



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 25 NARD Update

LB 701 Court Case – The trial arguments on the constitutional questions surrounding LB 701 were heard on January 24, 2008 at the Lancaster County District Court. Attorneys for the state and NRD's argued that it wasn't tax for state purposes, rather they gave the local NRD's the taxing authority to regulate groundwater usage if they felt it was necessary. The landowners in the suit argued that LB701 is unconstitutional because it creates a tax for state purposes. Judge Paul Merritt Jr. heard the case and indicated he will take some time to make this decision.

Nebraska Unicameral Action

Sent to General File

LB 790 Advances – The Agriculture Committee advanced LB 790 after the hearing on Tuesday, January 22. The bill proposes to increase the maximum payment through the Nebraska Buffer Strip Programs from \$150 to \$250 per acre. NARD submitted a letter in support of the bill and also noted that unless funding for the program is increased, by default the cap will lower the number of acres that can be enrolled. The testimony encouraged senators to consider additional funding from the state level if the same number of acres is desired to be enrolled.

Committee Action

LB 880 -- Provide for watershed enhancement bonds. The Natural Resources committee took no action after the hearing on Friday, January 25. John Winkler, Manager of the Papio-Missouri NRD and the NARD testified in support of the bill. The PMNRD stated that that flooding has increased in the Papio Creek by 25% since 1970 and 35% in further developed areas. In order to meet the future needs of urban development, the PMNRD needs the tools to produce a comprehensive and integrated storm water management plan for the Papillion Creek Watershed.

LB 945 -- Change authority of natural resources districts. The Natural Resources committee took no action after the hearing on Friday, January 25. John Winkler, Manager of the Papio-Missouri NRD, and the NARD testified in opposition to the bill. The bill restricts NRD's from entering into agreements with real-estate entities to purchase property through eminent domain. It was argued that this bill would add unneeded language to already existing state law. LB 924 was passed by the Legislature in 2006 and places restrictions on the use of eminent domain and transfer of property for subsequent use by a commercial for-profit enterprise. In addition, the 1977 Krauter case (199 Neb. 431) states that no more property may be taken by eminent domain than is actually needed for the NRD's presently-planned, public purposes.

New Bills

The following are a few new bills of interest for the NRDs introduced this week. The last day for bill introductions was Wednesday, January 23rd. For more information on introduced legislation, visit the Nebraska Unicameral web-site at www.nebraskalegislature.gov.

LB1061 -- Provide for fees, rebates, and grants relating to electronic equipment recycling. Senator Louden. The bill establishes a \$3 fee on televisions, computers and computer monitors. Of the fee, \$2.50 would go to the Waste Reduction and Recycling Fund and \$.50 would be retained by the electronic equipment retailer. Beginning in 2009, an electronic equipment retailer who accepts electronic equipment for recycling could receive an annual rebate of one dollar per item of electronic equipment recycled, subject to the following conditions: (a) The total amount of rebates received b) The retailer shall certify the total amount of fees remitted the previous year pursuant to such section; (c) The retailer shall certify the

amount of electronic equipment accepted for recycling; and (d) The retailer shall certify that the electronic equipment accepted for recycling was recycled.

LB1094 -- Change allocation provisions relating to the Nebraska Resources Development Fund. Senator Carlson. Changes provisions under the Nebraska Resources Development Fund to allow funding for drought relief and financial assistance to natural resources districts in the preparation of management plans pursuant to section 46-709 or for the augmentation of river flows as an incentive program pursuant to section 46-739. An additional change would require the NRC members to fund programs as required by the Department of Natural Resources director.

LB1127 -- Change permitted uses of the Water Resources Cash Fund. Senator Christensen. Allows the Water Resources Cash Fund to be used to provide aid to natural resources districts for drought relief assistance and river flow augmentation.

LB1131 -- Authorize a collection fee for collection of a natural resources district occupation tax. Senator Christensen. Clarifies that the county treasurer can collect a fee of one percent of the occupation taxes collected for NRD river flow enhancement bonds.

LB1132 -- Change provisions relating to river-flow enhancement bonds. Senator Christensen. 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.

LB1150 -- Appropriate funds to the Department of Natural Resources. Senator Langemeier. Increases the funding for the Nebraska Resources Development Fund from \$3,373,066 to \$7,000,000.

LB1161 -- Appropriate funds to the Department of Natural Resources. Senator Karpisek. Appropriates \$100,000 from the General Fund for FY2007-08 to the Department of Natural Resources, to contract for an environmental study to consider the impact of placement of a flood control dam on the Blue River near Crete.

LB1164 -- Adopt the Wildlife Damage Act. Senator Lautenbaugh. The bill creates a wildlife damage claim program in the Nebraska Game and Parks Commission to provide a cost-share program to counties for abatement and damage claims. Wildlife damage from deer, geese, turkey and elk would be eligible for the program. The counties would be required to have a wildlife damage program for landowners to be eligible for the program. Damages would be paid out up to a maximum of \$15,000.

Hearings next week

LB 881 -- Impose an excise tax on production of ethanol. Senator Stuthman. The bill proposes a 3 cent/gallon excise tax on the production of ethanol in the state. The proceeds would be distributed the Highway Cash Fund (50%), the Highway Allocation Fund (25%) for rural needs and to the Highway Allocation Fund (25%) for municipal needs. **Hearing 1/30. Revenue Committee, 1:30 Room 1524.**

LB 946 -- Impose an excise tax on production of ethanol. Senator Burling. The bill proposes a 2 cent/gallon excise tax on the production of ethanol in the state and would eliminate the corn and sorghum checkoff scheduled to be implemented in 2013 for the water resources programs. **Hearing 1/30. Appropriations Committee, 1:30 Room 1524.**

LB998 -- Appropriate funds to the Nebraska Innovation Zone Commission and provide for a transfer from the Cash Reserve Fund. Senator Gay. Aimed to identify a plan of development for the six-county region within the Innovation Zone (I-80 Corridor between Lincoln and Omaha). **Hearing 1/31. Appropriations Committee, 1:30 Room 1004.**

LB 1040 -- Impose an excise tax on production of ethanol. Senator Louden. The bill proposes a 1 cent/gallon excise tax on the production of ethanol in the state and would eliminate the corn and sorghum checkoff scheduled to be implemented in 2013 for the water resources programs. **Hearing 1/30. Revenue Committee, 1:30 Room 1524**

LB1061 -- Provide for fees, rebates, and grants relating to electronic equipment recycling. Senator Louden. The bill establishes a \$3 fee on televisions, computers and computer monitors designed to promote electronic recycling. **Hearing 1/31. Natural Resources Committee, 1:30 Room 1525**