



# 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: February 22 NARD UPDATE**

**Forecasting Board reduces revenue estimates** – The Nebraska Forecasting Board reduced projected Nebraska tax revenues by \$126 million for FY 07-08 and FY 08-09 (\$51 and \$75 million respectively). If the forecast is correct, the general fund will be short of the 3% minimum reserve requirement by \$68.5 million at the end of Fiscal Year 08-09. Governor Dave Heineman issued as memorandum to all Code Agency Directors to undertake a critical review of expenditures in hiring, travel, software, hardware, equipment and other operating costs.

**Priority Bills selected** -- State senators finished selecting priority bills on Friday, February 22<sup>nd</sup>. Bills dealing with natural resources include: **LB 880 (Kopplin)** which authorizes watershed enhancement bonds; **LB924 (Natural Resources Committee)** which makes several changes to water laws relating to increasing stream flows, instream flow laws, endangered species and fully appropriated designations; **LB 1049 (Erdman)** changes terms for Game and Parks Commission members; and **LB 1094 (Christensen)** which provides payments to surface water irrigators that leased water to NRDs.

**Accounting for new water in streams** – It appears that surface water interest have little interest in developing language to account for water placed back in streams by NRD regulation programs, leases or purchases. As the law is being interpreted now by the Department of Natural Resources, any water placed into the stream would go to existing surface water right holders and allowed to be diverted back out of the stream rather than going toward compact or interstate agreement compliance, or to a new domestic, industrial or municipal use.

Three legislative bills (**LB 975** by Senator Wightman, **LB 924** by Senator Fisher and **LB 1041** by Senator Christensen) all have language that would account for water placed back in the stream and protect it for intended purposes. The natural resources districts are required by law to develop programs to manage water resources, assist with compact and interstate agreement compliance, while also maintaining the local economy. The second round of negotiation has ended with a firm rejection by surface water interests of any accounting or protection of the increased stream flows. Senators from the natural resources committee would like to have some language to include in **LB 924** to address some, if not all, of these issues.

## Nebraska Unicameral Committee Action

**Watershed enhancement bonding advances** — The Natural Resources Committee advanced **LB 880** to General File which authorizes watershed enhancement bonds in the Papio-Missouri River NRD to issue watershed enhancement 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. The bonds would be payable from an annual special watershed enhancement bond levy upon the taxable value of all taxable property in the district. The bond levy is includable in the computation of other limitations upon the district's tax levy.

The committee added an amendment (**AM 1787**) that makes three additional changes to address the concerns raised by the Washington County residents as follows: 1) Bond proceeds could not be used for structures holding more than 500 acres of a permanent pool of water which would eliminate the establishment of large dams in Washington County; 2) Specific language prohibiting the use of eminent domain for the purposes of enhancing private developers; and 3) Public access would be required on any structure created under this program that is greater than 20 acre pool. After adding the language to address the concerns they raised, and for reasons unknown at this time, the Washington County group changed their minds and decided to still oppose Senator Kopplin's Priority Bill.

**Natural Resources Committee merges bills** – The Natural Resources Committee advanced **LB 798** this week and included two other bills (**LB 799 and 800**) as **AM 1894**. The original bill, LB 798, changes the definition of a

headwater segment of a natural stream to an ephemeral natural stream which would be exempt from state storage and use permits. Included in the amendment is **LB 799** which allows for a transfer of surface water for irrigation when there is a change in the point of diversion which meets the following requirements: (i) The new point of diversion is on the same named stream, the same tributary, or the same river or creek as the approved point of diversion; (ii) the proposed point of diversion will not move above or below an existing diversion point owned by another appropriator; and (iii) the proposed point of diversion is not above or below a tributary stream or a constructed river return or a constructed drain.

Also in the amendment is **LB 800** which allows for all intentional underground water storage projects to charge a fee for withdrawal of water. Existing law prohibits projects existing on August 26, 1983 from charging a fee. The committee rejected an amendment to involve the NRDs in the approval process for a fee on groundwater, but it was rejected by Chairman Loudon as he wanted no oversight by the NRDs on the fee.

**Change terms for members of the Nebraska Game and Parks Commission** --The Natural Resources Committee advanced **LB 1049** which proposes to change the terms for members appointed after January 1, 2009 to a four year term rather than five. The bill also prohibits any person who has served two full terms after January 1, 2009, to be reappointed as a member of the commission. Senator Erdman declared the bill his priority for the session.

**Natural resources district occupation tax technical correction.** The Natural Resources Committee advanced **LB1131** which clarifies that the county treasurer can collect a fee of one percent of the occupation taxes collected for NRD river flow enhancement bonds. The committee added **AM 1895** which is the original version of **LB1132** which clarifies that occupation taxes shall be collected in the same time and manner and shall also become delinquent at the same time and manner as general real estate taxes. Both bills mirror current practice. Senator Christensen has requested the bill be placed on consent calendar.

**Hearing procedures for DNR** – The Natural Resources Committee took testimony on **LB 727** which would change provisions relating to hearings conducted by the Department of Natural Resources. The bill proposes to change the time from 15 days to 30 days for a party to request the Department of Natural Resources to hold a hearing on a final decision made by the department that did not have an original hearing. The bill is a placeholder for DNR and other interested parties to review the department’s regulatory procedures and offer any statutory changes to the process at the hearing. Don Blankenau testified on behalf of NARD and explained the process undertaken to resolve the issues for DNR and all of the interested parties involved. However, there is no consensus from the group to make a formal recommendation to the committee. The Department of Natural Resources did not show up for the hearing. No reported action has been taken on the bill.

### **Bills Indefinitely Postponed –**

**LB 881** -- Impose an excise tax on production of ethanol for highway funding.

**LB 945** -- Prohibit natural resources districts from using eminent domain as it relates to flood control projects and development.

**LB 946** -- Impose an excise tax on production of ethanol for water programs.

**LB 1040** -- Impose an excise tax on production of ethanol for water programs.

### **Nebraska Unicameral Committee Hearings Next Week – Wednesday, February 27<sup>th</sup> at 1:30 pm.**

**LB 922 (Dubas) Adopt the Cellulosic Biomass Renewable Energy Initiative and impose and change taxes.** Creates the Cellulosic Biomass Renewable Energy Board to review and approve applications for incentives under the Cellulosic Biomass Renewable Energy Initiative and award incentives within four categories: (1) Cost-share grants; (2) Loans; (3) Production incentives; and (4) General grants. The program would be funded by an excise tax of one cent per one million BTU units would be imposed on natural gas imported to Nebraska for industrial use.

### **On the Federal Level**

**Congressman Smith joins Natural Resources Committee** -- Congressman Adrian Smith (R-NE) has been asked to join the House Natural Resources Committee, which has jurisdiction over water policy, domestic energy resources, all federal public lands, national forests, environmental regulations such as the Endangered Species Act. Smith will officially join the Natural Resources Committee, chaired by Rep. Nick Rahall (D-WV), next week when Congress returns from the President’s Day district work period.