

NEBRASKA SOIL AND WATER
CONSERVATION COMMISSION
STATE WATER PLAN
PUBLICATION NUMBER 402



*Modernization
of
Resource District
Legislation*

MARCH 1969

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FLOOD CONTROL
RIVER BASIN INVESTIGATIONS
FLOOD PLAIN STUDIES
STATE WATER PLAN

State of Nebraska
Soil and Water Conservation Commission



Senator Jerome Warner
Speaker of the Legislature
State of Nebraska
Lincoln, Nebraska

Dear Senator Warner:

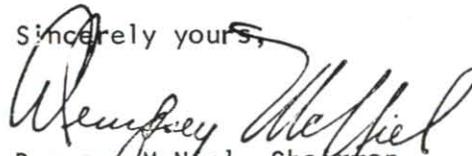
The Legislature in directing preparation of the State Water Plan recognized that the strength of Nebraska's economy depends upon the soil and water resources which yield our crops, feed and quench the thirst of our cities and industries and provide nature's bounty for man's use. One of the primary objectives of Legislative Resolution #5 was to insure that these resources are wisely developed for the maximum benefit of the citizens of Nebraska.

There seems no doubt that natural resource development will take place. A clear choice seems to lie, however, in Nebraska's organization of local units of government which are responsible for much of this resource development. Either they can stay as they are, carry-overs of a slower paced and less complicated past, or they can be modified, combined, improved and empowered to meet the present and future needs in an efficient and democratic manner.

This recommendation, herewith transmitted, is provided expressly for the Legislature and recommends several major steps to reorganize local units of government responsible for resource development. These are progressive steps, which embody significant action.

Man-years of study have gone into the research preceding this recommendation and I suspect that equally as much time has been devoted by persons other than the Commission members and staff to the review of this material. A considerable effort has been made with this recommendation as with other parts of the State Water Plan to fully inform the people of Nebraska as to its contents and its implications. I recommend endorsement by the Nebraska Legislature.

Sincerely yours,


Dempsey McNeil, Chairman
Nebraska Soil and Water
Conservation Commission

DM:JO:cp

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The following committees have reviewed, modified and forwarded this Special Recommendation to the Commission for its consideration.

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■ ABSTRACT

This Special Recommendation of Nebraska's State Water Plan deals with the modernization of legislation pertaining to local natural resource districts. Appropriate summaries are included of the current status of districts, district problems and the existing need for reorganization. The report sets out those institutional, economic, and practical points which should be considered in any contemplated changes. Alternative courses of action which might be taken by the Legislature are described and specific recommendations for legislative implementation are included.

The recommendations made and endorsed as a part of the State Water Plan include enactment of enabling legislation for a new type of local natural resource district geared to today's problems and methods of government, the evolution of some types of present local natural resource districts into this new type of district and the repeal of current legislation which enables the further proliferation of local special-purpose districts.

While the descriptions of circumstances surrounding special-purpose districts in this publication and the recommendations which conclude it refer specifically to districts in Nebraska, many of the same problems are common throughout the United States. For this reason pertinent studies of the problems by students of government of national reputation are available and were used in preparing this report. Because of their clarity and authoritative authorship, quotations have been included throughout this report to supplement the Commission's views. Sources specifically quoted include **Special District Governments In The**

United States by Dr. John C. Bollens, ^{1/} **The Nation and the States, Rivals or Partners?**, by William Anderson, ^{2/} Nebraska Legislative Report No. 5 titled, **Local Government In Nebraska**, ^{3/} and **State Local Relations**, ^{4/} by The Council of State Governments.

Dr. Bollens pointed up legislative responsibilities on this subject in writing: "*The reforms advocated for (special) districts will encounter obstacles in many states.*" "*Examples are the fragmentary approach by state legislatures to local governmental affairs; state-wide organizations of special district officials, some of which employ lobbyists; and various special interests that benefit from existing arrangements.*"

"*The state legislatures are the key to district reform. They bear the responsibility for an adequate local governmental system, and many types of special districts are reducing the adequacy and dissipating the strength of other units of local government. The state legislatures can employ a state-wide outlook and understand the seriousness and total effects of the problems resulting from special districts.*" "*The challenge and the opportunity are theirs!*"^{5/}

"*In modifications resulting from such studies, the goals should not be governmental symmetry, but a system of government that is understandable, responsible, and effective.*" "*Special districts do represent a frontier line of adjustment to change, but governmental authority is powerful in nature and should not be granted indiscriminately.*"^{6/}

1/ Dr. John C. Bollens is a political scientist of substantial national repute with professional experience gained during service with the Municipal League of Seattle in King County, the Bureau of Public Administration of the University of California at Berkeley and the Department of Political Science of the University of California at Los Angeles. At the latter institution, he has been associated with the bureau of Governmental Research of the University and in addition has served the Haynes Foundation also located in Los Angeles.

2/ Mr. William Anderson, a long-time student of government, served on the Commission of Intergovernmental Relations appointed by Congress in 1953. The study quoted was written as a working paper for that Commission. In addition, Mr. Anderson was long a distinguished Professor of Political Science at the University of Minnesota, a member of the Social Science Research Council and Advisor to the League of Municipalities.

3/ Roger V. Shumate, *Nebraska Legislative Council Report No. 5, 1939.*

4/ The Council of State Governments, Committee on State and Local Relations, 1946.

5/ John C. Bollens, *Special District Governments in the United States*, University of California Press, Berkeley and Los Angeles, p. 262.

6/ *Ibid.*, p. 263.

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■ THE STATE WATER PLAN

AUTHORITY

Nebraska Revised Statutes § 2-1507 (8) (1965) directs the Nebraska Soil and Water Conservation Commission to:

“ . . . plan, develop and encourage the development of a comprehensive program of resource development, conservation and utilization for the soil and water resources of this state in cooperation with other local, state and federal agencies and organizations.”

In addition, the Legislature on January 18, 1967, unanimously approved Resolution No. 5 which specifically directed the Soil and Water Conservation Commission to prepare a State Water Plan with particular emphasis on the:

“ . . . examination of legal, social and economic factors which are associated with resource development.”

ORGANIZATION OF REPORTS

The scope of the plan, as it was proposed to the Legislature in a memorandum of June 6, 1967^{7/} and accepted, consists of four major parts. These parts are:

- A. Statewide Framework Study
- B. Basin Plans
- C. Statewide Status Summary
- D. Special Recommendations

The Special Recommendations Section of the State Water Plan consists of recommendations for action by the Legislature, Governor and various units of government to improve the conservation, development, management and utilization of water resources. The recommendations are prepared with full cognizance and study of the physical, legal, economic and social considerations that are attendant to the subject matter. All reports of the

7/ Nebraska Soil and Water Conservation Commission, “A Design for Nebraska’s State Water Plan,” June, 1967.

8/ Roger V. Shumates *op. cit.*, p. 78.

State Water Plan, including such special recommendations as this, are subjected to an exhaustive review by many persons well qualified to comment on their desirability, application and effect. A partial list of those who have reviewed this material is included in the forefront of the report.

OBJECTIVE OF REPORT

The objective of this report is to recommend to the Legislature the steps necessary to overcome present obstacles to resource development which arise because of the cumbersome and outdated local organizational arrangements in Nebraska. The more far-reaching but less obvious objectives of this report are to enable Nebraska to get full value for financial investments made in resource development, to sustain and enhance the state’s economy and to effectively reflect the will of the people in resource development decisions.

INTEREST IN THE STUDY

Interest in this study has been widespread. A legislative study of 1939 resulted in the following conclusion:

“Multiplicity of governmental units. With a given area, population, and total wealth, the number and variety of governmental units will probably have some bearing upon the cost and the quality of governmental services. Since some of the units are dead or dying, and others have insufficient population and wealth to enable them to operate satisfactorily without imposing an unreasonable tax burden, and still others perform special functions that could readily be performed by the regular units, the desirability of maintaining all the present areas may be questioned.”^{8/}

The study was first proposed as a special work item of the State Water Plan by the Commission in its June 6, 1967 memorandum to the Legislature. Not only did the Legislature accept this topic for

study as a part of the State Water Plan, but at the 1966, 1967 and 1968 meetings of the State Association of Soil and Water Conservation Districts, specific resolutions were enacted requesting the Commission to accelerate the study on this item. In 1967, the Nebraska State Irrigation Association also enacted a resolution on reorganization. The "Little Hoover Commission" not only recommended the speedy completion of this study but also that the study results be implemented at an early date. Governor Norbert T. Tiemann and his staff have repeatedly endorsed the study. In addition, the Commission has met on many, many occasions with representatives of various types of districts including drainage districts, irrigation and public power districts, soil and water conservation districts, watershed advisory boards and others to examine the merits of this recommendation and to ask for their guidance and counsel in suggesting improvements.

The Commission has and is continuing to carry out a far-ranging educational program to insure that the people of Nebraska have ample opportunity to reflect their desires concerning this recommendation. The Commission has also maintained very

close liaison with the Legislative Study Council's Interim Study Committee on Ground and Surface Water and has sought their views on many occasions. This Legislative Study Committee in their report to the Nebraska Legislature has recommended a program of reorganization of local resource districts. The response of these many groups has been encouraging. As with any suggestions for substantial change, some opposition has been encountered. Such opposition reflects the dilemma which exists with regard to local government. As one authority observed:

"The simple fact is that the American people have desired two things which seem to be incompatible. One is complete local self-government in a system of small units coming down from earlier days; the other is a standard of services higher than ever before and a distribution of expenses over wide areas, so that no local area, especially not a poor one, will be unduly burdened."^{9/}

However, this recommendation has been studied and is supported by a large majority of those organizations and individuals recognized as leaders in resource development.

■ THE EXISTING SITUATION

HISTORIC DEVELOPMENT OF DISTRICTS

Nebraska as a state does not have a great many types of natural resources which can be put to economic use. The state has no commercial deposits of metallic minerals and apparently only limited opportunities for petroleum production. The land form and climate is such that Nebraska cannot compete with the "national vacation lands" for the recreation dollar but these same characteristics of topography and climate have

given Nebraska a basic resource in soil and water that is almost without comparison in the United States. The almost 50,000,000 acres in Nebraska are not of uniform quality but there is of that total an amazingly large amount of high-quality land whose productivity has propelled Nebraska forward to its present position as one of the outstanding agricultural states in the nation.

Early pioneers and their immediate successors were able to build a successful economic and social order by developing these land and water resources. Their plentiful nature, however, made it

9/ William Anderson, *Local Government and Finance in Minnesota*, 1935, p. 327.

possible for Nebraskans of the past to “skim off the top” of the resources available. As problems of drought, erosion, floods and ground water depletion occurred, it became necessary to begin a systematic development of basic resources to enhance their productivity. As the need for this development arose, the citizens of Nebraska asked the Legislature for specific legislation to better enable them to deal with specific resource problems. Past Legislatures have been responsive to such requests and as a consequence, there now exists in Nebraska, legislation authorizing fourteen different types of special-purpose districts with responsibilities in water and land resource development. It is not difficult to follow the chronological development of these districts almost from the days of statehood to the present. The first irrigation development took place in the 1860’s and it was soon found that satisfactory irrigation projects could be carried out only if there were legislative provisions for group development of projects. Drainage districts became popular in the early 1900’s in an effort to eliminate floods by straightening and cleaning channels to insure the speediest possible disposal of the water. The 1930’s with serious problems of wind erosion gave speed to the organization of soil conservation districts. In the wet years of the early 50’s, floods drew attention to the urgent need for community watershed programs and the extensive development of ground water irrigation beginning in the middle 50’s and accelerating up to the present time made the need apparent for ground water conservation districts. As a result of these and other resource problems, legislation was enacted covering generally one need at a time and resulted in the establishment of our many present districts. Specifically, the types of local resource organizations authorized at the present time include:

- Soil and Water Conservation Districts
- Irrigation Districts
- Public Power and Irrigation Districts
- Reclamation Districts
- Watershed Districts
- Watershed Conservancy Districts
- Watershed Planning Boards
- Watershed Improvement Boards
- Sanitary Drainage Districts

10/Roger V. Shumate *op. cit.*, p. 55.

- Sanitary Improvement Districts
(two ways to organize)
- Drainage Districts (Five ways to organize)
- Mosquito Control Districts
- Ground Water Conservation Districts
- Rural Water Supply Districts

Many of the above districts have served well to meet the needs which gave rise to them. Their past record of success has brought recognition to Nebraska for its leadership in conservation and development of soil and water resources. As the need for these varied types of districts changed, the districts evolved into our present organizational structure. Some, like power districts, irrigation districts and watershed districts, grew stronger while others, such as drainage districts, watershed planning boards and sanitary improvement districts, failed to become a viable organization for modern day resource development.

CURRENT DISTRICTS

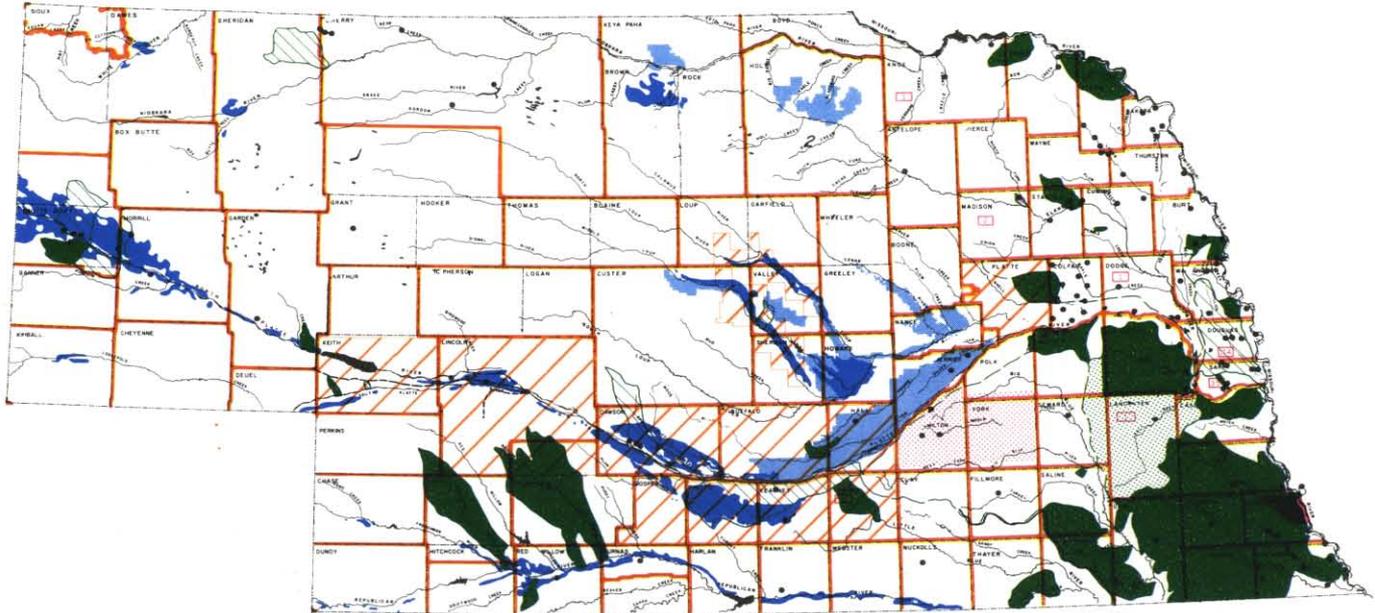
“There are no comprehensive and reliable statistics on personnel and finance which cover all units of local government in Nebraska. All of the political subdivisions have legal relationships with one or more departments of the state government, and most of them make reports of one kind or another. These reports, however, are scattered through the records of the State Tax Commissioner, State Auditor, State Superintendent of Public Instruction, Secretary of State, Department of Roads and Irrigation, (Department of Water Resources), Department of Agriculture, and State Soil Conservation Committee. Furthermore, many of the things most vital to a study of this nature are not reported to any state agency.” ^{10/}

Such was the case in 1939 and it continues today in greater degree. Because existing districts lack or fail to acknowledge state supervision, it is impossible to achieve a complete tabulation of their current status. It has been estimated, however, that there are approximately 500 special-purpose districts organized in Nebraska compared to the 172 studied in 1939. There are as many as 100 of these districts in one county. As Dr. Bollens wrote:

“Special Districts, particularly those in the non-school categories, constitute the ‘new dark continent of American politics.’” 11/

Figure 1 shows a compilation of the location of these districts by type and makes vividly apparent the overlap and duplication of area coverage that exists in these districts.

FIGURE 1 NEBRASKA WATER DISTRICTS JANUARY 1969



Drainage Districts	●	Ground Water Conservation Districts	▨	Watershed Conservancy Districts	■
Reclamation Districts	■	Rural Water Districts	▨	County Flood Control Authorities	▨
Public Power and Irrigation Districts	▨	Sanitary and Improvement Districts	▨	Watershed Planning Boards	▨
Sanitary Drainage Districts	▨	Irrigation Districts	▨	Watershed Districts	▨
		Soil and Water Conservation Districts	▨		

The responsibility of a local district normally includes sponsoring local improvements involving cooperation with state and federal government agencies and the operation and maintenance of such improvements after completion. Some, such as irrigation and drainage districts, have assumed complete responsibility for financing, planning, constructing, operating and maintaining a specific project. In addition, such districts have an important role to play in maintaining local control of resource development and resource expenditures to insure that the projects to be implemented are responsive to local needs and carried out in such a way as to be compatible with community and area goals.

illustrated in Table 1. This table presents, as well as can be determined at the present time, the number of districts of various types which exist in Nebraska and sets out the various functions of resource control and development which each is empowered to undertake as outlined in existing Nebraska Statutes. Each purpose for which more than one district shares authority may result in duplication of services and taxation to accomplish the identical purpose and offers an opportunity for escape from public responsibility. Each unfilled space in a vertical column indicates that a particular district has responsibility only for a limited portion of resource development and therefore, may carry out that development without full regard for those other purposes over which it has no jurisdiction.

The present programs of these many districts are 11/John C. Bollens *op. cit.*, p. 1.

TABLE 1

NEBRASKA WATER DISTRICTS JANUARY 1969

	WATERSHED DISTRICT	WATERSHED CONSERVANCY DISTRICTS	WATERSHED PLANNING BOARDS	SOIL and WATER CONSERVATION DISTRICTS	RURAL WATER DISTRICTS	DRAINAGE DISTRICTS	SANITARY DRAINAGE DISTRICTS	SANITARY and IMPROVEMENT DISTRICTS	IRRIGATION DISTRICTS	PUBLIC POWER and IRRIGATION DISTRICTS	COUNTY (CITY) FLOOD CONTROL AUTHORITIES	GROUNDWATER CONSERVATION DISTRICTS	RECLAMATION DISTRICTS	MOSQUITO ABATEMENT DISTRICTS
Statutory Provisions	31-801 to 31-832	2-1550 to 2-1567	31-833 to 31-837	2-1508 to 2-1549	46-1001 to 46-1020	31-101 to 31-451 & 31-901 to 31-933	31-501 to 31-553	31-701 to 31-766	46-101 to 46-1,154	70-601 to 70-672	23-308 to 23-320.13	46-614 to 46-634	46-501 to 46-587	71-2901 to 71-2916
No. of Districts	1	61	2	86	1	130	1	155	44	5	13	2	5	0
Flood Control	X	X				X	X			X	X			
Erosion Control	X	X		X							X			
Channel Rectification	X					X	X							
Drainage	X	X				X	X	X	X				X	X
Recreation	X	X						X					X	
Water Supply		X			X			X	X	X			X	
Irrigation									X	X			X	
Sewage Disposal							X	X						
Pollution Control	X													
Ground water Regulation												X		
Wildlife Preservation	X	X												
Land Use Regulation				X							X			
Develop Comprehensive plans for Soil & Water Res.			X	X										
Flood Plain Zoning							X				X*			
Demonstration Project				X										
Hydro-electric Power									X	X			X	
Mosquito & Fly Control														X

* L.B. 418 & L. B. 893 77th Session, 1967

■ DISTRICT PROBLEMS

LOSS OF LOCAL CONTROL

Under the present arrangement in many of the special-purpose districts dealing with different aspects of the general field of resource development, individuals with resource-based problems have no single agency or political subdivision of government to approach with their problem. As an example, a landowner with a drainage problem may encounter considerable difficulty in soliciting assistance from the many types of districts with drainage authority. Such assistance would be expedited with strong and responsive local organizations having effective and clearly defined authorities.

“One serious argument against them (special districts) is the inability of the public to exert adequate control over them. Special districts have multiplied so rapidly that citizens no longer keep themselves well informed on this aspect of governmental affairs. Although conscientious citizens might conceivably have exercised effective control over a few governmental units, it was unreasonable to expect them to watch and regulate a multi-ring circus. The fragmentation of governmental activities while governments were growing in functional importance has greatly increased the difficulty of citizen control and, in fact, has made it almost impossible.” ^{12/}

IMPLEMENTATION OF THE STATE WATER PLAN

As described previously, Legislative Resolution No. 5 passed by the 1967 Session of the Legislature, directed the Nebraska Soil and Water Conservation Commission to prepare a State Water Plan. Many parts of the plan will require physical developments to be carried out at the local level.

^{12/}John C. Bollens *op. cit.*, p. 252f.

With the responsibilities as presently divided among approximately 500 natural resource districts in Nebraska, it will be difficult if not impossible to find local entities with sufficient authority and jurisdiction to implement significant parts of the plan. Conversely, it would almost be impossible for the state, working through such a multitude of local organizations, to effectively coordinate development.

SPONSORSHIP OF PROJECTS

Full value for dollars invested in construction of resource projects can only be obtained when maximum use is made of dams, reservoirs, and other structures. In serving as many compatible uses as possible, such multi-purpose projects may require sponsorship by a variety of interests under the present circumstances. Such coordinated financial sponsorship and assumption of responsibility is difficult to arrange with fragmented districts as they now exist. In many projects, several functional uses become integrally involved in a single project undertaking. For example, the Midstate Reclamation Project now being considered in Nebraska involves recreation, flood control, hydropower production, drainage, ground water management, surface water irrigation, erosion control and enhancement of fish and wildlife. As is apparent by looking at Table 1, many of the local districts are unable to sponsor and operate a project with multiple functions.

INADEQUATELY SIZED DISTRICTS

Districts formed under present legislation are often extremely small in size. Many of these districts fail to encompass the entire problem area and because

of this may deal with only one part of a problem. In addition, sponsorship of large projects may require not only the successful coordination of several types of districts having different responsibilities, but also the successful coordination of contiguous districts of the same type having varying degrees of interest in the total project.

The Council of State Governments pointed out this problem and stated:

“The basic rural units were carved out in an earlier age. The development of modern communications and transportation has not led to appropriate changes in local boundaries, and the current units are smaller than necessary to keep rural citizens in close touch with rural governments. Rural units, like urban ones, suffer from inequities in revenue and offer services of widely divergent quality and quantity. A basic defect is that most rural units are too small for the efficient and economical performance of basic functions. They have neither the population, the administrative talent, nor the resources necessary to carry out the essential local services.”^{13/} *Residents of small units of local government receive too little service, and they pay unnecessarily high costs for services received.”*^{14/}

LACK OF ADEQUATE FINANCIAL CAPABILITY

Many of the existing special-purpose districts in Nebraska are so small that they fail to include a revenue base adequate to meet the necessary expenses of resource development. Such districts cannot afford a manager, negotiator, or an appraiser and in an attempt to save tax dollars, these non-salaried directors or supervisors assume an increasingly burdensome task of both making the policy and carrying it out. While it is an admirable characteristic of local leaders in Nebraska that they possess the initiative and desire to solve their own problems, they lack the technical staff which is so necessary for carrying out the policy decisions of the board.

OVERLAPPING DISTRICTS

At present, as can be seen in Figure 1, there is considerable overlapping between district bound-

aries and, as shown in Table 1, considerable duplication of program responsibility. The duplication of programs in one location may result in multiple taxation to support a single function or, in fact, permit multiple taxation by different districts to accomplish objectives which are in direct conflict.

“In this sense many special districts are phantom governments. People who receive services from them often do not know that they exist or exactly where they function. Although most districts have definite areas and boundaries which limit their jurisdiction, there is seldom visible evidence of these facts. Districts often create a crazy-quilt pattern of governmental areas and boundaries with only very slight public knowledge that they do so. Their phantom-like quality does not diminish their collective and sometimes individual importance. It merely increases the difficulty of comprehending a class of governments which is of rising significance.”^{15/}

LACK OF RESPONSIBILITY

In addition to the overlap of program responsibility discussed in the preceding section, existing district legislation also leaves responsibilities for various programs, which are needed to solve today's problems, unassigned. At the present time, there is no district with adequate authority to manage the conjunctive use of water, effectively regulate ground water development or substantially participate in basin-wide planning. The Big Blue River Basin Report just completed by the Nebraska Soil and Water Conservation Commission is a case in point. Seventy specific recommendations are made in this report which, if implemented, could have significant economic impact upon the basin. Still, we do not have a local organizational structure that can effectively sponsor and give leadership to that program. The problem of domestic water service to rural areas of the state was without an answer until the Legislature in 1967 authorized the establishment of rural water districts. The provision of such needed authorities in response to specific limited needs perpetuates and increases current district problems.

13/Alvin H. Hansen and Harvey S. Perloff, *State and Local Finance In The National Economy*, W. W. Norton, New York, 1944, p. 124.

14/The Council of State Governments, *State Local Relations*, 1946, p. 200.

15/John C. Bollens, *op. cit.*, p. 30.

THE NEED FOR REORGANIZATION

The problems of existing districts which have become apparent through past operation need only be summarized to point out the districts' great need for assistance. The needs of the present and future which point toward reorganization as a means of providing that needed assistance fall generally into the following four (4) categories:

1 COMPREHENSIVE PLANNING

Comprehensive planning as being carried out now by the federal (Procedure outlined in the 1965 Federal Water Resources Planning Act) and state government (L. R. No. 5) will determine for the foreseeable future the type and extent of resource developments to take place in Nebraska. It is essential that the people of Nebraska through a strong local organization have the opportunity to fully participate in the important decisions to be made as the State Water Plan is prepared.

2 MULTI-PURPOSE PROJECTS

This nation's population continues to double every 40 years. This, coupled with continued improvements in our standard of living, will place additional pressures upon our land and water resources. Reservoir sites will have to serve a multiplicity of purposes, our land will need to support more than one use, and our limited water supply will be used and reused many times.

The sponsorship of such multi-purpose projects will call for a responsible effective local unit of government with broad authorities that generally cover a common problem area. Such a district will also assure that all local needs which a project should serve are encompassed within the project design.



3 REVIEW OF FEDERAL PROJECTS

The larger projects awaiting construction in Nebraska at the present and those likely to be developed in the foreseeable future are primarily federal projects for reclamation, flood control, and watershed protection. Again, local residents in the project areas should have an opportunity, through a strong local organization, to make their voices heard during state and federal consideration of such important projects.

4 DEVELOPMENT OF NEW AND COMPLEX PROGRAMS

Like all other facets of life, resource development is becoming increasingly complex and new solutions are needed for new problems. The present unwieldy organizational arrangements, some dating from the last century, do not have the necessary authority, financial capability or organization to effectively implement needed natural resource developments.

■ INSTITUTIONAL CONSIDERATIONS OF MODERNIZATION

If some improvement is necessary, what type of changes should be made? How can the mechanics of government be improved and at the same time provide a viable vehicle for local expression and control? To arrive at the final recommendations of this report, the Commission has given consideration to these questions and to the institutional problems surrounding resource development and has attempted to conform with the Council of State Governments' recommendation which stated:

"There are two principal objectives for any program of state-local relations: First, local units of government should be strengthened in every possible way. Second, state supervision of local affairs should be improved so that activities of state-wide concern will be carried out in all jurisdictions at a high level of performance." ^{16/}

RECOGNITION OF ALL INTERESTS

An available water resource may be devoted to recreation, irrigation, municipal supply, power or other uses. In the same way, a reservoir site, which is a type of resource, may be used for flood control, irrigation water storage, water quality, recreation, or for other purposes. The highly significant and integral relationship of on-the-farm land treatment to major works of improvement has not always been recognized. Projects have been constructed to benefit a very small area without consideration of upstream or downstream residents or other uses. Such uses may not be compatible and it would not be sound government for these choices to be made by a board with responsibility and interest in one or a few functions, but rather they should be made by a board with broad representation of interest and a responsibility to the public to make such decisions

^{16/}Council of State Governments, *op. cit.*, p. 9.
^{17/}John C. Bollens *op. cit.*, p. 30.

with full cognizance of other opportunities which may be foregone by that decision. Therefore, it will be important in any reorganization to unify responsibility for all resource development functions on the local level in a single body.

SIMPLIFICATION OF GOVERNMENT

A democracy must encourage citizen participation. At the present time, the complicated and confusing mixture of special-purpose districts does not enable such full participation. Legislation applicable at the present time is scattered over many, many pages of statutes. It is doubtful whether, under the present situation, many of the directors of these various special-purpose districts fully comprehend their duties and responsibilities or their authorities. This present morass of accumulated legislation is a source of confusion in the operation of state government, local government and the conduct of private business. Confusion exists in the selection of members on these boards when some are elected at special, state primary, or general election and others are appointed.

"One final characteristic should be noted because of its distinguishing nature and importance. The general lack of information and knowledge about the location and limits of special districts after their establishment makes even their approximate boundaries largely unknown. Such a deficiency, fostered by the numerousness and the pyramiding of districts, prevails among many district residents and among practically all outside persons, a number of whom may indirectly be very much affected by district activities." ^{17/}

Implementation of the recommendations in this report will not result in less citizen involvement but through simplification will result in an inform-

ed involvement by many more people who will find it easier to participate and to support the programs of such districts.

IMPLEMENTATION OF PLANS

The State Water Plan, as directed by the Legislature, is to plan for the logical and orderly development of Nebraska's resources to serve the foreseeable needs of the future. Certainly it is intended by the Legislature that as such a plan is developed, it will be implemented. Yet, to implement parts of this plan which are already developed requires a strong local organization capable of action. Far too many of the present organizations operate well only up to the point that action is required. Every citizen has a right to expect that each unit of government supported by tax dollars will be capable of carrying out concrete action to achieve public goals.

MAINTENANCE OF LOCAL CONTROL

A further consideration of good government requires that strong control be exercised at the local level. Local control or local determination is directly related to responsible government. Local voices in these matters will be just as strong as local input. Fractured government at the local level is the antithesis of local control. Weak local government will call for and yield to more state and federal government. Mr. Anderson commented on this point in saying:

"The assignment by the state to small local units of major public functions (like public health to rural townships and small villages in some states) will not strengthen the local self-government of the units concerned when they have resources and populations that are entirely too limited for the purpose. It instead prevents the performance of the function locally and finally necessitates direct state performance of some necessary services." ^{18/}

ECONOMIC CONSIDERATIONS OF MODERNIZATION

While the previous section of this report dealt with the considerations that give rise to good government, this section is concerned with the economic considerations which simply provide for good management and efficient use of public funds.

ADMINISTRATIVE COSTS

Funds for the many special-purpose districts are collected by county treasurers. Under present Nebraska Statutes, the treasurers may retain considerable portions of these funds to cover their cost of collection. The accumulative result, of such administrative costs is to divert much of the revenue raised by taxation from their intended

^{18/}William Anderson, *op. cit.*, p. 220.

purposes. In addition, the maintenance of many individual offices including rent, equipment, furniture, utilities, etc., is hardly justified when each is used to less than full capability. Funds required for the necessary expenses of the directors of 14 different types of districts is probably far beyond that which might be warranted for a smaller number of well-organized, well-represented boards. Taken together, the operation of hundreds of local districts in this independent fashion diverts great amounts of tax dollars from their best use. State expense in money and manpower to maintain effective liaison with 500 such local districts is prohibitive and further contributes to fiscal inefficiency.

STAFFING

Resource development, like education, economics, law and other specialized fields requires particular individuals with specialized training. There simply are not enough qualified individuals to adequately staff present local districts which need such assistance at a salary which many small districts are able to provide. This has resulted in the salaried personnel of state and federal agencies providing considerable direction to management of local affairs. In addition, if satisfactory staff were available, it would be extremely inefficient to duplicate expensive staff abilities between so many special-purpose districts. Such a solution would also generate an unhealthy competition for competent public service based only on the ability to compete in salary with other districts of the state.

FINANCIAL CAPABILITY

“There is obviously a continuing American prejudice (though not shared by all people) in favor of the small, relatively weak, and local, and against the larger, stronger, and more ‘distant’ government. It is a fact, however, that increasing numbers of problems are big ones that cannot be broken up into small ones for local decision. A government of ample size and power is required, one that encompasses all of the major elements of the problem.”^{19/}

No longer is it economically feasible to plan and construct small projects of the type so successfully carried out in the past. With the completion of the easily developed inexpensive projects which yielded obvious benefits, it has been necessary to become more selective in preparing plans of development to insure that projects return benefits

in excess of their costs. The increased costs of construction of structural works associated with these projects have made it necessary that such structures, once completed, serve a wide area and many purposes. For these reasons, projects have tended to become larger in size and cost in recent years. Many of the projects presently proposed for development and many in the planning stage require national, multi-state or state support for development. Such projects are no longer within the scope of a very small area to conceive, design and implement.

There still remains an obligation for the local recipients of project benefits to carry a financial burden in proportion to the benefits which they receive. However, to adequately reflect the relation of benefits received in complex projects providing surface water irrigation, recharge of ground water, ground water usage, flood control benefits, soil and water conservation, recreation and water pollution abatement requires a sophisticated method of assessing not only benefits but also costs. To properly distribute these costs, a district must be both large enough in area to extend its taxing authority over all who receive a measurable benefit and must have sufficient financial capability to assume a portion of those joint costs shared by all functions which cannot be allocated to a particular individual. It is customary on resource development projects sponsored by the Federal Government, that some adequate non-federal sponsor must make certain guarantees as to the future operation, maintenance and payback of the project. Quite obviously, to satisfactorily give such assurance requires a district with an adequate tax base, strong authority, and a continuity of operation.

^{19/}William Anderson, *op. cit.*, p. 141.

■ PRACTICAL CONSIDERATIONS

In addition to the institutional considerations of modernization of the existing resource development district structure and the economic considerations of their operations, there are some considerations which are basically social in nature which must enter into any recommendation for action.

POWERS OF CONDEMNATION

The power of condemnation, generally needed for successful implementation of projects, is a tool of development which while often under used, generates fear of its over use. The problems associated with the power of condemnation fall into two general areas:

1. Inconsistent Policy – Local leaders of a small district, subject to the community demand for action and progress as well as to conflicting personal desires and loyalties have often carried out an inconsistent policy of condemnation. In some cases a board has decided that condemnation will be only for title. In other cases, they have decided to condemn only for easement and in other cases not to condemn at all. Other inconsistencies arise in methods of appraisal, the determination of land to be taken and the procedures of negotiation. While the bonds of neighborliness which may exist in a small district may tend to reduce abuses in condemnation, hesitation and refusal to condemn needed land may delay vital projects and be contrary to the broader public interest. Quite obviously, if such a controversial action is to be carried out, it should be administered in a fair and uniform

manner. Inconsistent policy gives rise to charges of favoritism and suspect in the mind of the landowners facing condemnation that the penalty for non-cooperation may be complete loss of title. Such an inconsistent policy of condemnation generates only bad relations, yet it is extremely difficult for a local board without professional assistance in making and assessing the implications of their policies, to prevent such difficulties.

2. Area Limitation of Power – Projects developed to serve the needs of people through resource development seldom respect county, city or other man-made boundaries. The provision of flood control, water supply, recreation or other project benefits in one area may require the condemnation of land for reservoir sites, canals or other project uses in a relatively distant area. In many cases the local district sponsoring such a project may lack the authority to go beyond its boundaries and condemn land which may be needed. Such situations generate only a sense of competition and antagonism between neighboring units of government and prevent the completion of needed projects.

AVAILABILITY OF LEADERSHIP

The present estimated 500 special-purpose districts in Nebraska dealing with resource development each require a board of directors numbering from five to over twenty. The total man-power committed to leadership numbers in the thousands and the time required for citizen direction of these hundreds of districts is substantial.

"The underlying reason for the low level of public interest and participation in many districts is not difficult to diagnose. Few citizens feel that they can afford to spend much time on governmental affairs, and responsibility is now so widely shared by many independent governments that thorough comprehension is not easy. In fact, it is hardly an exaggeration to say that a citizen, especially one living in a highly urbanized area, who took part in only the important activities of all the local governments affecting his welfare would not have enough time left to earn the money he has to pay those governments. Lack of sufficient knowledge, and the competing demands made on personal time by numerous independent governments, force citizens to concentrate rather than disperse their attention." ^{20/}

It is to the credit of those who do serve that they are willing to assume these responsibilities and it may be easily understood why the present system of fractured local agencies discourages many able persons from seeking responsibility in districts that may largely be without authority or without significant opportunity for progress. A reorganized local resource district would not necessarily call for involving fewer people in the decision-making process (the membership on a multi-purpose district would probably be larger than that for a single-purpose district) but the decisions of such a board will be more substantial and have more impact upon their community.

SIZE OF DISTRICTS

The determination of the optimum size of local resource districts for maximum effectiveness and the consequent setting of district boundaries may well prove one of the most difficult areas in modernization of current legislation. As has been discussed previously in this report, consideration must be given to the provisions for local control, local leadership, adequate financial capability and the considerations of time, travel and citizen participation. Of these considerations, the need for

financial capability for effective use of staff and for project implementation dictate only that districts should be of a significant size. The considerations of time and travel so obviously considered in past organization of local government of all types are not significant with present, almost instantaneous, communications and high speed travel. The trip between county seats once measured in parts of a day has been reduced to minutes. In the same way, local control is measured not in terms of smallness, but rather in the ability of a local organization of whatever size to effectively participate and represent their constituency in decisions made by the state and federal government.

The most appropriate factor determining the proper size of local resource districts is the nature of the problems to be solved. Resource problems in Nebraska vary across the state, but in general there exists in each part of Nebraska one outstanding type of problem which will be the central theme of development for years to come. For example, much of the eastern part of Nebraska may be conveniently divided on hydrologic boundaries since the primary needs of resource development concentrate about the surface drainage. Likewise, in those areas of Nebraska where the primary need for resource development is managing and increasing available ground water supplies, the logical division for districts may well be the general boundaries of underground, water-bearing strata. In other areas of Nebraska such as the Sandhills where an extremely large area may have a common dominant problem such as range management, no outstanding physical characteristic provides a natural subdivision of the area. In these cases, the man-made boundaries of county lines may suffice.

Consideration of all of the factors mentioned above has led the Commission to the conclusion that establishment of approximately 20 to 40 Natural Resource Districts in the state would provide the desirable basis for modernization of resource district legislation.

^{20/}John C. Bollens, *op. cit.*, p. 254.

■ ALTERNATIVE COURSES OF ACTION

MAINTAIN THE STATUS QUO

One course of action always available is to do nothing. However, if this course is chosen, Nebraska can look forward to continued piecemeal solutions to present problems and in fact, as the needs of the present and the future become more demanding, it may be expected that additional resource districts may be created and the problems discussed in this recommendation actually increased. Special-purpose resource districts enabling acts passed by the Nebraska Legislature since 1953 can historically point out future legislative requirements if Nebraska proceeds on a program of authorizing a new type of district each time a new need becomes apparent. The recent legislation pertaining to special-purpose resource districts is listed below:

1. Watershed District - 1953
2. Watershed Conservancy District-1957
3. Watershed Planning Board - 1957
4. Mosquito Abatement District - 1957
5. Groundwater Conservation District - 1959
6. County Drainage Act - 1959
7. Advisory Watershed Improvement Board - 1963
8. Rural Water District - 1967

One can sympathize with the hesitation of those who like things as they are, who prefer the familiar to the new, who are uncertain about sharing their responsibilities with others but **again as always** the needs of all the citizens of Nebraska must be considered.

STATE MANAGEMENT

A second alternative would leave districts essentially as they exist today, prevent the development of new districts and provide for a corresponding

increase of state government to meet both local and state responsibilities in carrying out current and future projects. Such an alternative is inconsistent with many tenets of good government and is directly opposed to the concepts of local control and local leadership in resource development.

DISSOLUTION OF DISTRICTS

It would be possible to dissolve present special-purpose districts and to concentrate the combined responsibilities and authorities for resource development in an existing local governmental unit such as counties. However, many of the same problems discussed in this recommendation which afflict present local resource districts apply also to county government. Also, resource problems such as flooding and receding ground water tables do not respect county boundaries—thus making county government an ineffective sponsor of programs to solve such problems.

A NEW ORGANIZATION

An opportunity exists to accomplish the necessary improvements of the institutional structure for resource development without serious immediate impact on existing organizations. Multi-purpose districts could be established on a river basin basis and present districts left unaffected to carry out their particular programs. This alternative would provide for the gradual uptaking of responsibilities by the new broad-based district through service to areas not now engaged in programs with existing districts and through the eventual attrition and merging of present districts. Striking of enabling legislation for present types of districts would insure against future proliferation of presently authorized districts.

This alternative has considerable merit but does result in the existence of an additional layer of government. Nevertheless, it deserves considera-

tion because of its ease of implementation and favorable relationship to existing districts.

CREATE A GENERAL RESOURCE DEVELOPMENT DISTRICT

"The suggestion is that many of the remaining single-purpose districts be brought within multi-purpose district operations. This would require the elimination by state legislatures of much of the remaining district enabling legislation and its replacement by legislation possessing a multi-purpose base. The legislation should authorize a broad scope of functions, including land use and regulatory powers. The legislation should further permit the establishment of service and financing differentials." ^{21/}

This method of modernizing existing district legislation would include the combining of authorities and responsibilities of many of the existing special-purpose districts into a natural resource district of adequate size and capability and the extension of its powers as necessary to comply with considerations set forth previously in this report.

Implementation of this recommendation would include the consolidation of Soil and Water Conservation Districts, Watershed Conservancy Districts, Watershed Districts, Mosquito Abatement Districts and Watershed Planning Boards into Natural Resource Districts. These districts are specifically included because they, through their association, the Nebraska Association of Soil and Water Conservation Districts, have taken favorable action within their membership to support this action. Another important consideration in selecting these districts is that they have 100% coverage of the state and include urban as well as rural areas. Other special-purpose districts such as Irrigation Districts, Public Power and Irrigation Districts, Ground Water Conservancy Districts, Reclamation Districts, Drainage Districts, and

Rural Water Districts would be given the opportunity of merging with such a Natural Resource District or remaining in operation under their existing authorities.

This Natural Resource District would be authorized to carry out and sponsor all known programs of resource development. As new programs develop, they would be assigned to such a district. The enabling sections authorizing organization of certain special-purpose districts would be stricken to prevent proliferation of such districts. The formation of new special-purpose resource districts would not be necessary after formation of multi-purpose districts on a state-wide basis.

A choice exists as to the appropriate size of such multi-purpose organizations with two possibilities readily apparent.

A. River Basin Boundaries

While river basin boundaries do not necessarily encompass all common problem areas, they would provide a uniform self-executing method of district delineation. Districts consisting of river basins (or large portions of river basins in some cases) could be established when State Water Plan studies of each area are concluded and a positive program of work is available. The need in number and time for administrative and technical staff would be reasonable and such a district could adequately represent to the State both upstream and downstream interests. This choice would provide ten to fifteen districts within the state.

B. Common Problem Boundaries

The use of a variety of criteria in establishing boundaries introduces judgement into the decision but makes possible the delineation of districts in which most or all residents have a common interest. This, combined with the various considerations described earlier, may result in 20 to 40 districts. Since their boundaries are arrived at independently of the State Water Plan, such districts could be established at an early date. This alternative is recommended at this time by the Commission.

21/ John C. Bollens, *op. cit.*, p. 260f.

RECOMMENDATIONS FOR ACTION

RECOMMENDATION I

Legislation should be enacted which creates Natural Resource Districts for the State of Nebraska. The principal objective of the Natural Resource District should be the carrying out of water and land resource development on the local level in cooperation with state and federal agencies including broad comprehensive consideration of the following programs:

1. Flood Control
2. Erosion Control
3. Channel Rectification
4. Drainage
5. Recreation
6. Water Supply
7. Irrigation
8. Pollution Control
9. Groundwater Regulation
10. Wildlife Preservation
11. Land Use Regulation (as relates to erosion control)
12. Develop Comprehensive Plans for Soil and Water Resources
13. Demonstration Projects
14. Watershed Protection and Flood Prevention
15. Forestry and Range Management
16. Solid Waste Disposal
17. Dissemination of Related Information
18. Flood Plain Zoning
19. Sanitary Drainage
20. Mosquito Abatement
21. Soil Conservation

A. The Natural Resource Districts should have the following power and authorities:

1. To change their boundaries in cooperation with one another when future circum-

stances require such changes, including the division of one district into two or more districts and the consolidation of two or more districts into a single district subject to state approval;

2. To acquire easements over land or title to land for programs of the district through power of eminent domain or otherwise;
3. To contract and cooperate with other Natural Resource Districts to carry out projects which may cross district boundaries;
4. To contract for a proper purpose as the local cooperating agency with any federal, state, county, or city or any government agency or subdivision to carry out an authorized program of such other government unit;
5. To contract with any government agency or private contractor to carry out programs of the district;
6. To save the Federal Government free from damages and claims arising from sponsorship of federal projects;
7. To levy an ad valorem tax for such costs of projects or administration as would benefit the general district not to exceed an amount set by the Legislature;
8. To designate the boundaries of special improvement areas within their district for the purpose of assessing the cost of projects which will benefit exclusively or primarily the lands of such area;
9. To borrow money up to a set amount;
10. To rent or purchase machinery or equipment which will have a beneficial use in the construction, maintenance or operation of the Districts' programs; make such equipment available to residents of District; and to dispose of such machinery or equipment

- by sale, trade or termination of lease by a means most beneficial to such District;
11. To take and hold real and personal property necessary for its use; to make and enter contracts; to have and use a corporate seal and exercise any and all powers of a public corporation; and to carry out the purposes of the law;
 12. To sue and be sued for damages caused by the program of improvements arising from contract or tort;
 13. To carry insurance coverage for protection against such liability;
 14. Districts may establish advisory boards to make recommendations on such topics as the district may request and may provide to such advisory boards funds as necessary to carry out assigned tasks;
 15. To employ personnel as they may require to conduct their business;
 16. To utilize federal and state funds made available to them;
 17. To have all other powers and authorities of the Watershed Districts, Watershed Conservancy Districts, Watershed Planning Boards, Soil and Water Conservation Districts, and Mosquito Abatement Districts.

B. Natural Resource Districts should cover all of the State of Nebraska. The boundaries of the districts should be established through a process of administrative hearings by the Nebraska Soil and Water Conservation Commission during a set time after passage of the legislation. Future alteration of the boundaries should be accomplished in the same manner. Adequate opportunity will be afforded local individuals and organizations to participate and make recommendations during these hearings. Legislative direction should outline procedure for certification of the new district, dissolution of existing districts, and for assumption of assets and liabilities of consolidated districts. The authorized number of such districts should be flexible and they should number somewhere between 20 and 40. Criteria for establishing the boundaries should include:

1. Ground and surface water hydrology
2. Common problem areas
3. Soil characteristics and types
4. Tax base and economics of the proposed district
5. Planning Development Region boundaries
6. Political boundaries

C. The organizational characteristics of Natural Resource Districts should be as follows:

1. All Natural Resource Districts are to be public corporations and political subdivisions of the state organized for public purpose;
2. Directors of the consolidated districts shall form the initial board of directors and serve until their term of office expires or until the next general election;
3. The contractual obligations of consolidated districts (including such items as: watershed work plans, financial obligations, memorandums of understanding, agreements and others) shall be assumed and administered by the new district;
4. Individuals who are entrusted with the handling of funds shall enter into surety bonds before commencing their duties;
5. The directors serving on the Natural Resource District Board will receive actual expenses incurred while carrying out their responsibilities;
6. An annual public accounting of district expenses by a certified public accountant would be required;
7. The Natural Resource Districts will be exempt from state taxation;
8. All design or construction of major structural works done by the district will be under the supervision of a registered engineer. Detailed plans of such works shall be filed and reviewed in the Department of Water Resources and the district shall not proceed with such plans until they are approved by the Department;
9. The Board of Directors may establish and appropriately finance advisory committees in such fields as land treatment, drainage, recreation, etc.

RECOMMENDATION II

The legislation for the following Nebraska special-purpose districts should be revised to effect the consolidation of:

1. Soil & Water Conservation Districts
2. Watershed Conservancy Districts
3. Watershed Districts
4. Watershed Planning Boards
5. Mosquito Abatement Districts

In addition, the legislation authorizing Watershed Improvement Boards, a dependent type district, should be repealed.

RECOMMENDATION III

The sections governing the operations after formation of (1) Rural Water Districts (Chapter 46, Article 10); (2) Ground Water Conservation Districts (Section 46, Article 6); (3) Drainage Districts (Chapter 31, Articles 1, 3 and 4); (4) Reclamation Districts (Chapter 46, Article 5); and (5) Irrigation Districts (Chapter 46, Article 1) should be modified to provide for the joint option of these districts and the Natural Resource Districts for merging, subject to approval by the Nebraska Soil and Water Conservation Commission. Statutory provision allowing the further organization of those districts should be repealed. The effective date of repeal should be January 1, 1971, or the date of establishment of Natural Resource Districts.

RECOMMENDATION IV

The Nebraska Soil and Water Conservation Commission should have the following duties, authorities and responsibilities pertaining to Natural Resource Districts:

1. Require Natural Resource Districts to submit reports which will keep the Commission informed about district plans and operations, including long-range plans and financial forecasts;
2. The Commission should coordinate the plans and operations among the districts to prevent conflicts of operations;
3. The State of Nebraska should supplement district general funds with money appropriated by the Legislature and allocated through the Commission to the districts in

an equitable manner. Other state funds should be appropriated by the Legislature for specific projects and activities of the districts and such funds should be allocated by the Commission after approval of eligibility of the district for specific projects. Legislative guidelines for the administration of both types of funding should be provided;

4. The Commission should be given the authority to disapprove Natural Resource District plans which are found to be in conflict with the State Water Plan. Such disapproval should preclude a district from continuing development of such a disapproved plan;
5. The Commission will coordinate activities between Natural Resource Districts and other appropriate State and Federal agencies.

RECOMMENDATION V

The Nebraska Legislature should specifically declare its intent that Natural Resource Districts aid in any way possible the public power and irrigation districts formed under Chapter 70, Article 6 and the irrigation districts organized under Chapter 46, Article 1 and reclamation districts formed under Chapter 46, Article 5. These districts, because of their statutory organization and their inherent nature as a public corporation engaged in the sale of a service, may not be readily dissolved and reorganized as a part of a Natural Resource District. Because of the importance and magnitude of the operations of these districts, coordination of activities assumes greater than normal significance. It is, therefore, further recommended that whenever the land area of an irrigation district, reclamation district or public power and irrigation district lies wholly or in part within the boundaries of a Natural Resource District, a person appointed by the board of such irrigation district, reclamation district or public power and irrigation district should sit as an ex-officio member without vote on the board of such Natural Resource District. If additional study indicates the feasibility of evolving or merging a public power and irrigation district, reclamation district or irrigation district, such merger should be provided for in the statutes.