

1 Water Bill Draft
2 Dec 19, 7pm includes NRD suggestions

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3 Legislative Intent – It is the intent of the Legislature for the State of Nebraska to take fiscal
4 responsibility for the consumptive uses which are greater than the allocation allowed by the
5 Republican River Basin Settlement Agreement with Kansas prior to December 31, 2010.

6 Conservation causes a significant reduction in run off to the river. The Federal
7 Government has created programs that encourage conservation. While these programs
8 have many benefits, one of the consequences of increased conservation practices is a
9 decrease in run off to the river and a resulting decrease in stream flow. The Legislature
10 believes that the Federal government should provide financial assistance to compensate
11 for the depletion to the stream caused by Federal conservation programs.

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12 If there is a significant change in the value of land or water, the Legislature recognizes that
13 the resources allowed to the river basins will need to be adjusted.

14 The River Basin will be managed by a Basin-wide authority comprised of the principle
15 stakeholders in the River Basin. The authority will have the power to quantify responsibility
16 and assign responsibility to regulatory entities; conduct basin-wide activities such as
17 vegetation management, augmentation, and retirement programs that benefit the entire
18 basin; and provide incentives to responsibly use both surface and groundwater irrigation.

19

20 Definitions –

21 Balanced water budget – A balanced water budget shall mean the water necessary to keep
22 a river basin in compliance with an interstate compact or agreement.

23 Eligible NRDs - NRDs are eligible to participate in the BAC are Upper Republican, Middle
24 Republican, Lower Republican, Tri Basin.

25 Allowance – The amount of beneficial consumptive use the BAC may restrict a regulatory
26 agency to.

27 Allocation – An amount of water a NRD or DNR can restrict an individual user or permit
28 holder to use.

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30 River Basins subject to three-state water compacts as of July 1, 2007, will be subject to a
31 Basin Administration Committee (BAC). The BAC shall have a seven member board.
32 There shall be one representative from each of the following:

33 1. Each River Basin NRD with at least 50,000 irrigated acres with in the Basin

- 34 2. The Department of Natural Resources
- 35 3. Surface Irrigation Districts
- 36 4. Municipalities

37 Each NRD will appoint an individual to represent them. The Governor of Nebraska will
38 appoint a representative from the Department of Natural Resources. The Surface Irrigation
39 Districts will select a representative by caucus. The municipalities with a population of at
40 least 1,500 people, will select a representative by caucus. The DNR representative will be
41 the acting director of the DNR. The representative of the surface irrigation districts will be a
42 landowner with at least 200 surface irrigated acres or an employee of a Basin irrigation
43 district. The representative for the municipalities will be an employee of Basin city or
44 economic development organization sponsored in whole or part by a Basin city.

45 A BAC may take basin-wide actions with a majority vote of the BAC.

46 The Basin Administration Committee (BAC) shall:

- 47 1. Formulate a balanced water budget and perform activities that result in Basin
48 compliance with Interstate Compacts and Agreements.
- 49 2. Formulate and manage a financial budget that will result in Basin compliance.
- 50 3. Be subject to Nebraska Open Meetings laws.
- 51 4. Assign water allowances to each regulatory agency within the Basin.
- 52 5. Shall receive approval for the annual balanced water and financial budgets from a
53 majority of the participating BAC member NRD boards, prior to receiving any funds
54 or taking any actions

55 Permitted BAC actions include:

- 56 1. BACs that are subject to an interstate compact or agreement may annually levy
57 property taxes of up to \$0.10 / hundred on all property within the respective river
58 Basin. BAC-levied revenues will be matched, three to one, by funds from the State
59 of Nebraska. That State obligation is limited to nine million dollars in 2010 adjusted
60 dollars. The State matching funds will be transferred to the BAC for management.
- 61 2. Supplementing and augmenting Basin water supplies.
- 62 3. Vegetation management.
- 63 4. Irrigation acreage retirement programs.
- 64 5. Incentives to responsibly manage surface and groundwater irrigation.
- 65 6. Surface water right purchases on either an annual or a permanent basis.
- 66 7. Apply for and holding of water permits.
- 67 8. Development and Management of a Basin-wide water bank.
- 68 9. Contracting with private companies or individuals for services.
- 69 10. Spending of up to 5% of the levy for administration.

70 Preference shall be given to increasing water supplies and vegetation management.

71 An economic impact study showing the cost to each county where irrigation retirement
72 occurs must be conducted and made public prior to the implementation of any irrigation
73 retirement program.

74 The cumulative results of these programs must result in basin compliance with interstate
75 compacts or agreements. The committee will provide an annual report, for public review,
76 and documentation identifying the expected benefits of each activity over 1, 5, 10, 25, and
77 50 years.

78 The BAC shall formulate a plan of action within its financial budget, which will result in
79 Interstate Compact compliance according to projections by the accepted ground-water
80 model of each basin. The working water budget shall be submitted to each participating
81 NRD board for approval and shall be made available to the public and the DNR.

82 Within 30 days of any formal request from a BAC, the DNR will provide technical support to
83 the committee, will provide computer modeling results, and honor all data requests. The
84 DNR will provide up to fifty computer simulation runs each year to a BAC at no cost to that
85 BAC. Additional modeling runs will be provided to the committee at a mutually agreeable
86 cost not to exceed \$500 per run. Should the DNR fail to provide the requested data in the
87 required time, then the BAC may outsource the work and bill the costs to the DNR.

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88 Immediately upon enactment of this legislation, the State of Nebraska will provide the Basin
89 BAC, with \$10,000,000 (ten million dollars) to implement immediate BAC program
90 activities.

91 The State of Nebraska will provide Central Nebraska Public Power and Irrigation District for
92 each year the Elwood Reservoir is above 75% of capacity for at least six months of a
93 calendar year with \$40,000 when the reservoir is at least 33% full and with \$50 for each
94 acre foot over 33% capacity. (this needs to be modified to address the specific needs of
95 CNPPID and to provide it with an incentive to put more water in to Elwood. To be modified
96 after discussions with CNPPID.)

97 The State of Nebraska shall be financially liable for all consumptive uses exceeding any
98 water related interstate Compact or interstate Agreement through December 31, 2010.

99 After December 31, 2010, four fifths of the BAC program costs, up to the maximum allowed
100 by this act, associated with keeping a Basin in compliance with Interstate Compacts shall
101 be paid by the State of Nebraska and one fifth of the costs paid by the BAC.

102 After enactment of this legislation, the DNR and the State of Nebraska will include a
103 representative of all affected BACs in the negotiations, planning, and creation of future
104 Interstate Compacts and Agreements as well as meetings and negotiations regarding
105 current Interstate Compacts and Agreements.

106 After December 31, 2010, failure of a BAC to comply with an Interstate Compact, as
107 determined by the governing Board of that Compact (Republican River Compact

108 Administration), will result in a review and revision of the BAC plans by the (some
109 appropriate authority, perhaps the Interrelated Water Review Board)

110 Groundwater or surface water transfers from one river basin to another will be permitted if
111 the following conditions are met.

- 112 1. The transferring party can demonstrate financial and engineering capacity to cause
113 the transfer to happen.
- 114 2. The source Basin does not have an increase in modeled consumptive use due to
115 the transfer
- 116 3. The quantity of water is specified, the conditions under which the water will be
117 transferred, the period of the transfer, and the parties involved in the transfer. The
118 water is used for beneficial purposes. The transferring party has legal right through
119 leases or purchases to make such a transfer. The water withdrawn remains subject
120 to the laws of the governing NRD or DNR.
- 121 4. The transfer cannot cause more economic damage to the source basin than
122 economic benefit to the destination basin.
- 123 5. The environmental impact on the source basin does not cause a reduction in water
124 available to endangered species or downstream communities.
- 125 6. Hydrologic, economic, and environmental impact studies are submitted with the
126 permit request.
- 127 7. A review fee of \$1,000 is paid by the applicant to the DNR for surface water
128 transfers or to the source Basin NRD for groundwater transfers.

129 A transfer of surface water from one river basin to another is subject to the requirements of
130 Neb Statutes section 46-289.

131 The DNR or NRD will hold a hearing within 60 days of any complete transfer permit
132 request. Within 60 days after the hearing, the DNR or NRD will vote to grant or deny the
133 permit. The permit will be granted if the conditions of the permit are met. If the conditions
134 of the permit are not met, the DNR or NRD will provide written notice and include the
135 reason the permit is denied. Failure of the permitting agency to act within the time frame
136 provided here will result in the permit request being accepted as proposed.

137 The Governor of Nebraska, in cooperation with the Nebraska Attorney General, shall seek
138 financial compensation from the Federal government for the effects of conservation
139 programs on stream flow in areas involving the Federal Government via an Interstate
140 Compact and in areas that do not involved an Interstate Compact.

141 The State of Nebraska shall submit any interstate agreement, which binds the State of
142 Nebraska to any action to the Legislature for majority approval prior to its implementation.

143 The State of Nebraska shall submit any agreement with a foreign nation, which binds the
144 State of Nebraska to any action, to the Legislature for majority approval prior to its
145 implementation.