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April 9, 2010

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

Final Reading Action

Contracts with law enforcement – Senators gave final approval to **LB 817** on a 43-0-6 vote this week changing Nebraska handgun laws.

On Select File, senators adopted **AM 2203** to **LB 817** on a 40-0 vote. The amendment will allow natural resources districts to contract with law enforcement agencies to patrol district property. Senator Brad Ashford sponsored the amendment that contained provisions originally introduced by Senator Brenda Council in **LB 795**. Following this amendment and a couple of others, senators advanced the bill to Final Reading.

The provisions of **LB 817** would exempt valid permit holders under the Concealed Handgun Permit Act from also having to obtain a certificate to purchase, lease, rent, or receive transfer of a handgun. The bill is Senator Fulton's Priority Bill for the session.

Occupation Tax – The Legislature gave final approval to **LB 862** on Thursday on a 40-2-7 vote. The bill makes two important changes: 1) Expands the definition so the Republican Basin portion of Tri-Basin NRD is eligible to participate in water management programs, and 2) allows the proceeds of the tax to be used to pay for the costs of projects without issuing bonds.

Current law allows districts that contain a river subject to an interstate compact among at least three states and at least one irrigation district within the compact to be able to issue river-flow enhancement bonds. The committee amendment (**AM 2004**) adopted on General File deletes the original bill and replaces that language with the following criteria:

- It has jurisdiction that is part of a river basin for which the district has adopted an integrated management plan (IMP);
- The IMP is in accordance with 46-715;
- The IMP refers to 2-3226.04; and
- The IMP explicitly states the district's intent to utilize qualified projects described in 2-3226.04.

Nebraska Revised Statute **2-3226.04** outlines that the funds shall only be used to pay or refinance the costs of (1) acquisition by purchase or lease of ground water or surface water rights; (2) 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; and (4) the augmentation of river flows consistent with the authority granted under Chapter 2, Article 32. These projects benefit both surface and ground water users.

An important factor in defining eligible districts is that the four Republican Basin NRDs are in the process of modifying their IMPs to incorporate plans for water-short years. Up to 190,000 acres in the Republican

Basin could have irrigation curtailed without compensation if the bill does not move forward. The districts have the opportunity to incorporate the language from **LB 862** in the revised IMPs. The Platte Basin NRDs have completed their IMPs and they do not include such reference, so they are ineligible unless the State of Nebraska, through DNR, and the NRDs jointly agree to modify the IMPs as such.

On Select File, Senator Carlson was successful in incorporating **AM 2441**. The amendment incorporates the revised language for **LB 785** which creates an exemption to the bank lien search for transfers of certified acres. The amendment was adopted on a 32-1 vote and reads as follows:

This subsection does not apply to a transfer of certified water uses or certified irrigated acres resulting from: A one-time transfer of four acres or less; participation in a financial or other incentive program that involves the transfer, purchase, or retirement of four acres or less; or a transfer that involves one landowner on a single tract of land in which there is no reduction or increase in certified water uses or certified irrigated acres and the transfer involves an improvement in irrigation efficiency.

The bill was a Natural Resources Committee Priority Bill for the session and was introduced by Senator Mark Christensen.

Recreational trails – Senators gave final approval to **LB 1010** on Thursday on a 42-0-7 vote. The bill, as amended, establishes a procedure for natural resources districts to use when eminent domain is involved for developing a recreational trail. Several changes to the original bill were made.

On General File, Senators adopted Committee Amendment **AM 2029** on a 41-0-8 vote. Originally the bill called for a 75% board vote in favor of the trail, which is reduced to 67% (2/3rds) by the committee amendment. The amendment also clarifies that private lands included in the bill do not include property under management of the Board of Educational Lands and Funds. The amendment also requires the district to have clear and convincing evidence that the procedures were followed and all of the criteria are met. To proceed, the board would need to find that all of the following criteria have been met:

- Public notice and mailed notice have been provided to landowners with affected property;
- good faith attempts to negotiate agreements with property owners have been made and have failed for some or all of the property necessary for the trail to be developed;
- route alternatives have been considered;
- the selected trail route takes into consideration the directness of the route, trail design and costs, and safety to users, vehicle operators and adjacent landowners;
- good faith attempts have been made to address the concerns of landowners regarding trail design, privacy, land protection, management and maintenance; and
- any development and management of the trail is designed to harmonize with and complement any established forest or agricultural plan for the affected land.
- Landowners who disagree with the district's decision could appeal to the district court in the county where the land is located. The bill would prohibit the use of eminent domain before the court's final decision.

A Select File amendment (**AM 2249**) offered by Senator Pankonin adds two components to the bill. First the amendment would require reasonable access across the trail for private property that is divided by the trail at a location mutually agreed upon by the NRD and landowner. Secondly, the amendment would consider the benefits to communities and adjacent public facilities when evaluating the trail route.

The final version of the bill also would provide some liability protection for affected landowners and require formal agreements between districts and landowners that outline each party's rights and obligations regarding the use of the trail.

The bill was Senator Pankonin's Priority Bill for the session.

Final Reading Consent Calendar

The Speaker of the Legislature, Mike Flood, scheduled Select File Consent Calendar debate this week. Consent Calendar is a portion of the agenda in which relatively noncontroversial bills are considered and quickly advanced to the next legislative stage. Two bills related to natural resources districts were included in this group as follows:

NRD write-in candidates -- The Legislature gave final approval to **LB 852** on Friday on a 47-0-2 vote allowing for write-in space on official ballots for certain offices. The bill eliminates the prohibition of write-in candidates in the primary for directors of NRDs and public power districts. The bill also eliminates the prohibition of write-in candidates in the general election for directors of NRDs, public power districts, county weed districts, reclamation districts, and ESUs.

Under current law, if there are two or less candidates for NRD or public power district directors, the ballot does not have to be printed in the primary election as the candidates would automatically advance to the General Election. This does not change under the bill.

The Nebraska Secretary of State's office testified at the hearing and pointed out that races with two or less candidates for NRD or public power district directors would not have to be on the primary ballot and thus the districts would not have to pay for ballots for additional write-in candidates. Their testimony also pointed out that the ballots could get rather lengthy with the write-in spaces for all the lower tier offices.

Before advancing the bill to Final Reading, Senator Stuthman was successful in adopting an amendment (**AM2492**) that would make January 1, 2011 the operative date of the bill.

Water Resources Cash Fund – Senators gave final approval to **LB 993** on a 46-0-3 vote this week which would add “enhancing stream flows or groundwater recharge” to the uses of the Water Resources Cash Fund. The bill was brought to the committee by the bill sponsor, Senator Tom Carlson, when it was discovered that a proposed water lease by Tri-Basin NRD to increase stream flow in the Platte River would not qualify under the program.

State FFA Convention – The NARD sponsored the Outdoor-Recreation-Entrepreneurship/Placement Proficiency Awards at the 2010 State FFA Convention. Proficiencies allow students to compete against other students who have similar Supervised Agriculture Experiences, while allowing students to learn more about the importance of record keeping. There were 14 total state qualifiers and the top three were recognized in an awards ceremony at Pershing Auditorium on Thursday evening. The three finalists had to go through interviews where students explained their projects and answered questions for a panel of judges. Jordan Kunz from Stuart was first place and will have the opportunity to represent Nebraska at the National FFA Convention in October in Indianapolis. Matthew Rozic from Mead and Mackenzie Gibbens from Atkinson-West Holt were also finalists.