



May 27, 2011

TO: NARD Board of Directors, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: May 27 NARD Sine Die Update

The Nebraska Legislature adjourned Sine Die May 26, 2011 on day 87 of a 90 day session. This document contains a summary of the outcome of all 2011 Legislative Bills of interest to natural resources districts.

The first section lists bills that were passed by the Legislature and approved by Governor Heineman. The second section lists bills that will be carried over to the 2012 Legislative session. The third section lists bills that have been indefinitely postponed because its provisions have been included in other enacted legislation or its companion bill has been indefinitely postponed. The fourth section lists Interim Study Resolutions that were introduced in 2011.

Bills that passed are on pages 1-7, bills that will be carried over to the 2012 Legislative session are on pages 7-14, bills that are indefinitely postponed are on page 14, and Interim Study Resolutions introduced in 2011 are on pages 15-16.

Most bills passed and approved by the governor become law three calendar months after the Legislature adjourns unless they have an emergency clause or a specified operative date. The emergency clause is a provision that allows a bill or a portion of a bill to take effect immediately after the governor signs it or after the Legislature overrides a governor's veto.

Section One – Bills Passed by the Legislature and Approved by Governor Heineman

LB 1 – Revisor bill to repeal an obsolete cost-share program relating to the Republican River.

The bill was introduced by the Executive Board. Senators gave final approval to **LB 1** by a 48-0-1 vote on February 4, 2011. The bill was approved by the Governor on February 10, 2011.

LB 2 – Revisor bill to repeal obsolete statutes relating to the Water Policy Task Force, ground water conservation districts, and certain provisional permits.

The bill was introduced by the Executive Board. Senators gave final approval to **LB 2** by a 48-0-1 vote on February 4, 2011. The bill was approved by the Governor on February 10, 2011.

LB 27 – Change provisions relating to water appropriations for power generation. The bill adds the requirement that water appropriations for power must also meet sub-section (1) of section 46-235 to be approved. That sub-section includes public welfare and public interest considerations, while also providing an appeal process for the applicant. The bill also changes the categories of wells subject to the lower registration fees from “less than 50 gallons per minute” to “50 gallons a minute or less” capacity.

The bill was introduced by Senator Langemeier. Senators gave final approval to **LB 27** by a 42-0-7 vote on April 8, 2011. The bill was approved by the Governor on April 14, 2011.

LB 28 – Change provisions relating to chemigation. The bill eliminates the requirement that a copy of each approved chemigation application be immediately forwarded to the Department of Environmental Quality. The bill requires that the information be maintained by the natural resources districts and provided to the department upon request.

The bill also eliminates a couple of provisions in annual reports from the natural resources districts to the department. The reports would no longer have to include the location of each permitted chemigation system in the district and the name of each permit holder utilizing chemigation in the district.

The bill was introduced by Senator Langemeier. Senators gave final approval to **LB 28** by a 49-0-0 vote on February 16, 2011. The bill was approved by the Governor on February 22, 2011.

LB 29 -- Change provisions relating to the use of certain funds by the Department of Environmental Quality. This bill accomplishes three things: 1) Changes the funding source for the reimbursement of political subdivisions for the cleanup of illegal roadside dumps from the Integrated Solid Waste Management (Integrated Waste) Cash Fund to the Waste Reduction and Recycling Incentive (Waste Reduction) Fund. 2) Enables the department to fund part of its emergency response activities out of the Petroleum Release Remedial Action (Petroleum Release) Cash Fund. This program is currently funded 100% out of the Integrated Waste Cash Fund. 3) Removes statutory authority to utilize fees remitted to the Integrated Waste Cash Fund for the performance of cleanup activities under the Livestock Waste Management (Livestock) Act.

The bill was introduced by Senator Langemeier. Senators gave final approval to **LB 29** by a 42-0-7 vote on February 16, 2011. The bill was approved by the Governor on February 22, 2011.

LB30 -- Change provisions relating to composting sites. The bill clarifies the state statute to ensure citations to federal laws (Clean Water Act, etc.) are accurate. The bill increases the permit term for composting sites from five years to ten years and eliminates the prohibition on permit transfers. The bill also eliminates the requirement that compost sites be inspected semiannually. On Select File, **ER 10** was adopted to the bill to provide correct references to federal law. An ER amendment is an Enrollment and Review amendment that makes minor corrections to the bills as they move through the process.

The bill was introduced by Senator Langemeier. Senators gave final approval to **LB 30** by a 49-0 vote on February 16, 2011. The bill was approved by the Governor on February 22, 2011.

LB 31 -- Change supplemental agricultural appropriation of water provisions. The bill eliminates a procedure for a surface water right holder to gain additional water right flows and allows the Department of Natural Resources to consider other existing factors in determining whether to grant a new permit. The original bill would have eliminated the ability to transfer the additional water right but this provision was eliminated with the adoption of the committee amendment (**AM 206**).

The bill was introduced by Senator Langemeier. Senators gave final approval to **LB 31** by a 42-0-7 vote on April 8, 2011. The bill was approved by the Governor on April 14, 2011.

LB 32 - Change dam and appropriation application approval provisions. The bill eliminates the requirement that approval of all pending matters for an application for water appropriation and water storage under the Safety of Dams Act be issued simultaneously. This allows a project sponsor to determine if a water appropriation is available prior to going through the expense of finalizing the dam design.

The bill was introduced by Senator Langemeier. Senators gave final approval to **LB 32** by a 42-0-7 vote on April 8, 2011. The bill was approved by the Governor on April 14, 2011.

LB 154 - Change procedures for filling vacancies on natural resources district boards. Janssen. The bill makes a couple of changes when a vacancy occurs on natural resources boards.

First the bill requires that when a vacancy occurs, the board of directors shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term (a) in writing to the Secretary of State and (b) to the public by a notice published in a newspaper of general circulation within the district or by posting in three public places in the district.

Second, if the vacancy occurs during the term prior to August 1 of the second year of the unexpired term, the appointee would have to run for election for the remaining term. Finally, if the vacancy occurs after August 1 of the second year of the unexpired term or during the third or fourth year of the unexpired term, the appointee shall serve until the term expires.

The bill was introduced by Senator Janssen. Senators gave final approval to **LB 154** by a 49-0 vote on February 16, 2011. The bill was approved by the Governor on February 22, 2011.

LB 229e - Transfer funds from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund. The bill provides for a process for the Nebraska Department of Natural Resources to apply for a grant from the Nebraska Environmental Trust Fund (NETF) to fund water programs. The bill was a result of compromise from the NETF, State Senators, environmental groups, and agriculture groups. This is what the compromise does:

- Allows the Department of Natural Resources (DNR) to apply to NETF for a three-year \$9.9 million grant for fully/over-appropriated river basins and gives that grant 50 bonus points in the ranking. If approved, the grant will be paid out in three annual installments of \$3.3 million. The bonus points will be contingent on the Legislature appropriating \$3.3 million in General Funds annually to match the NETF funds.
- Provides an annual match of \$3.3 million in General Fund dollars that will be appropriated to the Water Resources Cash Fund (WRCF). Previously, the WRCF received \$2.7 million annually. Total appropriation intent over the three-year period is \$9.9 million.
- Creates a sub-account within the Water Resources Cash Fund for the purpose of holding funds received from the NETF. The interest from this sub-account will be credited back to the NETF.
- Adds intent language to apply for an additional three-year grant provided that benchmark criteria are met.
- Requires that expenditures from the WRCF made to natural resources districts have met the 40 percent matching fund requirement. The 40 percent matching requirement is already part of existing law for a NRD to receive funds from the WRCF. No more than 10 percent of the 40 percent match from the NRD can be in-kind.

The bill was introduced by Senator Fischer; Senator Larson also declared it his Priority Bill for the session. Senators gave final approval to **LB 229e** with an emergency clause by a 39-5-5 vote on May 11, 2011. The bill was approved by the Governor on May 17, 2011.

LB 243 - Change membership on the Republican River Basin Water Sustainability Task Force. The bill allows for an additional ex-officio, non-voting member from the Legislature to be appointed to the Republican River Basin Water Sustainability Task Force, increasing the membership of the Legislature from four to five members.

The bill was introduced by Senator Carlson. Senators gave final approval to **LB 243** by a 47-0-2 vote on March 4, 2011. The bill was approved by the Governor on March 10, 2011.

LB 248 - Change provisions relating to burning permits and range management burning. The bill allows local fire departments to develop standards rather than rules and regulations for burning permits. The bill also eliminated the term “range management” and replaced it with an expanded definition of “land management”.

The bill made clarifications to the definition of land management burning and added that scientific research may be conducted under the land management burning law. Land management is defined in the bill as meaning the controlled application of fire to existing vegetative matter on land utilized for grazing, pasture, forests, or grassland to control weeds, pests, insects, and disease, prevent wildland fires, manage watersheds, care for windbreaks, and conduct scientific research.

The bill was introduced by Senator Dubas. Senators gave final approval to **LB 248** by a 41-0-8 vote on May 11, 2011. The bill was approved by the Governor on May 17, 2011.

LB 366 - Change subcommittee recommendation provisions relating to the Nebraska Environmental Trust Fund. The bill eliminates the requirement that the Trust Fund Board has to have at least eight affirmative votes to deviate from a subcommittee recommendation to the board. The bill also requires that all subcommittee meetings be subject to the Open Meetings Act.

The bill was introduced by Senator McCoy. Senators gave final approval to **LB 366** by a 46-0-3 vote on April 20, 2011. The bill was approved by the Governor on April 26, 2011.

LB 374e -- Appropriate funds for state government expenses. This is the mainline appropriations bill for state government operations. Funding for natural resources programs is included in this bill. State aid to municipalities, counties and natural resources districts was eliminated by **LB 383e** passed earlier this session. The committee amendment (**AM 904**) made changes to the Interrelated Water Management Fund. The new language transfers \$1,153,267 to the Department of Natural Resources general operations program to carry out technical studies that will include cooperative efforts with natural resources districts. It also eliminated \$500,000 in funding and left \$500,000 annual appropriation for the program.

The bill was introduced by Speaker Flood on behalf of Governor Heineman. Senators gave final approval to **LB 374e** with an emergency clause by a 43-0-6 vote on May 11, 2011. The bill was approved by the Governor on May 17, 2011.

LB 378e -- Provide for fund transfers and change provisions relating to various funds. The bill provides for fund transfers. For natural resources programs, the bill transfers \$2.7 million to the Water Resources Cash Fund. This fund is increased under **LB 229Ae** to \$3.9 million which Senators gave final approval to after budget bills passed. *The chart on the next page shows the funding for natural resources programs.*

The bill was introduced by Speaker Flood on behalf of Governor Heineman. Senators gave final approval to **LB 378e** with an emergency clause by a 43-0-6 vote on May 11, 2011. The bill was approved by the Governor on May 17, 2011.

Natural Resources Funding FY 2011-12 & FY 2012-13

	FY 11 Approp	FY 11-12 Governor	FY 12-13 Governor	FY 11-12 Final	FY 12-13 Final
DNR Operations Funding					
General Fund	9,304,414	9,133,419	9,243,904	10,286,686	10,397,171
Cash Fund	473,337	774,277	776,125	774,227	776,125
Federal Fund	430,887	432,333	439,596	432,333	439,596
Total Operations Funding	10,208,638	10,340,029	10,459,625	11,493,296	11,612,892
Small Watersheds					
General Fund	0	0	0	0	0
Cash Fund	475,000	475,000	475,000	475,000	475,000
Total	475,000	475,000	475,000	475,000	475,000
Soil and Water Conservation Fund					
General Fund	2,318,036	2,318,036	2,318,036	2,318,036	2,318,036
Cash Fund	384,750	50,000	50,000	50,000	50,000
Total	2,702,786	2,368,036	2,368,036	2,368,036	2,368,036
Water Well Decommissioning					
General Fund	0	0	0	0	0
Cash Fund	228,798	100,000	100,000	100,000	100,000
Total	228,798	100,000	100,000	100,000	100,000
Nebraska Resources Development Fund					
General Fund	3,140,325	3,140,325	3,140,325	3,140,325	3,140,325
Cash Fund	47,500	47,500	47,500	47,500	47,500
Total	3,187,825	3,187,825	3,187,825	3,187,825	3,187,825
Natural Resources Water Quality Fund					
General Fund	0	0	0	0	0
Cash Fund	1,187,500	1,187,500	1,187,500	1,187,500	1,187,500
Total	1,187,500	1,187,500	1,187,500	1,187,500	1,187,500
Inter-related Water Management					
General Fund	2,153,267	2,153,267	2,153,267	500,000	500,000
Cash Fund	0	0	0	0	0
Total	2,153,267	2,153,267	2,153,267	500,000	500,000
NRD State Aid	1,436,069	0	0	0	0
Water Resources Cash Fund (LB378e & 229Ae)	2,700,000	2,700,000	2,700,000	3,900,000	3,900,000

LB 383 – Eliminate state aid to local government. The bill eliminates state aid to municipalities, counties and natural resources districts. The state aid to NRDs was \$1.4 million annually.

Senator Abbie Cornett introduced **LB 383** at the request of Governor Heineman; the Revenue Committee also declared it a priority bill for the session. Senators gave final approval to **LB 383** by a 36-9-4 vote on March 4, 2011. The bill was approved by the Governor on March 10, 2011.

LB 400 - NRD three-cent levy authority (incorporated original provisions of LB 528.) Originally **LB 400** would have repealed the Long-Term Care Savings Plan Act. **LB 528** did not have priority status and would not be scheduled for debate in the remaining days of the 2011 session. The bill's original provisions were struck and replaced with the language from **LB 528** with a Revenue Committee amendment (**AM 1446**). The Committee amendment was adopted on a 34-1 vote. State Senators then advanced the bill to Select File on a 35-1 vote after adopting **AM 1446**. The provisions of **AM 1446** extended the NRDs three-cent levy authority in fully and over-appropriated from 2011-12 to 2017-18 which is the same language in **LB 528**.

Senator Christensen was the lone senator to vote against the committee amendment, the advancement of the bill to Select File, and the approval of the bill on Final Reading.

Prior to adopting the committee amendment, Senator Christensen introduced **AM 1501** which proposed to eliminate the sunset date of 2017-18 and replace it with language that would sunset the authority for each eligible district eight years after the district first implemented the levy. This language would have eliminated the authority as soon as next year for some districts while others would have been eliminated anywhere from two to eight years from now. The Christensen amendment failed 4-36.

On Select File, Senators adopted an amendment offered by Senator Cornett (**AM1512**) which incorporated provisions of **LB 430**. The language clarified that the bonded debt of sanitary improvement districts is exempt from the levy limits. The Nebraska State Auditor's office had raised concerns that it was not clear that sanitary improvement districts' bonded debt was exempt. Bonded indebtedness is exempt for other political subdivisions. Senators adopted the amendment on a 33-0 vote. **LB 430** was advanced out of the Revenue Committee by an 8-0 vote but did not have priority status.

The bill was introduced by Senator Janssen; Speaker Flood also declared it a Priority Bill for the session. Senators gave final approval to **LB 400** by a 47-1-1 vote on May 25, 2011. The bill was approved by the Governor on May 26, 2011.

LB 549e - Create the Nebraska Youth Conservation Program. The bill creates the Nebraska Youth Conservation Program to be administered and maintained by the Nebraska Game and Parks Commission (NGPC). The program will employ Nebraska's at-risk youth on projects which contribute to conserving or developing natural resources and enhancing and maintaining environmentally important land and water under the jurisdiction of the Game and Parks Commission. The program combines academic, environmental and job skills training with personal growth opportunities for the participants.

The bill also creates the Nebraska Youth Conservation Program Fund which will consist of appropriations by the Legislature and any gifts, grants, bequests and other contributions to the fund. The appropriations bill (**LB 549Ae**) transfers \$994,400 from the State Settlement Cash Fund to the Nebraska Youth Conservation Program Fund to start the program. The bill also eliminates legislative discretion over the State Settlement Cash Fund and authorizes the Attorney General to determine the fund's use.

The bill was introduced by Senator Council; Senator Langemeier also declared it his Priority Bill for the session. Senators gave final approval to **LB 549e** with an emergency clause by a 44-0-5 vote on May 11, 2011. The bill was approved by the Governor on May 17, 2011.

LB 629 - Adopt the Hazardous Liquid Pipeline Reclamation and Recovery Act. Originally the bill proposed to ensure that no pipeline carrier would be allowed to construct or operate a pipeline through this state for the transportation of hazardous liquid unless and until the Public Service Commission certifies that the pipeline carrier has provided proof of financial responsibility.

The Natural Resources Committee amendment (**AM 1465**) gutted the original provisions of the bill and made a pipeline company financially responsible for reclamation costs related to a project. The amendment was adopted on a 45-0 vote. Key provisions of the committee amendment are:

- Creates the Oil Pipeline Reclamation Act;
- Requires that a pipeline carrier owning, constructing, operating or managing a pipeline through the state for transporting oil be financially responsible for reclamation costs related to construction, operation and management of the pipeline.
- Reclamation is to begin as soon as reasonably practicable upon backfill.
- Responsibility continues until the pipeline is permanently decommissioned or removed.
- The act does not prohibit a government entity from pursuing reclamation costs related to roads, bridges and other infrastructure.
- The act provides the minimum standards to be met by a pipeline carrier.
- The act is not to affect the agreements made between a landowner and pipeline carrier, and is not to affect a pipeline carrier's duties under applicable federal law or permits.
- An emergency clause and severability clause are included.

The bill was introduced by Senator Sullivan; he also declared it his Priority Bill for the session. Senators gave final approval to **LB 629** with an emergency clause by a 47-0-2 vote on May 26, 2011. The bill was approved by the Governor on May 26, 2011.

Section Two – Bills to be Carried Over to the 2012 Legislative Session

LB 96 – Change state aid to counties. Revenue Committee. The current state aid to counties formula includes a two part formula. In the first part of the formula, the bill eliminates the guarantee that each county receives \$30,000 in state aid and replaces it with “up to \$30,000”. The second calculation is the remaining portion based upon the ratio of real and personal property in the county to the state total real and personal property. The existing formula guarantees 0.0075 percent minimum of the total funds. The bill proposes to take the minimum to zero. The bill is currently held in the Revenue Committee.

LB 103 – Change instream flow appropriation process. Schilz. The bill clarifies that an instream flow cannot be granted in a fully or over-appropriated basin, but does allow for a transfer of a natural flow appropriation to an instream flow right. The bill is currently held in the Natural Resources Committee.

LB 115 – Change limits under the Political Subdivision Tort Claims Act. Council. The bill extends the time frame from one year to two years for a claim to be filed against a political subdivision under the Political Subdivisions Tort Claims Act. The bill is currently held in the Judiciary Committee.

LB 118 – Eliminate state aid to natural resources districts. Avery. The bill eliminates state aid to natural resources districts. The bill is currently held in the Revenue Committee.

LB 119 - Change provisions relating to state aid to incorporated municipalities. Avery. The bill caps state aid to municipalities to \$9,900,000 and only distributes the funds to municipalities that have a non-bond levy that meets or exceeds 75 percent of the state average for non-bond levies. The bill is currently held in the Revenue Committee.

LB 127 - Change input into determinations and management plans for regulation of water. Avery. The bill would require that natural resources districts consult with the Nebraska Game and Parks Commission when developing an integrated management plan. The bill is currently held in the Natural Resources Committee.

LB 173 - Prohibit natural resources district board members from running for or holding more than one office. Avery. The bill adds natural resources districts to the list of higher offices, which prohibits natural resources district board members from holding more than one office. The bill is currently held in the Government, Military and Veterans Affairs Committee.

LB 224 - Change provisions relating to recall of certain political subdivision officials. Avery. The bill proposes that locally elected officials may be recalled only for malfeasance in office, misfeasance in office, nonfeasance in office, or conviction of a crime involving an act of dishonesty or a false statement. The bill defines the terms as follows:

Malfeasance in office means the knowing and intentional commission by a public official of an unlawful or wrongful act in the performance of the duties of such public official which infringes on the rights of any person or entity.

Misfeasance in office means the negligent performance by a public official of the duties of such public official or the negligent failure by a public official to perform a specific act which is a required part of the duties of such public official.

Nonfeasance in office means the knowing and intentional failure by a public official to perform a specific act which is a required part of the duties of such public official.

The bill is currently held in the Government, Military and Veterans Affairs Committee.

LB 258 - Provide that entry onto land by a land surveyor is not criminal trespass. Krist. The bill establishes several work related duties of a land surveyor that would exempt such person from criminal trespass on private property. The bill is currently held in the Judiciary Committee.

LB 266 - Change the Open Meetings Act relating to closed sessions. Sullivan. The bill proposes to add a non-elected official for the reason of evaluation of job performance as a purpose of having a closed session of a public body. The bill is currently held in the Government, Military and Veterans Affairs Committee.

LB 328 - Provide for amendment of hydropower appropriations as prescribed. Fischer, Langemeier. The bill authorizes an appropriator to apply to the Director of Natural Resources to amend an appropriation of water for any hydropower plant located within the channel of a river in the State of Nebraska to provide that, in addition to the use of water for hydropower generation purposes, the appropriation may also recognize benefits for fish, wildlife, and recreational purposes. The bill is currently held in the Natural Resources Committee.

LB 340 - Adopt the Hazardous Liquid Pipeline Notification Act. Dubas. The bill establishes procedures for owning, operating, or managing a pipeline or part of a pipeline in Nebraska. It would require an application be filed with the Nebraska Public Service Commission by the carrier. The pipeline carrier would have the burden to establish that the proposed pipeline would serve the public interest. Prior to determining whether to approve an application, the commission shall evaluate:

- (a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules and regulations;
- (b) Evidence regarding the environmental, economic and social impacts of the proposed pipeline;
- (c) Evidence regarding the pipeline carrier's efforts to ensure the health, safety or welfare of the residents of the area along the proposed route of the pipeline;
- (d) The impact of the proposed pipeline on the orderly development of the area around the route of the pipeline;
- (e) The views of the governing bodies of the area around the route of the pipeline; and
- (f) Any other relevant factors as determined by the Commission.

The bill is currently held in the Natural Resources Committee.

LB 391 - Create the Nebraska Invasive Species Council. Schilz. The Natural Resources Committee advanced **LB 391** with a committee amendment at the end of March which creates the Nebraska Invasive Species Council. The committee amendment, **AM 683**, clarifies that pets are not considered invasive species and also adds a representative of the Nebraska Association of Resources Districts (NARD) to the council.

The bill establishes the Nebraska Invasive Species Council to recommend action to minimize the effects of harmful invasive species in Nebraska. Invasive species is defined to mean aquatic or terrestrial organisms not native to the region that cause economic or biological harm and are capable of spreading to new areas. The council would be governed by up to a 12-member group including: 1) The Nature Conservancy, Nebraska Office; 2) The Nebraska Game and Parks Commission; 3) The Department of Agriculture; 4) The Nebraska Forest Service; 5) The University of Nebraska-Lincoln; 6) The Nebraska Cooperative Fish and Wildlife Research Unit; 7) The Nebraska Weed Control Association; and 8) Up to five members at large who shall represent public interests, at least three of which shall represent agricultural land owner interests, as appointed by the Governor. A representative of NARD would be added under **AM 683**.

The council would be responsible for developing and updating a statewide adaptive management plan for Nebraska citizens. The plan would address the following: 1) Statewide coordination and intergovernmental cooperation; 2) Prioritization of invasive species response and management; 3) Early detection and prevention of new invasive species through deliberate or unintentional introduction; 4) Inventory and monitoring of invasive species; 5) Identification of research and information gaps; 6) Public outreach and education; 7) Identification of funding and resources available for invasive species prevention, control, and management; and 8) Recommendations for legislation regarding invasive species issues.

LB 392 -- Provide powers and duties relating to aquatic invasive species. Schilz. The bill establishes the Aquatic Invasive Species Program under the Nebraska Game and Parks Commission. The program would monitor and sample waters of the state for aquatic invasive species, hire personnel, including, but not limited to, an aquatic invasive species coordinator and temporary staff, and purchase equipment, provide additional enforcement, education, and research relating to control of aquatic species.

The bill would authorize NGPC officers to stop and inspect any conveyance vehicle. Conveyance vehicle is defined as a motor vehicle, a vessel, a trailer, or any associated equipment or containers which may contain or carry aquatic invasive species. The bill creates a Class III misdemeanor for any person that (a) fails or refuses to submit to an inspection of a conveyance requested by an authorized inspector or (b) refuses to permit or prevents proper decontamination or treatment of a conveyance as prescribed by the authorized inspector.

The program would be funded by 20 percent of the current boat registration fees and a new \$30 Aquatic Invasive Species Stamp on out-of-state conveyance vehicles entering Nebraska. The bill is currently held in the Natural Resources Committee.

LB 395 -- Change voting provisions for members of the Nebraska Environmental Trust Board. Schilz.

The bill proposes to make state agency representatives to the NETF Board non-voting members. These include the Director of Environmental Quality, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, and the chief executive officer of the Department of Health and Human Services or his or her designee. The bill also makes the executive director of the NETF a non-voting member. The bill is currently held in the Natural Resources Committee.

LB 444 -- Provide methods for notice under the Open Meetings Act. Avery. The proposal defines the methods in which a public body shall give reasonable advance publicized notice of the time and place of each meeting. These would include, but not be limited to, publication in a newspaper of general circulation, posting on the public body's website, or posting in a public building in the community. The bill is currently held in the Government, Military and Veterans Affairs Committee.

LB 473 -- Adopt the Black-Tailed Prairie Dog Management Act. Louden. The bill creates the Black-Tailed Prairie Dog Management Act which allows a county to adopt and carry out a coordinated program for the management of black-tailed prairie dogs on property within the county. The bill also authorizes any person to manage prairie dogs on their own property and to prevent the expansion of colonies to adjacent property.

If a landowner allows prairie dog colonies to expand to adjacent landowners, the bill provides the adjacent landowner to ask the county for corrective action including management and fines to be imposed on the landowner where the prairie dog colony originated.

The committee amendment (**AM 782**) inserts a new subsection that requires elements of the management plan to include a finding of necessity, a listing of methods of management, and to specify that such management plan shall not conflict with any state plan for the management of prairie dogs or the Non-Game and Endangered Species Act, or state or federal recovery plan for the endangered or threatened species. The amendment also asks counties to cooperate and coordinate with state and federal wildlife and land management entities. The bill is currently held on General File.

LB 484 - Exclude certain activities from the definition of excavation under the One-Call Notification System Act. Hadley. The bill adds an exemption to the one-call system for soil sampling for agricultural nutrient and water management purposes, soil sampling performed to meet requirements of local, state, or federal regulations, soil sampling performed for manure management, and installation of soil moisture monitoring equipment. The bill is currently held in the Transportation and Telecommunications Committee.

LB 487 - Provide for resolution and ordinance power relating to flood protection and water quality enhancement projects. Karpisek. The bill changes provisions relating to flood protection and water quality enhancement bonds. Prior to the issue of bonds or funds to an NRD that encompasses a city for a project that includes reservoir, water quality or projects greater than 20 acres, a country board, city council, or village board may pass an ordinance state that is does not approve the construction. The board shall hold a public hearing and vote on the resolution or ordinance within 90 days after notice from the NRD of its intent to issue bonds. The bill is currently held in the Natural Resources Committee.

LB 498 - Change water resources provisions relating to in situ uranium mining. Louden. Originally **LB 498** would have exempted in situ uranium mining in which water is subsequently re-injected into the underlying aquifer from which it was withdrawn from the Industrial Ground Water Regulatory Act and from the definition of consumptive use. Committee amendment **AM 1581** now replaces the bill. Current law allows a permit to be amended unless it would increase daily peak withdrawal or the annual volume by more than 25 percent from the amounts allowed in the original permit. The committee amendment proposes an exception to this rule for applications requesting an increase in the maximum daily volumetric flow rate or annual volume to levels allowed under a Department of Environmental Quality-issued permit. The bill is currently held on General File.

LB 526 - Change provisions relating to water transfers. Carlson. The bill allows for a second alternative for water transfers which would be the entire amount of a surface water irrigation right for a non-consumptive use. The bill maintains the other transfer purpose if both the current use and the proposed use are for irrigation, the number of acres to be irrigated will not increase after the transfer, and the location of the diversion from the stream will not change. The bill is currently held in the Natural Resources Committee.

LB 527 -- Change tax levy authority of natural resources districts. Carlson. The bill would allow NRDs that have been preliminarily determined to be fully appropriated, but later reversed, to have access to the three-cent levy to administer and implement ground water management activities and integrated management activities. The bill places a 2016-17 sunset date on the authorization. The bill is currently held in the Revenue Committee.

LB 529 - Change provisions relating to conservation and preservation easements and the Nebraska Environmental Trust. Carlson. The bill proposes several changes to filing and obtaining conservation easements.

First, the bill proposes that the proposed holder shall provide written notice of the proposed easement to the governing bodies of all entities levying taxes on the property at the same time the notice of the proposed conservation or preservation easement is given to the affected governing body.

Second, the notice shall be delivered by first-class mail and shall include a statement of the fiscal impact of changing the classification of the property or removing it from the tax rolls.

Third, the proposal allows for a county to deny the easement if it is found to be inconsistent with the best interest of the county.

Fourth, if the easement is held by a charitable corporation or trust it would be limited in duration to ten years. Within 90 days of the expiration of such easement, the corporation or trust would be granted a process, including a public hearing, to continue the easement.

Fifth, the Nebraska Environmental Trust Fund board would be prohibited from holding property in fee or obtaining easements.

Sixth, the NETF would be limited to no more than ten percent of the grant allocations in any year shall be used by the recipients for land purchases and easements. The bill is currently held in the Natural Resources Committee.

LB 533 -- Change membership of the Niobrara Council. Fischer. The bill proposes several changes to the Niobrara Council, including:

- Requiring that a commissioner rather than a representative be the member to the council from each of the county boards of Brown, Cherry, Keya Paha, and Rock counties.
- Eliminates the Governor's authority to appoint a representative of the US Fish and Wildlife Service and replaces it with the regional director of the National Park Service or his or her designee and the US Fish and Wildlife Service regional director or his or her designee. The proposal also requires such federal agencies to formally notify the Niobrara Council and the Governor in writing that such appointees may vote on all matters before the council.
- Eliminates the preference that the council meet one a month and leaves it open to just having regular meetings.
- Eliminates the prohibition of council members to vote on any matter on which he or she participated or voted as a member of a county board, county planning commission, or natural resources district board.

The bill is currently held in the Natural Resources Committee.

LB 537 – A bill to change provisions relating to budget limitations and property tax levy. Karpisek. The bill allows for political subdivisions to adjust their budgets for fiscal years beginning on or after July 1, 2011, for replacing revenue lost due to reductions in state aid. The bill is currently held in the Revenue Committee.

LB 595 – Create Water Resources Revolving Loan Fund Act. Carlson. The bill would create the Water Resources Revolving Loan Fund to provide low interest loans to natural resources districts or any joint entity with a joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have oversight over the program and an administrative fee would be allowed to pay for operational cost of the program.

The loans under the program would be for activities related to financing or refinancing the costs of eligible projects including:

- (1) acquisition by purchase or lease of water rights in accordance with Chapter 46, article 6, pertaining to ground water, and Chapter 46, article 2, pertaining to surface water, including storage water rights with respect to a river or any of its tributaries,
- (2) acquisition by 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,
- (4) the augmentation of river flows consistent with the authority granted under Chapter 2, article 32, and
- (5) to develop, store or convey water, and to provide, contract for, and furnish water for domestic purposes, agriculture, manufacturing, and any and all other beneficial uses.

The initial funding source for the program would come from one-half of the repayment of the loan provided by the State of Nebraska to the natural resources districts in the Republican River Basin for water leased in 2007. The other half of the loan would go into the cash reserve fund.

In addition, a provision is added to the bill to allow a transfer from an unidentified source called “Fund XXX” to allow for negotiation on legislative spending cuts and/or other transfers. The bill is currently held in the Natural Resources Committee.

LB 596 -- Provide for standing with respect to integrated management plan proceedings. Carlson. The bill would allow standing to participate in any legal or administrative proceedings on integrated management plans by any irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality is the owner of an appropriation that relies on water from an affected river basin, sub-basin, or reach that is included in an integrated management plan. The bill is brought forth by Central Nebraska Public Power and Irrigation District after losing a Supreme Court case against the State of Nebraska and NRDs in the Platte River Basin. The bill is currently held in the Natural Resources Committee.

LB 626 -- Adopt the Electronics Recycling and Job Creation Act. Mello. The bill proposes to establish an electronics recycling program under the Department of Environmental Quality for computers, monitors, video display devices, televisions, and other electronic equipment intended for home or residential use. The program would be funded by fees on manufacturers of such devices based upon the number of electronic devices sold in the state. The fees would be:

- (a) \$1,250 for sales of 25 but not more than 250 electronic devices;
- (b) \$5,000 for sales of more than 250 but not more than 1,000 electronic devices; and

(c) \$10,000 for sales of more than 1,000 electronic devices.

A 50% reduction in fees would be allowed for a manufacturer that can certify to the department that the number of pounds of electronic devices recycled as a percentage of the number of pounds of electronic devices that the manufacturer sold in this state in the previous calendar year exceeds 60%. The bill is currently held in the Natural Resources Committee.

LB 645 - Require inclusion of established surface water use and established ground water use in certain agreements between NRDs and DNR. Christensen. The bill requires that when districts have included the regulation of surface water in an integrated management plan to comply with a compact, agreement, or decree, it shall include established surface water and groundwater use as determined by the DNR for determining the baseline equitable apportionment of virgin water supply among natural resources districts within such basin. The bill is currently held in the Natural Resources Committee.

LB 653 -- Provide for inter-basin transfers during times of flooding as prescribed. Christensen. The bill would allow an inter-basin transfer without a permit from the Department of Natural Resources in times of flooding. The transfer could occur once the NRD Board and an irrigation district board in the transferring basin agrees with the NRD Board and irrigation district in the receiving basin. The transfer would have to mitigate public and private property damage when the river draining such river basin is at or above flood stage.

The agreement would also have to be established in writing prior to the occurrence of such transfer, shall specify that the river basin of destination shall be second in time and second in right to all internal water resources projects within the basin of origin, and shall include, but need not be limited to, any prearranged purchase price of water, where such inter-basin transfers can take place, under what conditions such inter-basin transfers can take place, and requirements to notify the department and any affected rural water districts, public power and irrigation districts or other special purpose districts in the basin of origin and the river basin of destination. The bill is currently held in the Natural Resources Committee.

LB 655 – Change provisions relating to an occupation tax imposed by natural resources districts. Christensen. The bill proposes that a NRD may allow for the occupation tax on irrigated land to be calculated as a flat amount per irrigated acre or in a different manner as follows:

- 1) The district shall determine the amount of revenue needed to be raised from the tax for the project for the current fiscal year, which could not exceed an average of ten dollars per certified irrigated acre.
- 2) The district shall determine the total acre-feet of surface water and ground water irrigation usage in the district during the immediately preceding calendar year.
- 3) The district shall determine the per acre-foot revenue need by dividing the amount determined in #1 above by the amount determined in #2.
- 4) The district shall calculate the tax for each record owner of irrigated agricultural land based upon each record owner's acre-feet usage of surface water and ground water irrigation during the immediately preceding calendar year by multiplying such usage by the per acre-foot revenue needed.

The district may require reporting by irrigation districts as necessary to carry out calculating the tax owed. The bill is currently held in the Natural Resources Committee.

LB 656 – Change provisions relating to flood protection and water quality enhancement bonds. Janssen. The bill proposes to prohibit the use of bonds for multipurpose projects and practices for storm water management in the Papio-Missouri River NRD. The bill would only allow bonds to be used for construction of flood control and water quality projects and practices for storm water management. Projects that include recreational purposes and use would be prohibited. The bill is currently held in the Natural Resources Committee.

LB 683 -- Create the Storm Water Management Commission. Mello. The bill proposes to create the Storm Water Management Commission to study the following:

- 1) The relationship among and adequacy of federal, state, and local regulations and practices that pertain to storm water management;
- 2) The economic impact of actual and potential financing mechanisms for storm sewer system programs;
- 3) The role of design, construction, and maintenance practices by residential, commercial and industrial property owners in storm water management; and
- 4) Options for actual and potential user-charge revenue mechanisms for funding storm sewer system programs.

The commission shall issue a report of its findings and any recommendations for proposed legislation to the Legislature and the Governor on or before November 1, 2011 at which time the proposed commission would terminate.

Members would include:

- A member of the Appropriations Committee;
- A member of the Natural Resources Committee;
- A member of the Urban Affairs Committee;
- The Director of Environmental Quality or his or her designee;
- The Director of Economic Development or his or her designee;
- A representative from the League of Nebraska Municipalities who is employed by a municipality that has a separate storm sewer system;
- A representative of the Nebraska Chamber of Commerce who resides in a municipality which has a separate storm sewer system;
- The president of a metropolitan utilities district;
- A member of the Nebraska Association of Commercial Property Owners; and
- A member of the Omaha Association for a More Competitive Business Environment.

Members of the commission shall serve without compensation and without reimbursement for actual expenses.

Finally, only political subdivisions would be allowed to use NETF grants for land acquisition. The bill is currently held in the Natural Resources Committee.

LR 51 CA – Constitutional amendment to change allocation of state lottery proceeds. Heidemann. A proposed constitutional amendment that would redirect the net lottery proceeds currently going to the Nebraska Environmental Trust Fund. Currently the NETF gets 44.5% of the net proceeds. The proposal would provide 22.25% to the Water Resources Cash Fund and 22.25% to the University of Nebraska Innovation Campus. After 2038, the portion going to the Innovation Campus would go to the General Fund. The bill is currently held in the Natural Resources Committee.

Section Three – Bills that have been Indefinitely Postponed

LB 528 – Change the sunset date on NRD levy. Carlson. The bill originally proposed to change the sunset date for the NRD three-cent levy for ground water management activities and integrated management activities in fully and over-appropriated areas from 2011-12 to 2017-18. **LB 528** did not have priority status and would not be scheduled for debate in the remaining days of the 2011 session. The bill's provisions were incorporated into **LB 400** with a committee amendment (**AM 1446**).

Section Four – Interim Study Resolutions Introduced in 2011

The following are the list of Interim Study Resolutions introduced in 2011 that are of interest to natural resource districts. These are sorted by issue.

A complete list can be found at: <http://www.nebraskalegislature.gov/session/interim.php>.

DIRECTORS & ELECTIONS

LR 245 -- Interim study to examine how technology may be used in elections to make the process more efficient and user-friendly for voters. Avery.

FUNDING & TAXES

- **Water Management Programs**

LR 218 -- Create the Water Sustainability Funding Task Force to study all possible sources of revenue that could be used to establish a dedicated funding source for water management activities. Natural Resources Committee.

LR 314 -- Interim study to examine all possible sources of revenue that could be used to establish a dedicated funding source for water management activities in Nebraska. Natural Resources Committee.

- **Trails and Transportation**

LR 217 -- Interim study to examine issues pertaining to creating a regional transportation commission or authority for purposes of helping to fund political subdivisions' transportation infrastructure projects. Cornett.

LR 316 -- Interim study to examine the timing issues relating to the construction, permitting, and coordination processes of state and federal agencies regarding roads and transportation projects. Krist.

- **Other**

LR 220 -- Interim study to examine issues pertaining to the imposition of occupation taxes by local governments. Cornett.

LR 231 -- Interim study to examine any aspect of the state tax structure and tax policy. Cornett.

GENERAL ADMINISTRATION

LR 215 -- Interim study to examine issues relating to defined benefit plans of political subdivisions. Nebraska Retirement Systems Committee.

LR 233 -- Interim study to review the scope of the agricultural exemption from the One-Call Notification System Act. Hadley.

LR 244 -- Interim study to examine issues within the jurisdiction of the Government, Military and Veterans Affairs Committee. Avery.

LR 318 -- Interim study to examine the costs incurred when state government and political subdivisions provide services readily available in the private sector. Fulton.

LAND USE & ACQUISITION

LR 332 -- Interim study to determine the fairness of permanent wildlife conservation easements in today's economic and agricultural climates. Natural Resources Committee.

SOLID WASTE

LR 205 -- Interim study to examine the potential establishment of a statewide electronics recycling program. Mello.

LR 247 -- Interim study to examine development of a comprehensive approach to reducing the environmental and health risks posed by the use or disposal of selected consumer products. Haar.

LR 264 -- Interim study to examine ways to encourage recycling and the use of recycling materials in manufacturing by Nebraska businesses. Mello.

WATER QUALITY

LR 207 -- Interim study to examine the formation and governance of sanitary and improvement districts. Dubas.

LR 260 -- Interim study to examine statutes and regulations on in-situ mining and hydraulic fracturing, also known as fracking. Haar.

LR 323 -- Interim study to examine combined sewer overflow projects affecting municipalities. Mello.

WATER & WETLANDS

- **Flood Control**

LR 257 -- Interim study to examine the flood control needs of Omaha and the greater Omaha metropolitan area. Mello.

- **Integrated Management Plans**

LR 273 -- Interim study to examine the criteria for developing integrated management plans required under the Nebraska Ground Water Management and Protection Act. Langemeier.

LR 304 -- Interim study to examine legislative intent under the Nebr. Ground Water Management and Protection Act regarding water use on "commingled acres". Christensen.

LR 309 -- Interim study to examine ways to manage water and provide benefits to landowners and other entities for their ability to store and manage water in recharge areas. Schilz.

OTHER

LR 294 -- Interim study to examine the formation and mission of outdoor outfitters and guides in the State of Nebraska. Avery.

LR 295 -- Interim study to compile research relating to food safety, animal welfare, resource stewardship, and farm economy welfare, associated with restrictions of livestock husbandry practices promoted by animal welfare advocacy groups. Carlson.

LR 312 -- Interim study to examine the intent of LB 392, 2011, including duties provided to the Game and Parks Commission for inspection, impoundment, and decontamination relating to aquatic invasive species. Schilz.