



January 6, 2006

TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 6 NARD UPDATE

2006 Session Begins -- State Senators returned to Lincoln to begin the second session of the 99th Legislature. Senators will be dealing with several issues carried-over from 2005. So far 201 bills have been introduced this session and 414 bills will carry over from last session. This session will be the last for session for 20 lawmakers as term limits takes effect. With the short timeframe, many of these senators will want to focus on their own legislative ideas to try to get their bills past before the end of the short 60-day session. The big issues for this session include, school organization and funding, water issues, tax cut proposals, whether to allow carrying of concealed handguns, and possible impeachment of Regent Hergert.

Mark your Calendars -- Upcoming dates of interest: January 9 debate is scheduled for carry-over legislation. January 18 is the last day for Senators to introduce new bills. The session calendar is available on the Unicameral website at www.unicam.state.ne.us The 60-day session is expected to end on April 12. Holiday and Recess days include: January 16 – Martin Luther King, January 27 Recess. February 3, 17 Recess. February 20 – President's Day. March 3, 6, 17, 20, 31, Recess. April 3, Recess.

2005 recap – Last session there were several legislative bills of interest for the NRDs that were adopted and are now current law. For a recap of last session, visit the Nebraska Association of Resources Districts web-site at www.nrdnet.org/about/legislative.htm for all the past and current legislative updates.

New Bills – As of the end of the third day, Senators have introduced 210 new bills. Items of interest for the Natural Resources Districts include:

LB 784 (Mines) Require natural resources districts and municipalities to ensure public access to public projects

This bill requires Natural Resources Districts and Cities and villages to ensure that public access for recreational use is available to the public for each of their projects. Access for recreational use must meet or exceed the access available to an adjacent landowner to the project.

LB 799 (Baker, Kremer, Wehrbein) Place restrictions on the use of eminent domain

This bill prohibits the use of eminent domain when the taking provides the following: a private benefit to a private party through use of the taken property, the taking is for an alleged public use but actually for a private party, any economic development unless the economic development is a secondary benefit. Eminent domain is also prohibited for economic development when it involves the taking of agricultural land. The bill exempts takings for Transportation, Water supply, wastewater, flood control and drainage, public buildings, hospitals, parks, utility services, waste disposal projects, libraries, museums, or related facilities. Condemnation of leaseholds on property owned by the condemner are also exempt.

LB 805 (Natural Resources Committee) Create the Interrelated Water Management Plan Program

Legislative Bill 805 creates the Interrelated Water Management Plan Program to facilitate and fund projects under the Nebraska Ground Water Management and Protection Act. The program will function as a grant program and be administered by the Nebraska Natural Resources Commission and funds administered by the Department of natural resources. The commission will develop the guidelines and limitations for grant requests. A minimum of 20% local matching funds is required.

LB 822 (Kremer) Change provisions relating to water well regulation and pump installation

This bill includes ‘the wiring to the first control’ to the definition of pump installation. It also allows the opening of a water well or the breaking of the seal to be done by an individual under the supervision of a certified public water system operator, or a state electrical inspector. Certified Natural Resources Ground Water Technicians are still permitted.

LB 848 (Connealy, Schrock) Establish a renewable fuel content standard for gasoline

This bill would require that all gasoline sold in Nebraska after January 1, 2007 must contain a renewable fuel content. Gasoline for historical vehicles, off-road vehicles, motorcycles, boats, snowmobiles, or small engines are exempt.

LB 870 (Schrock, Wehrbein) Change scrap tire grant provisions

Legislative Bill 870 would allow funds from the Waste Reduction and recycling Incentive Fund to be used for capital assistance for private and public facilities for scrap tire processing related to tire-derived fuel. The bill also extends the 1 million dollar grant until 2011. Currently it is set to end June, 30, 2007.

LB 871 (Schrock) Change duties of the Environmental Quality Council relating to permits for solid waste Management

Legislative Bill 871 requires the Environmental Quality Council to adopt and promulgate rules and regulations for the issuance, renewal, suspension, denial, revocation, and modification for their facilities permit program.

LB 872 (Schrock) Provide for emissions trading programs under the Environmental Protection Act

Legislative Bill 872 allows the Environmental Quality Council to develop and implement emissions trading programs under the Environmental Protection Act.

LB 874 (Kremer) Change provisions of the Pesticide Act

Legislative Bill 874 allows for more pesticide management practices when a pesticide demonstrates unreasonable adverse effects on humans or the environment.

Applications under the bill may be submitted in an electronic format acceptable to the department.

The bill redirects late registration fees to the Pesticide Administrative Cash Fund rather than the Natural Resources Water Quality to cover administrative costs.

LB 883 (Kopplin, Cornett, Langemeier, et al.) Rename the County Industrial Sewer Construction Act and provide for residential sewerage development

Legislative Bill 883 recognizes residential development along with Industrial development and their needs for sewer disposal systems. The bill allows for counties to include residential development and continues to allow counties to own, construct, equip, and operate sewerage disposal systems and plants. The bill also renames the act to the County Sewer Construction Act.

LB 893 (Kremer, Aguilar, Johnson, et al.) Change the definition of allowable growth for political subdivisions

Legislative Bill 893 redefines allowable growth for governmental units to be the percentage increase in taxable valuation due to improvements to real property as a result of new construction, additions, or improvements to real property which increased the value of the property rather than just the amount in excess the 21/2 percent base limitation.

LB 898 (Preister) Change provisions relating to the Open Meetings Act

This bill would require governmental bodies to specify why they are going into closed session and include that information in the minutes of their meetings. The bill also would permit people at a later date to challenge actions that they did not protest during public meetings, and require the posting of Nebraska's open meetings law in meeting rooms.

LB 899 (Preister) Provide powers and duties to the Public Counsel

The bill allows the Public Counsel an additional assistant to be a deputy public counsel for open meetings and public records. The authority of the Public Counsel for open meetings and public records would be for all complaints towards administrative acts of members or employees of public bodies when those complaints pertain to the Open Meetings Act. Any violations can be petitioned by the Public Counsel to the Attorney General or county attorney.

LB 900 (Preister) Redefine public body for purposes of the Open Meetings Act

The bill defines public body to include courts and administrative agencies acting in a quasi-judicial capacity. Current law exempts entities conducting judicial proceedings unless the proceedings are for rulemaking authority, deliberating, or for administrative orders.

LB 901 (Preister) Modify procedures for the granting of variances and renewals by the Director of Environmental Quality

The bill requires the Director to give public notice of any applications to receive a variance before any variance is granted. The public notice shall be published in the county where the variance is to be located.

LB 910 (Redfield, Erdman) Provide restrictions on the use of eminent domain

The bill prohibits a condemner to use eminent domain if the property is to be conveyed or leased to another private person. Eminent domain used on property that is abandoned or in a blighted or substandard area is exempted. Eminent domain may still be used if the property is allowed for public such as a right-of-way for utilities.

LB 912 (Schrock, Burling, Byars, et al.) Exempt agricultural personal property from personal property tax

Exempts agricultural personal property from the personal property tax.

LB 924 (Fischer, Baker, Burling, et al.) Change provisions of the Community Development Law and restrict the use of eminent domain

LB 924 clarifies that agricultural land shall be designated as substandard, blighted, or undeveloped vacant land under the Community Development Law. The bill also prohibits a condemner from taking property for economic development purposes.

LB 930 (Beutler) Establish a water conservation fee and provide for its use

Legislative Bill 930 creates an Annual Water Conservation fee. The fee is to be collected by the Director of Natural resources and shall be imposed on irrigated property on a per-acre basis, and on municipal water on a per capita basis. Money collected will be credited to the Water Conservation Cash Fund. The department will enforce collection. The fee per acre and per municipal resident is not yet defined in the bill. Fees for irrigated acres in river basins that have been designated as either fully or over appropriated by the department may have different fees. The Water Conservation Cash Fund will be used to support management of interrelated ground water and surface water resources including studies and modeling, conservation easements, implementation of integrated management plans and the director may allocate money to the natural resources districts.

LB 933 (Natural Resources Committee) Changes from the Water Policy Task Force

The bill makes several technical changes to LB 962 as proposed by the Water Policy Task Force. The proposal includes: 1) Eases the restriction of use of specific cost indexes for adjustments to the cost of building development fund projects; 2) Corrections to dates, notifications, filings for surface water transfers and adjudications; 3) Clarification to public notices and hearings on review of instream flow rights; 3) Eliminates the reference to the Water Task Force finishing it's work by a date certain and allows it to continue to function as authorized by the Legislature; 4) Imposes a 60-day time frame for water well contractors to submit notices to DNR of installations and modifications to wells; 5) Requires municipalities to also notify the affected NRDs and adjoining landowners when they decide not to use a previously determined tract of land for a wellfield; 6) Adds irrigation efficiency and conservation of groundwater to the list of best management practices; and 7) Provides an exemption for municipalities from allocation restrictions imposed after November 1, 2005.

The exemption for municipalities would be the greater amount of the Municipal Transfer Permit or the governmental, industrial and commercial uses plus a) 200 gallons/person/day for communities at the eastern part of the state to 250 gallons/person/day for communities at the western end of the state. The municipal exemption also allows for new industrial uses up to 25 million gallons annually for growth. The exemption from allocations would continue until January 1, 2026 at which time the allocation could not be less than the greatest annual use in the 20 year period. Any reduction of consumptive use by a municipality would accrue to the benefit of the natural resource district in which the municipality is located.

LB 938 (Baker) Provide for personal notice and recording of wellhead protection area boundaries and controls

Prior to a hearing on a proposed Wellhead protection area, the bill requires notification by certified mail to landowners that have surface water rights or of any registered wells in the proposed wellhead protection area. The certified mail would have to be sent out by the controlling entity not less than sixty days before the first scheduled public meeting of the governing board at which public comment on the proposed wellhead protection area will be heard

LB 960 (Kremer, Baker, Combs, et al.) Change valuation of agricultural and horticultural land

The bill lowers the taxable value of agriculture land from 80 percent to 70 percent.

LR 259CA (McDonald, Kopplin, Wehrbein) Constitutional amendment to change distribution of state lottery funds

LR 259 CA would require the first one million dollars collected after prize and operating expenses are paid to be transferred to the Compulsive Gamblers Assistance Fund. Current law requires \$500,000 to the fund.