigation wells in Pumpkin Creek watershed in reaction to falling underground water levels.

2003: North Platte NRD lowers Pumpkin Creek pumping limit from 15 inches per acre to 14 inches.

Fall 2004: Lake McConaughy falls to all-time low of 20 percent of capacity.

Fall 2006: Central Nebraska Public Power and Irrigation District, which owns Lake McConaughy, begins talks with North Platte NRD to find a mutually agreeable system of managing groundwater, especially in times of drought.

Spring 2008: Central asks North Platte NRD to limit its irrigators to 6.7 inches of water per acre in 2009, matching the limit set by Central on its irrigators for five years. North Platte NRD breaks off talks with Central.

Oct. 16, 2008: Central asks North Platte NRD to reduce allowed Pumpkin Creek groundwater pumping to 2.5 inches.

Dec. 11, 2008: North Platte NRD approves 12-inch pumping limit on Pumpkin Creek irrigators and 18-inch limit for certain other areas of the district.

Jan. 7, 2009: Central files lawsuit.

Central Nebraska Public Power and Irrigation District in Holdrege sued the North Platte Natural Resources District in Scottsbluff for allegedly not doing enough to protect historic flows into the big North Platte River reservoir.

"Unrestricted depletions of streamflow by wells . . . during times of drought have caused, and are continuing to cause, the destruction of Lake McConaughy," Central attorney Michael Klein wrote in the petition.

North Platte NRD officials were studying the lawsuit and did not have an immediate comment, said Ron Cacek, general manager.

The lawsuit is the first in the state against a natural resources district over management of underground water since a new statewide water law went into effect in 2004. That law, enacted as Legislative Bill 962, was designed to anticipate and prevent conflicts between surface-water and groundwater irrigators by integrating management of water.

"It's a big wake-up call to the Legislature and all Nebraskans that this (LB 962) didn't work and needs to be fixed," said Tim Anderson, a Central spokesman. "There needs to be more state oversight."

Continued

Lake McConaughy is north of Ogallala in western Nebraska. It's the state's largest reservoir and a popular recreation area that provides *myriad energy and environmental benefits*.

The lake's levels have been low for nearly a decade, as North Platte River flows into the reservoir dwindled because of drought and reductions in excess water running off of irrigated fields. The lake is currently at 42.6 percent of its capacity.

Central is Nebraska's largest irrigation district. It provides irrigation water to farmers in south-central Nebraska via canals from McConaughy. The North Platte NRD is responsible for regulating pumping of underground water in the region upstream from McConaughy.

The petition was filed in Scotts Bluff County District Court in Gering.

Central's complaint asks the court to reverse or modify a North Platte NRD board decision last month to limit irrigators in the Pumpkin Creek watershed to pumping 12 inches of underground water per acre annually beginning this year. The board said it wanted to protect the region's irrigated-agriculture economy. The previous limit was 14 inches.

Central is limiting its farmers to 8.4 inches of McConaughy water in 2009. It's the fifth consecutive year of reduced deliveries.

Central has complained that the North Platte NRD hasn't done enough within its power to restrict groundwater pumping that depletes the North Platte from the Nebraska-Wyoming border to nearly the upper reaches of Lake McConaughy. When irrigation wells pump underground water, they can suck down the surface water in nearby wetlands and lakes, rivers and streams.

"Going from 14 inches to 12 inches would be laughable if it weren't so pathetic," Anderson said. "It does nothing to restore stream flow (in Pumpkin Creek), and it's not sustainable. Let's do what's sustainable."

Central has pushed the NRD to help boost North Platte River flows by drastically reducing the amount of water Pumpkin Creek irrigators are allowed to pump and put on their cropland. Central asked the North Platte NRD board in December to limit irrigators to about 3 inches. The board disregarded the recommendation.

In the petition, Central said groundwater pumping in the Pumpkin Creek watershed is causing a substantial reduction of water in the stream, which otherwise would be available for storage in Lake McConaughy.

Pumpkin Creek contributed about 23,000 acre-feet of water a year to the North Platte River before groundwater pumping boomed in the little valley hidden behind the Wildcat Hills upstream from Bridgeport. The creek now provides about 1,000 acre-feet of water. An acre-foot is the amount of water required to cover an acre of land 12 inches deep.

Continued

Central's lawsuit isn't the first to focus on depleted Pumpkin Creek. The Spear T Ranch sued upstream irrigators in 2002 for allegedly drying up the stream. That case is pending in Morrill County District Court at Bridgeport.

Central acknowledged in the petition that reducing Pumpkin Creek pumping won't by itself prevent the ruination of the reservoir but said it would represent an effort at complying with the law.

State law requires natural resources districts to be fair to irrigators who divert water from streams — such as Central — when establishing regulations for withdrawing underground water.

"Responsibility lies with the North Platte NRD," the lawsuit says.

- Contact the writer: 444-1127, david.hendee@owh.com

LRNRD officials angry at being called 'cheaters' by UNL law expert

By GINGER JENSEN, Hub Regional Correspondent

01/09/2009

Updated 01/09/2009 12:30:11 PM CST

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ALMA — Lower Republican Natural Resources District officials are contacting state senators and University of Nebraska-Lincoln officials to complain about comments made to the media by a UNL water law specialist.

The focus is on comments David Aiken made in a Dec. 27 Omaha World-Herald article concerning a ruling by Karl Dreher, the arbitrator hired by the Republican River Compact Administration to review disputes between Colorado, Kansas and Nebraska.

Dreher said that if Kansas pursues its legal action, it could seek damages only for actual injuries suffered from Nebraska's noncompliance with the Kansas v. Nebraska lawsuit settlement agreement. Kansas officials had said they wanted about \$72 million, which reflected Kansas' damages and Nebraska's gains from compact noncompliance.

The World-Herald quoted Aiken as saying, "Frankly, if I'd been the arbitrator, I'd have done what Kansas asked for because if I can make a million dollars by cheating and only have to pay \$50,000 if I get caught, I'm going to cheat ..."

LRNRD officials have contacted state Sens. Tom Carlson of Holdrege and Mark Christensen of Imperial to seek help in arranging a meeting with UNL President J.B. Milliken.

At Thursday's LRNRD board meeting, Manager Mike Clements said members of the university's board of regents also have been contacted about Aiken's comments.

"The people of the Republican River Basin deserve more than to be called cheaters," Clements said. "Our irrigators have made a lot of sacrifices to bring the state into compliance with the compact agreement."

Director Brad Wulf of Red Cloud suggested that UNL Athletic Director Tom Osborne also be contacted because of his past experience as 3rd District congressman who worked on federal programs offering payments to farmers willing to retire irrigated acres in the Republican and Platte basins. Osborne also met with Nebraska and Kansas officials to discuss water issues.

"Osborne understands what we have been trying to do and has helped us in the past," Wulf said.

Board Chairman Nelson Trambly of Campbell said Aiken's comments were "disturbing," and suggested he be relieved of his duties.

Also Thursday, Clements reviewed unofficial data on 2008 irrigation water use in the NRD.

The annual irrigation allocation was 9 inches per acre, but the overall district average use was 5.18 inches. By county, the average inches were: Franklin, 5.18 inches; Furnas, 5.76; Harlan, 6.20; Nuckolls, 2.46; and Webster, 2.79.

Clements said well meter readings still to be completed shouldn't change those numbers.

LRNRD Assistant Manager Bryan Lubeck said fall 2008 static water level readings showed a districtwide average drop of about 1 ½ inches from the spring readings on the same wells. In Webster and Nuckolls counties, the fall readings were higher than the spring numbers.

Comparisons from fall 2007 to fall 2008 show a districtwide average increase of 1.53 feet.

“With the moisture of this past fall and, hopefully, the moisture yet to be received this winter and spring, we will surely see significant static water level increases this spring,” Lubeck said. “At the present, we are making up for much of the water we lost during the drought years.”

In election business, the board appointed Marlin Murdoch of Orleans to fill the vacant seat held by Director Toby tenBensel of Arapahoe, who had filed for re-election, but then moved out of his subdistrict. Murdoch had been appointed in August, after the election filing deadline, and had to be reappointed Thursday.

Dave Bartels of Riverton, who was elected to the seat vacated by retired Director Jay Ziegler of Riverton was sworn in, as were re-elected Directors Jim Moore of Bloomington, Terry Hoit of Red Cloud and Clark Andrews of Holbrook.

Trambly was re-elected as board chairman, and Bill Bose of Orleans as re-elected vice chairman.

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Budgets tight this year, says Heineman

By SARA GIBONEY, Hub Staff Writer

01/16/2009

Updated 01/16/2009 12:29:00 PM CST

KEARNEY — Gov. Dave Heineman stopped at the Kearney Regional Airport Thursday to discuss his proposed budget with the business community.

“The economy is soft, the economy is slowing down,” Heineman said. “So state government, local government, we’ve got to tighten our belts just like every Nebraska family, just like every business is doing.”

He said he understands the plight of many Nebraskans.

“The other thing I hear from Nebraskans, which I’ll share, is we’re going to bail out Wall Street, big businesses, but I haven’t heard anybody say we’re going to bail out a business we’ve lost here in Kearney yet,” he said.

The governor proposed maintaining tax relief programs, which will provide \$230 million in tax credits to property owners.

“In an economic downturn, increasing property taxes on middle class families, seniors living on fixed incomes, small businesses, business with farmers and ranchers is really unacceptable,” he said.

He also proposed an additional \$100 million in state aid to K-12 schools and \$16.8 million to special education programs. His education budget also includes an additional \$25.6 million for the University of Nebraska and \$4 million for state and community colleges.

The governor also hopes to put \$1.2 billion a year into children’s health insurance, medical assistance for seniors and the disabled, public assistance for children and families, the developmentally disabled, behavioral health and veterans homes.

He also proposed \$745 million for roads infrastructure projects. He suggests reallocating funds at the Nebraska Department of Roads and having no gas tax increases.

Heineman announced the Children and Families Support Bill, which will cost \$5 million annually.

“Our three-pronged approach provides families needing assistance with difficult children and teens direct access to skilled and professional support.”

The bill is a result of the Safe Haven Law, which came under scrutiny last year after parents began dropping off their teenage children at hospitals in the state.

Continued

The bill proposes having a 24-hour hotline for families to talk to professionals in behavioral health, a peer support program to help families in finding community resources and a post-adoption/post-guardianship case management system. Services include assessment and evaluation, respite, family counseling, adult support groups, child counseling, youth support groups and therapeutic summer camps.

His last goal is to maintain the state's cash reserve.

"There's going to be pressure to increase spending," Heineman said. "But, all the business leaders in this room know we need to maintain a strong cash reserve."

About 20 community leaders attended the event, including City Manager Mike Morgan, Kearney Area Chamber of Commerce President Greg Shea, and former state Sen. Joel Johnson.

The proposed budget will use \$40 million annually in the next two years from the state's cash reserve. "We need to remember that, yes, the cash reserve is our rainy day fund, but it's only beginning to rain," he said. "This fiscal storm could last several years. We need to be prepared well beyond the current year."

The governor gave his State of the State address to the legislature Thursday before traveling across the state to discuss the proposed budget.

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The Governor's Proposals:

- Maintaining tax relief programs to provide \$230 million in tax credits to property owners.
- \$745 million for roads infrastructure projects.
- \$1.2 billion for insurance and social programs.

WATER RIGHTS (OWH Editorial, 1-19-09)

Lawsuit may unclog issue

With luck, the lawsuit filed by the owners of Lake McConaughy against an upstream natural resources district will settle a crucial question: Do groundwater irrigators have the right to use water at the expense of surface-water irrigators downstream?

Nebraska senators may have thought that they clearly built fairness into state water laws passed in recent years. They did not. As a December decision by the North Platte Natural Resources District demonstrated, equity isn't high on the list of factors that count in the dog-eat-dog struggle for water to irrigate valuable crops.

Due to several factors, Lake McConaughy, Nebraska's largest reservoir and an important link in all irrigation on the Platte River below it, has been drying up. Though a severe, years-long drought may be easing, the lake is still at less than half-capacity.

Big Mac is also a major source of recreation and wildlife habitat for the state. Its Kingsley Dam hydropower plant and other Nebraska Public Power District plants downstream need it to produce electricity for Nebraskans.

The Central Nebraska Public Power and Irrigation District, which manages the lake and provides irrigation to many downstream water users, argues that besides the drought, another significant factor affecting the lake level is the unreasonable overuse of water by groundwater irrigators in the North Platte NRD, upstream of the lake.

The NRD board decided only recently to cut last year's 14-inch underground water allocation to 12 inches this year. Because of the low water level in McConaughy, Central has been forced to limit surface-water irrigators who depend on it to little more than half that amount each year since 2005. Many of its irrigators have senior water rights.

Central argues that its water users are being deprived of their water and their rights by an NRD that flouted the fairness requirements of recent state water laws. Unlike the power and irrigation district, the NRD and its irrigators have few, if any, requirements for water allocations.

They are, however, supposed to consider water users outside the NRD when making decisions. "The Legislature," according to the state's groundwater management act, "intends and expects that each natural resources district within which water is causing external impacts will accept responsibility for groundwater management . . . as if the impacts were contained within that district."

In other words, the NRD's responsibility is to all water users, not just underground irrigators within its jurisdiction. The suit alleges harm to the Twin Platte, Central Platte, Tri-Basin, Middle Republican and Lower Republican NRDs as well as Central.

The amount of water involved in Central's suit isn't large: about 23,000 acre feet, the amount of water needed to cover 23,000 acres of land with 12 inches of water. But it concerns Pumpkin Creek in the Panhandle, which has run almost dry since wells hydrologically connected to it have begun pumping.

Pumpkin Creek has been the subject of debate and legal actions by both individuals and organizations. It is a microcosm of the problem between groundwater and surface-water irrigators, and an unequivocal resolution of this case would go far toward settling future disputes.

Past court decisions on the issue haven't resolved basic questions: How do the constitutional water rights held by surface irrigators on the Platte reconcile with water use by underground pumpers, regulated only by individual NRDs?

Continued

How does all Nebraskans' stake in Lake McConaughy weigh against the needs of irrigators in the North Platte NRD? And what happens when an NRD's decision appears to contravene the fair-and-reasonable requirements in Nebraska law?

The goal of Nebraska's water laws should be fairness and sustainability. Sustainability is at the top of the list, because the state should be able to depend on irrigated agriculture into the future.

Perhaps the Legislature will step in and clarify the muddy concepts of reason, responsibility and decision-making contained in its recent water laws. The relationship between constitutionally mandated surface-water rights and nearly unregulated under-

ground water use needs to be resolved.

If lawmakers decline to do their jobs, it likely will be years before state courts untangle the web of water rights and wrongs. If, indeed, judges can do the job at all.

Published Tuesday January 20, 2009

Public can comment on water proposal

BY DAVID HENDEE

WORLD-HERALD STAFF WRITER

Nebraskans have opportunities in four public hearings during the next six weeks to comment on a state decision that could bring new water restrictions to a third of the state, from the western edge of the Omaha metropolitan area to a slice of the Panhandle.

Hearing schedule

Feb. 13: Ord, Lower Loup Natural Resources District, 2620 Airport Drive.

Feb. 17: Norfolk, Northeast Nebraska Community College Learning Center, 601 E. Benjamin Ave.

Feb. 24: Lincoln, State Office Building, 301 Centennial Mall, Room A, lower level.

March 12: Fremont, City Auditorium, 925 N. Broad St.
Hearings will be held in Fremont, Lincoln, Norfolk and Ord.

At issue is a preliminary decision by the Nebraska Department of Natural Resources last month that demand for water in the lower Platte River basin is on the verge of outpacing supply.

The region affected covers a third of Nebraska upstream from the Platte's confluence with the Missouri River south of Omaha and includes the Loup and Elkhorn River basins. It extends to an edge of the Panhandle west of Hyannis.

In the department's terminology, the lower Platte basin is "fully appropriated." That means there is sufficient supply for current demand but computer models illustrate a worrisome long-term impact that irrigation wells in the Elkhorn and Loup watersheds will have on water flows in the lower Platte for decades to come.

Omaha, Lincoln and other cities rely on the Platte for a significant amount of their municipal water supplies.

The preliminary designation temporarily bans new irrigation wells pumping underground water, halts new permits for diversions of river water for irrigation and stops farmers from expanding the number of irrigated acres in their operations.

The regulations are similar to restrictions imposed in recent years across much of central and western Nebraska after the Legislature passed a law in 2004 designed to make the state and its 23 natural resources districts more proactive in anticipating and preventing conflicts between water users, including farmers and cities.

MoPac East Trail extension project heats up with petition drives

By ALGIS J. LAUKAITIS / Lincoln Journal Star

Thursday, Jan 22, 2009 - 12:18:02 am CST

A battle is under way between supporters of a MoPac East Trail project that would help complete a trail between Lincoln and Omaha and landowners who fear they could lose some of their property.

Activate Omaha, a nonprofit group that promotes walking and bicycling, started a petition drive after hearing the trail extension project is in trouble.

So far, the group has collected 436 signatures through an Internet petition drive from people who say they would use the extension if it were built. The MoPac East Trail is viewed as a key piece in a 50-plus mile trail between Lincoln and Omaha.

Recently, landowners sent Lower Platte South Natural Resources District directors a letter urging them to consider alternate routes — like county road rights-of-way — that do not require taking private property. A petition, signed by 36 landowners, was included.

“We do not intend to accept any offer from the Lower Platte South Natural Resources District to acquire our land for recreational purposes,” the letter said. “We further believe that the use of eminent domain for recreational purposes is unwarranted.”

The Lincoln-based NRD wants to extend the MoPac East beyond the unincorporated village of Wabash in western Cass County to the Lied Platte River Bridge near South Bend.

The NRD identified a 9-mile-long corridor but has not chosen a final route. Last week, the NRD’s recreation, forestry and wild life subcommittee failed to advance a recommendation on a proposed route on a 3-3 vote.

Apparently, it was that tie vote that triggered the petition drive by Activate Omaha. The group’s project manager, Tammie Dodge, could not be reached for comment.

NRD General Manager Glenn Johnson said the tie vote does not mean the project is in jeopardy. He said it only means a recommendation for a proposed route failed. He said the subcommittee could consider other routes.

Johnson pointed out that only six of the eight members of the subcommittee were at the Jan. 13 meeting. He said the subcommittee will likely reconsider and vote on another route, which would be sent to the 21-member NRD board for a vote.

Continued

“If the subcommittee remains deadlocked it can be brought to the full board without a recommendation,” Johnson said.

About 100 people attended a public informational meeting on the proposed MoPac East Trail extension project in September. About three dozen area landowners voiced their opposition to the project.

In part, they questioned spending \$1.5 million to \$2.5 million during difficult economic times. Some landowners also said they’re worried about how the trail would affect their property values and maintenance issues.

“Don’t want it,” Duane Derby of South Bend said then. “What purpose does it serve? The bike trail you got now — there’s hardly anybody using it.”

Johnson said representatives from Schemmer Associates, the design firm for the trail extension project, have been meeting with landowners who are willing to meet with them to discuss alternative routes.

Reach Algis J. Laukaitis at 473-7243 or alaukaitis@journalstar.com.

1/22/2009 Enterprise

Many in county plan to oppose NRD bonding bill

Stephanie Ludwig
Reporter
Pilot Tribune

The Nebraska Legislature has once again become the grounds for a shootout between the Papio-Missouri River Natural Resource District and citizens opposed to a series of dams in the Omaha-metro area.

On Friday, Jan. 23, a group of Washington County citizens planned to testify before the Natural Resources Committee against LB 160, a bill that would give Nebraska NRDs bonding authority. The bill, introduced by Sen. Tim Gay of Papillion, is similar to a bill introduced last year that was eventually filibustered by former Sen. Ernie Chambers.

In essence, the bill would allow the NRD to issue bonds without a vote of the people, in addition to the 4.5 cent levy the Papio-Missouri NRD currently has.

The NRD has a tentative plan to build a series of dams throughout the Papio-Missouri watershed, which includes Washington, Douglas and Sarpy counties to aid in flood control. Representatives of the NRD testified last year that without bonding authority, the NRD would not be able to build the dams.

Kevin Propst, chairman of the Washington Village Board, has opposed the legislation since last year. The village of Washington would be essentially destroyed if one of the proposed dams were built.

He said the NRD has plenty of money in reserve and does not need bonding authority to get large projects done.

"We're going to show the committee that the NRD is being very fiscally irresponsible," Propst said.

Other provisions in the bill include limits on how large the dams can be; however, Propst said all the proposed dams are smaller than the limits, therefore giving a misconception of restraint by the NRD.

"It gives the façade that they're showing restraint on building dams but they're not," he said.

Gary Lambrecht, member of the Washington County Cattlemen, also planned to testify against the bill on behalf of the club. He said the Cattlemen are against any bill that uses eminent domain and takes money without a vote of the people.

Continued

"As cattlemen, we have to protect our farm ground and all the farmers and ranchers out there," he said.

"We don't feel that the NRD has used all their funds properly over the year," Lambrecht added. "It's been pointed out that these dams can be built in northern Douglas County and southern Washington County, and still not give any flood control in central Omaha."

Members of the Washington County Board, the Sierra Club and the Farm Bureau also planned to testify against the bill.

Sen. Kent Rogert of Tekamah introduced a bill Wednesday on behalf of many citizens of Washington County that would protect many taxpayers and landowners from projects being built by the NRD.

LB 577 would force taxpayers who benefit from the construction of a dam to pay for the dam. For example, if a dam built in Washington County would not benefit the people of the county, but rather citizens in Douglas and Sarpy counties, the taxpayers in Douglas and Sarpy counties would pay for the dam, not Washington County taxpayers.

The bill also contains protection for landowners. A majority of the landowners whose land would be used for a project would have to approve the project before the NRD could use it.

"The beauty of this bill is we believe it would force the NRD to be more fiscally responsible," Propst said.

A committee hearing has not yet been set for LB 577.

NRDs to do own Lower Platte assessment

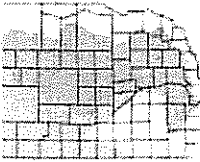
By ART HOVEY / Lincoln Journal Star
Wednesday, Jan 28, 2009 - 12:15:15 am CST

Eight eastern Nebraska natural resources districts will conduct their own review of the justification for new state restrictions on surface and ground-water use in the Lower Platte River Basin.

If the preliminary ruling by the Nebraska Department of Natural Resources in December is made permanent, Lincoln could quickly feel the effects.

That's because state efforts to keep water supply and demand in balance require that water needed for new industries, for example, be offset by eliminating the same amount of water demand somewhere else in the basin.

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Nebraska's water usage



See maps that outline surface and groundwater appropriations across the state. A new section of the Platte River basin has just been classified as ful...

John Miyoshi, general manager of the Wahoo-based Lower Platte North NRD, also is concerned about the impact on irrigation. But Miyoshi said interviews Wednesday with candidates seeking to become the NRD coalition's engineering consultant are not meant to pick a fight.

The same goes for hiring a coalition attorney. "You can file a lawsuit for anything," he said Tuesday. "But that's not our intention at all."

The NRD grouping, which also includes the Lower Platte South in Lincoln, simply wants a second opinion on a matter of major water importance, Miyoshi said. The coalition expects to have its separate review of the water facts ready for the Department of Natural Resources' fourth and final hearing March 12 in Fremont on the agency's

Continued

designation for the Lower Platte.

Stan Staab, Miyoshi's counterpart with the Lower Elkhorn NRD in Norfolk, said what's right is more important than who's right. "If the science is good and OK, we'll accept that. Fine," Staab said during in the NRDs' annual legislative conference in Lincoln. "But we just want to check it out."

The Lower Platte designation is the latest follow-through on sweeping changes to water policy adopted by the Legislature in 2004.

Much of central and western Nebraska had already been designated as either fully or over appropriated, which triggered a moratorium on new irrigation development and required local officials to develop integrated management plans to protect future water resources.

Now that same strategy is penetrating more populated eastern areas and attracting the attention of people who may have seen it as aimed mostly at agriculture.

State water regulator James Schneider said he's not feeling confrontational in responding to coalition actions. "We have no problem with it," he said. "This was an open process and everything done in an open process we're happy to share."

Schneider, supervisor of the integrated water management division, was trying to ease some of the uncertainty about what's ahead by making himself available for questions at the conference for several hours Tuesday afternoon.

That didn't mean that his boss, DNR Director Brian Dunnigan, was on his way to delaying water-conservation measures.

"If we waited until we got to a point where something had to be done," Schneider said, "it would be too late."

In more general comments to hundreds of NRD officials earlier Tuesday, Gov. Dave Heineman began with a humorous twist. "I'm excited to be here today," Heineman said, "because all our water problems are resolved. Thank you very much."

It didn't take him long to get serious. Responding to questions, he said NRDs "have an obligation" to make the tough decisions that sometimes go with local control of water issues. If they don't make them, someone else will.

"I'd rather not go that way," the governor said.

Dunnigan followed Heineman to the podium and described 2004 regulation as a proactive approach to potential conflicts between users of surface and ground water.

He said resulting water-conservation designations are based on "the best data and scientific methodology available to us."

Continued

In the case of the Platte Basin, new modeling information that takes into account its Elkhorn and Loup tributaries and flow measurements at North Bend and Louisville suggested that total water usage over the next 25 years will be more than previously thought.

Schneider said the new model “is the best available science” and that now is the time to act. “If there’s no water left,” he said, “there will be no industry coming in and there will be no offsets needed.”

Staab isn’t convinced about the urgency of the situation. He pointed to the effects of relatively generous precipitation in 2008 on groundwater levels and surface flows.

“There’s a lot of water in the river,” Staab said. “It’s all trending upward.”

Reach Art Hovey at 473-7223 or at ahovey@journalstar.com.

Jan. 27, 2009

NRDs make ominous move on Platte

Tuesday, Feb 03, 2009 - 12:18:11 am CST

The decision by eight Nebraska natural resources districts to conduct their own reviews of the science undergirding new restrictions on use of the Platte River should be viewed with foreboding.

The move means that taxpayers are now funding both sides of a dispute over water. History teaches that this could result in a long, complicated money-sucking battle.

At issue is the preliminary determination by the state Department of Natural Resources to declare the last stretch of the Platte River fully appropriated. The action temporarily blocks irrigators from drilling more wells near the Platte, diverting more water from the river and expanding the number of acres under irrigation.

The state decision was made in a public process that is still going on. Public hearings are scheduled across the state in February and March before a final determination is made.

There's no mystery about the science the department used to make its determination. State officials were open and upfront about the calculations used to justify the decision that the Platte is fully appropriated.

Obviously, however, the preliminary state determination is not being greeted warmly by natural resources districts, which are run by elected boards that include irrigators and urban interests unhappy at seeing expansion possibilities dry up. Both Lincoln and Omaha have well fields near the Platte.

The eight districts have put together a war chest — the local Lower Platte South NRD kicked in \$12,500 — to hire engineering consultants to “review” the methodology used by the state.

The group plans to have its separate review of water usage on the Platte ready by the state's final hearing in Fremont on March 12 before a final determination is made whether the Platte is fully appropriated between Columbus and Plattsmouth.

So far, NRD officials are taking pains to avoid appearing adversarial.

“If the science is good and OK, we'll accept that. Fine,” said Stan Staab of the Lower Elkhorn NRD in Norfolk.

It's possible, of course, or perhaps even more likely, that a consultant hired to find fault with the state's methodology will come up with something to criticize.

Then what happens? What if the districts are not content to simply point out flaws with the state's approach at the public hearing?

What if they want to continue the dispute in court?

Continued

Then the battle could get ugly and expensive very quickly. That eventuality is something that should be avoided. State officials are making their decision on the Platte in an open and participatory process. Natural resources districts should be willing to accept the outcome.

Comments:

Dr wrote on February 3, 2009 7:18 am:

" You are dead wrtong with your conclusion. The State officials are higher guns and trhe NRD's are elected representatives. They are now appropriately representing their districts. Any liar can and will confuse numbers to enhance their value in the eyes of thier boss. the stae empolyees did it and now the engineers highere by the NRD's will do the same. Yes, this issue will most definitely end up in court. Good! No appointed division of government should make law for the citizens. I don't live near the Platte and I have no interest in the issue but I do have a concern about assumed government authority by our employees. "

Statutory authority wrote on February 3, 2009 8:19 am:

" Ahhh...but the Department of Natural resources has the authority and purpose to declare areas as fully apporpriated...by State Law. That is their job. That way, you can have non-partisian review of items of SCIENCE. I grew up close to the Platte and I know the elected board in my area...they are NOT scientists and do not think of the bigger picture. Like the fact that water is a precious commodity and we will not survive without it. It is the government's job to make sure that there is water to support the people of the State. And LJS is right. When you pay someone to find something faulty, they will find it. Afterall, that is what they are getting paid for, right? "

I agree wrote on February 3, 2009 8:27 am:

" I agree with the LJS. I trust the State department more than the NRDs. No other state has NRDS. Too much redundancy on these issues. NRD board members may be elected, but hardly anyone runs for office and few people know who they are or what they do. Largely they rubber stamp the staff (who are government employees and not elected). The LPSNRD board made a mistake on this one. Dr is just taking sides with one government entity over another. "

DR again wrote on February 3, 2009 11:39 am:

" Wow. Please excuse the typing in the earlier post.

Yes, I am taking sides. I favor local elected government over appointed professional career government any time on any issue. As an employee I had the opporetunity to see up close how water issues are handled in this state. Bring on the court case. We should never make such a monumental decision based upon the opinion of one (or one group) of water engineers. I absolutely hate being a surf and listening to dictated orders from the State level of government. I can make an attempt to fire my local representative at the election booth if he forgets who he serves. Remember, there is no right or wrong on this issue. It is purely a matter of opinon about the future. "

Al Davis wrote on February 3, 2009 12:14 pm:

" Who is to say that the state's science is correct? A year ago I challanged the state's determination that the Niobrara was fully appropriated--not on my knowledge of the river itself, but on the fact that the fully appropriated area included land south of the North Loup River in the

Continual

Niobrara basin. That cannot be correct. The decision to declare the Platte fully appropriated is controversial and a second or third study should definitely be conducted since the state's decision will prohibit any further irrigation development even 100 miles away from the Platte River itself. The Ogallala Aquifer must be protected and the Platte River must be protected, but painting this huge geographic area with such a broad brush is irresponsible in my opinion. "

cm wrote on February 3, 2009 1:45 pm:

" I agree that there is too much redundancy here. One gov't agency feuding with another pseudo gov't agency at our expense! The NRD's are filled with people who have agriculture tunnel vision and will ALWAYS come down on the side of agriculture, often at the expense of other issues that are just as valid. I don't believe this even has as much to do with water as it does about power. One side has it and the other side wants it. The NRD's are essentially free to do whatever they want and they need to be reigned in. "

dewboy wrote on February 3, 2009 7:14 pm:

" If the LPSNRD done one thing right it would be a miracle. After all, they specialize in bike trails. They are just like the Railroad Transportation Safety District as the burn up tons of money and accomplish diddly squat. I would imagine that eventually they will be stupid enough to ruin the Niobrara River also. If the farm land is in fact that dry they should not plant there. "

squasher wrote on February 3, 2009 8:38 pm:

" So you want to believe the experts over people who actually know the truth. I know facts and data have been distorted by the "experts". Ground water levels do fluctuate with rain fall amount. If the starting basis for ground water levels being measured were taken in a wet year, or series of wet years, the water table was high. After that drought may have occurred so consequently the water table dropped. (even without irrigation.) Some nrd records are distorted due to this, as farmers records provided by the NRD show. The basis for this starting point needs to go back to when the first depth reading was taken, not from a year that makes "sound science" seem detrimental for us conservation minded farmers! I still say this is more about the ESA than farmers irrigating crops, piping plovers, pallided sturgeon, and other stupid listings. "

Michael Salmon wrote on February 4, 2009 1:38 pm:

" Where is this writer getting his information? The only "ominous move" in this scenario is the one made by the Department of Natural Resources to declare the lower Platte River fully appropriated. To say that the decision was made in a public process is certainly a stretch. There is a public hearing process after the fact, but the decision was made by appointed officials with little input from elected officials or private citizens and certainly no public forums. And to state that "there is no mystery to the science the department used" is a gross misstatement. There are, in fact, substantial questions about the data used and how it was used. That is exactly what the NRD officials are questioning and rightly so. These officials are elected to represent the people in their districts and this decision by DNR affects all the people in the districts and not just "irrigators". It limits any well drilled in the area to pump not more than 50 gallons per minute. Nebraska's economy is agriculture based and this decision eliminates not only future irrigation development, but also other economic development in these districts - such as dairies, livestock feeders, ethanol plants, manufacturing processes and so on. We have a governor who likes to publicly proclaim how he is for economic development in all of our state and yet his appointed

Continued

officials, apparently with his blessing, have made a decision, based on questionable data, that eliminates a lot of out state opportunities for such development.

The editorial correctly states that Omaha and Lincoln have their well fields in the Platte River valley. Will they also be subject to these same limitations for future economic development? Will urban irrigators be restricted from watering their lawns? If a business wants to locate or expand in Omaha or Lincoln will they too not be allowed to use more than 50 gallons per minute? It seems only fair, but then who said that this decision by DNR was about fairness. "

Waterloo Board of Trustees to host second public update on levee

by Sandra Stenglein
The Waterloo levee recertification project study has progressed to the point that another public meeting will be scheduled for the end of February. The first public meeting was held in October and included representatives from JEO Consulting Group, Papio-Missouri River Natural Resources District, and a state flood insurance expert.

The second public meeting will include an update by John Callen of JEO, who will provide an overview of where the study process is as of February, what the study has revealed to this point and the proposed plan, which is 60-percent complete. Following Callen's presentation the public will have the opportunity to ask questions and visit the displays.

In 2007 the Federal Emergency Management Agency (FEMA) notified the Village of Waterloo that they had a two-year window within which to update the levee surrounding the Village up to a new set of standards. The Board of Trustees employed JEO Consulting Group, an engineering firm, to advise them in the matter. JEO determined that a complete flood plain study would be necessary due to conflicting information regarding the height of the levee and recent road construction thought to have changed the integrity of the levee.

In order for the residents of Waterloo to avoid mandatory flood

insurance, the levee must be certified by FEMA.

In June 2008 the Board approved spending almost \$400,000 for a flood plain study to be conducted by JEO. The Papio-Missouri River Natural Resources District agreed to pay 50-percent of the cost.

The next phase of the project is the construction of the levee upgrades, which include raising the height in some areas and constructing a cement wall in other areas.

How to finance the construction of the levee upgrade is expected to be a main focus for the February public meeting. A representative from Ameritas will be present at the meeting to present Waterloo's options for financing the construction phase and to answer the public's questions.

JEO engineer John Callen spoke to the Waterloo Board of Trustees at their meeting on Monday, January 26, advising them of the need to schedule several meetings with the project principals in addition to the public meeting. He asked for the Board to schedule a "plan in hand" meeting with the Army Corps of Engineers during which representatives from the Corps and Trustees will tour the levee. They will have the actual construction plan, prepared by JEO to use as a reference during their inspection.

Meetings are also needed with the Papio-Missouri River Natural Resources District (NRD) Board and John Trecek of Ameritas. All of these meetings will take place during February, prior to the public update meeting.

Some other issues Callen brought to the Board for their approval included asking the Village to take the responsibility of removing any soil unearthed by borings conducted by Terracon. Callen reported that the Corps of Engineers does not want the soil to be spread out on the levee. Callen felt that if the Village could remove the soil, it would be more cost-effective for the Village.

Board Chairman Stan Benke agreed and said he was sure the maintenance department could see to the removal. Trustee Gary Lee also agreed that the Village would be able to take care of removing the soil far less expensively than hiring it done.

Callen asked the Board to prepare a formal permission form for accessing personal property. There are three properties that are privately owned, which Terracon will need to access during field borings necessary to verify existing ground cover. Those properties are held by Don Shelton, Troy Peterson and the Syngenta company. The Board approved the formality of asking property owners to sign a permission form to access private property.

LB 160: NRD bonding authority

Chairman Benke reported on his experience testifying before the Nebraska State Legislative subcommittee studying whether or not the Papio-Missouri River Natural Resources District (NRD) should have the power to issue special bonds for projects such as the levee re-certification in Waterloo. Benke said he described Waterloo's need for assistance, for guidance and expertise from the NRD and how limited Waterloo is in funds to finance the FEMA-required project.

According to Benke, Senator Beau McCoy asked Benke during testimony whether or not the levee project would be impacted if LB160 did not pass. Benke told the Board that he responded to McCoy's question with a simple "yes."

Fire station bids

When the original agreement was struck between the Rural Fire District and the Village of Waterloo for building a new fire station, the Village assumed the financial responsibility for connecting the station to the Village's water and sewer systems. At that time no one was aware that a lift station would be needed.

Mike Goddard of PeopleService informed the Board of the need for a lift station several months ago. He was authorized to solicit bids from plumbers and presented two sealed

bids at the Board of Trustees meeting on January 13. Because only one of the bids separated the cost for a lift station from the cost of water/sewer installation, Chairman Benke decided to shred the unopened bids and ask the bidders to resubmit their bids separating the cost of the lift station from the cost of water and sewer.

At the January 26 meeting Mike Goddard again presented two bids, one from Andersen Plumbing and one from Skinner Plumbing. The Anderson bid was accepted for a total cost of \$18,910 compared to the Skinner bid of \$24,000. Andersen's bid for the water/sewer installation is \$11,810 and the cost to install the lift station is \$7,100. How the lift station will be financed remains to be negotiated between the Village and the Rural Fire District.

Fire Chief Jim Cooke told the Board that progress is being made in the construction of the fire station despite setbacks due to weather.

Code book update

Jim McNally representing Municipal Code Services, Inc. appeared before the Board and explained the process he and his brother use to review city code books. They will go through each individual ordinance highlighting any corrections they would suggest. Then after the Board has a chance to review the suggestions, a two-to-

three hour meeting between the McNallys and the Board will be scheduled. When they are finished, all the Waterloo Village ordinances and codes will be updated to meet Nebraska codes and statutes.

Trustee Jeff Barnes suggested that a special meeting be scheduled for receiving the results of McNally's review. The meeting is tentatively scheduled for Tuesday, February 17, at 6 p.m.

The Board passed an ordinance that allows moving their meetings to Tuesday in order to keep co-chairman Troy Peterson on the Board. Due to personal matters Peterson is unable to attend meetings on Mondays.

"It is not the time to bring anyone new onto the Board," said Trustee Barnes.

Barnes cited the experience and expertise Peterson brings to several of the current issues, including the levee re-certification and the construction of the new fire station.

Board members went into executive session for the purpose of discussing police personnel issues. Upon reconvening, the Board approved directing Police Chief Tim Donahue to issue a written reprimand to a part-time police officer for a violation of personnel policy. The next regularly scheduled meeting of the Waterloo Board of Trustees will be held Tuesday, February 10, at 7 p.m. in the Village Office on South Front Street.

Local view: Protect state's legacy of living rivers

By Sandra Zellmer

Thursday, Feb 05, 2009 - 01:14:59 am CST

A bill pending before the Legislature could strangle the lifeblood from Nebraska's rivers and streams. By prohibiting instream appropriations in fully appropriated watersheds, LB438 would leave our most treasured waterways vulnerable to depletion.

Existing law aspires to protect the waters of Nebraska's streams for fish, wildlife, recreation and the well-being of present and future generations. The integrated water management provisions of LB962, enacted in 2004, impose a stay on the issuance of surface water permits when a basin is declared fully appropriated (that is, where existing uses of water equal the available supply).

However, exceptions are authorized for transfers to new uses, such as dedications to instream flow protection, and for "good cause," which includes nonconsumptive uses such as preserving flows. These provisions were adopted to ensure the state's economic viability as well as human and environmental health.

Adequate flows are the essence of a stream. Streams aren't simply water delivery structures. Healthy streams maintain land values, meet the needs of fish and wildlife, and support recreation of all types, such as fishing, hunting and boating. We rely upon them to perform many ecosystem services including livestock watering, groundwater recharge and dilution of sewage and other pollutants.

Indeed, Nebraska's future economic vitality would be threatened if our streams' needs were ignored. This may be why 81 percent of Nebraskans support protecting instream flows for fish and wildlife, while 69 percent support protection for canoeing, swimming and other recreational uses, according to a 2008 survey by UNL's Bureau of Sociological Research.

Too many western states set upon a path of development that left their streambeds virtually empty. Without protection, streams became little more than concrete ditches. Residents demanded that the law protect the streams they loved. Today, the majority of western states, such as Nebraska, have adopted some form of instream flow legislation.

There is no reason to worry about instream appropriations running rampant and "locking up" the state's resources. Since the passage of its instream flow law in 1984, only 285 miles (2 percent) of Nebraska's 12,371 miles of streams have received protection. This is because of the strict limitations placed on instream appropriations. First, instream flows may only be appropriated to maintain existing recreational uses or existing fish and

wildlife species. And, like several other states, Nebraska allows only the Game and Parks Commission and the Natural Resource Districts to hold instream flow rights.

Nebraska imposes a public interest review on instream applications and requires them to be weighed against specified economic and social values. Once granted, instream appropriations are reviewed every 15 years to ensure that they remain in the public interest.

Finally, instream appropriations cannot interfere with senior appropriations. Because they are relatively recent, they can only safeguard a stream against diversions by more junior users. Also, instream appropriations apply only to the stream segment covered in the application. Once the water passes through that segment, it can be put to use by downstream appropriators.

Rather than restricting instream appropriations even further, it would be wise to expand flow protections in order to maintain the critical ecosystem services and economic benefits that our streams provide. In most of Nebraska's basins, including the Niobrara and the Platte, contentious fights over whether a stream is, in fact, fully appropriated have generated a knee-jerk hostility toward in-stream uses.

It is difficult to cope with the idea that our demands have met our supply. But eliminating the ability to maintain some water in the stream cannot create more water. It simply ignores the most important demand that we make of our streams — that they be streams.

Sandra Zellmer is a Professor at the University of Nebraska College of Law. The views expressed here are personal and do not reflect a position of the university.

Comments:

Lincolnite wrote on February 5, 2009 10:57 am:

" I'm sorry, but I just don't understand the Journal's take on this. How much sense does it make to officially designate a river as fully or over appropriated - (no more water available for diversion/depletion) and then call this bill part of a strangling of our rivers. By definition, if the DNR calls it fully appropriated, why then is it a strangling to say that yet another instream flow appropriation is appropriate? Sounds like the editor wants her cake and to eat it too. "