



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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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.