

LEGISLATURE OF NEBRASKA
 NINETY-EIGHTH LEGISLATURE
 SECOND SESSION
LEGISLATIVE BILL 962
 FINAL READING

Introduced by Natural Resources Committee:
 Schrock, 38, Chairperson; Friend, 10; Jones, 43;
 Kremer, 34; Louden, 49; Preister, 5; Stuhr, 24; and
 Aguilar, 35; Baker, 44; Beutler, 28; Bromm, 23;
 Brown, 6; Burling, 33; Combs, 32; Cudaback, 36;
 Erdman, 47; Jensen, 20; Johnson, 37; Landis, 46;
 D. Pederson, 42; Price, 26; Raikes, 25; Schimek, 27;
 Stuthman, 22; Wehrbein, 2

Read first time January 9, 2004

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources; to amend sections 2-1586,
 2 2-3225, 46-229.02, 46-229.03, 46-2,127, 46-609, 46-651,
 3 46-656.03, 46-656.04, 46-656.08, 46-656.11, 46-656.13,
 4 46-656.21, 46-656.32, 46-656.35 to 46-656.37, 46-656.39,
 5 46-656.41 to 46-656.48, 46-656.64, 46-680, 46-1207.01,
 6 46-1207.02, 46-1212, 46-1228, 61-206, 66-1501, 66-1519,
 7 66-1523, 66-1525, 66-1529.02, 77-27,137.02, and 77-3442,
 8 Reissue Revised Statutes of Nebraska, sections 2-1588,
 9 13-520, 46-226.03, 46-229, 46-229.04, 46-230, 46-235.04,
 10 46-237, 46-261, 46-290 to 46-296, 46-2,112, 46-2,119,
 11 46-2,132, 46-2,135, 46-601.01, 46-613.02, 46-653,
 12 46-656.05, 46-656.14, 46-656.19, 46-656.25 to 46-656.27,

1 46-656.31, 46-656.33, 46-656.38, 46-656.40, 46-656.62,
2 46-656.63, 46-656.65 to 46-656.67, 46-676, 46-678.01, and
3 81-15,176, Revised Statutes Supplement, 2002, and
4 sections 46-241, 46-602, 46-656.01, 46-656.02, 46-656.07,
5 46-656.10, 46-656.12, 46-656.24, 46-656.29, 46-656.30,
6 and 81-15,174, Revised Statutes Supplement, 2003; to
7 change tax levy provisions for natural resources
8 districts; to change provisions relating to management
9 plans, water appropriations, water policy, water wells,
10 public water supply, water transfers, and the Department
11 of Natural Resources; to provide a termination date for
12 provisions relating to the Water Policy Task Force; to
13 transfer, change, and eliminate provisions relating to
14 the Nebraska Ground Water Management and Protection Act;
15 to require insurance for remedial action and change dates
16 relating to the Petroleum Release Remedial Action Act; to
17 define and redefine terms; to provide and change powers
18 and duties; to create a board and a fund; to provide for
19 transfers of funds; to eliminate a committee; to
20 harmonize provisions; to provide operative dates; to
21 provide severability; to repeal the original sections; to
22 outright repeal sections 46-656.06, 46-656.09, 46-656.17,
23 46-656.18, 46-656.20, 46-656.22, 46-656.23, and
24 46-656.49, Reissue Revised Statutes of Nebraska, and
25 sections 46-656.15, 46-656.16, 46-656.28, and 46-656.50
26 to 46-656.61, Revised Statutes Supplement, 2002; and to
27 declare an emergency.

28 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1586, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-1586. ~~It is hereby recognized~~ The Legislature finds
4 that it is ~~the~~ a public purpose of ~~this~~ the state to properly
5 develop the water and related land resources of the state and that
6 it is in the public interest ~~of this state~~ (1) to ~~financially~~
7 ~~assist in~~ provide financial assistance to programs and projects
8 ~~necessary~~ essential to the development, preservation, and
9 maintenance of ~~Nebraska's~~ the state's water and related land
10 resources, including programs and projects for the (a) abatement of
11 pollution, (b) ~~potential~~ reduction of potential flood damages, (c)
12 reservation of lands for resource development projects, (d)
13 provision of public irrigation facilities, (e) preservation and
14 development of fish and wildlife resources, (f) protection and
15 improvement of public lands, (g) provision of public outdoor
16 recreation lands and facilities, (h) provision and preservation of
17 the waters of ~~this~~ the state for all beneficial uses, including
18 domestic, agricultural, and manufacturing uses, (i) conservation of
19 land resources, and (j) protection of the health, safety, and
20 general welfare of the people, ~~of the State of Nebraska,~~ and (2) to
21 ~~financially assist~~ provide financial assistance to natural
22 resources districts in the preparation of management plans pursuant
23 to section ~~46-656.12~~ 49 of this act.

24 Sec. 2. Section 2-1588, Revised Statutes Supplement,
25 2002, is amended to read:

26 2-1588. (1) Any money in the Nebraska Resources
27 Development Fund may be allocated by the commission in accordance
28 with sections 2-1586 to 2-1595 for utilization by the department,

1 by any state office, agency, board, or commission, or by any
2 political subdivision of the ~~State of Nebraska~~ state which has the
3 authority to develop the state's water and related land resources.
4 Such money may be allocated in the form of grants or loans or for
5 acquiring state interests in water and related land resources
6 programs and projects undertaken within the state. The allocation
7 of funds to a program or project in one form shall not of itself
8 preclude additional allocations in the same or any other form to
9 the same program or project. Funds may also be allocated to assist
10 natural resources districts in the preparation of management plans
11 as provided in section ~~46-656.12~~ 49 of this act. Funds so
12 allocated shall not be subject to sections 2-1589 to 2-1595.

13 (2) No project, including all related phases, segments,
14 parts, or divisions, shall receive more than ten million dollars
15 from the fund. On July 1, 1994, and each year thereafter, the
16 director shall adjust the project cost and payment limitation of
17 this subsection by an amount equal to the average percentage change
18 in the federal Department of Commerce, Bureau of the Census,
19 Composite Construction Cost Index for the prior three years.

20 (3) Prior to September 1 of each even-numbered year, a
21 biennial report shall be made to the Governor and the Clerk of the
22 Legislature describing the work accomplished by the use of such
23 development fund during the immediately preceding two-year period.
24 The report shall include a complete financial statement. Each
25 member of the Legislature shall receive a copy of such report upon
26 making a request ~~for it~~ to the director.

27 Sec. 3. Section 2-3225, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 2-3225. Each district shall have the power and authority
2 to levy a tax of not to exceed four and one-half cents on each one
3 hundred dollars of taxable valuation annually on all of the taxable
4 property within such district unless a higher levy is authorized
5 pursuant to section 77-3444. Each district shall also have the
6 power and authority to levy a tax equal to the dollar amount by
7 which its restricted funds budgeted to administer and implement
8 ground water management activities and integrated management
9 activities under the Nebraska Ground Water Management and
10 Protection Act exceed its restricted funds budgeted to administer
11 and implement ground water management activities and integrated
12 management activities for FY2003-04, not to exceed one cent on each
13 one hundred dollars of taxable valuation annually on all of the
14 taxable property within the district. The proceeds of such tax
15 shall be used, together with any other funds which the district may
16 receive from any source, for the operation of the district. When
17 adopted by the board, the levy shall be certified by the secretary
18 to the county clerk of each county which in whole or in part is
19 included within the district. Such levy shall be handled by the
20 counties in the same manner as other levies, and proceeds shall be
21 remitted to the district treasurer. Such levy shall not be
22 considered a part of the general county levy and shall not be
23 considered in connection with any limitation on levies of such
24 counties.

25 Sec. 4. Section 13-520, Revised Statutes Supplement,
26 2002, is amended to read:

27 13-520. The limitations in section 13-519 shall not
28 apply to (1) restricted funds budgeted for capital improvements,

1 (2) restricted funds expended from a qualified sinking fund for
2 acquisition or replacement of tangible personal property with a
3 useful life of five years or more, (3) restricted funds pledged to
4 retire bonded indebtedness, used by a public airport to retire
5 interest-free loans from the Department of Aeronautics in lieu of
6 bonded indebtedness at a lower cost to the public airport, or used
7 to pay other financial instruments that are approved and agreed to
8 before July 1, 1999, in the same manner as bonds by a governing
9 body created under section 35-501, (4) restricted funds budgeted in
10 support of a service which is the subject of an agreement or a
11 modification of an existing agreement whether operated by one of
12 the parties to the agreement or by an independent joint entity or
13 joint public agency, (5) restricted funds budgeted to pay for
14 repairs to infrastructure damaged by a natural disaster which is
15 declared a disaster emergency pursuant to the Emergency Management
16 Act, ~~or~~ (6) restricted funds budgeted to pay for judgments, except
17 judgments or orders from the Commission of Industrial Relations,
18 obtained against a governmental unit which require or obligate a
19 governmental unit to pay such judgment, to the extent such judgment
20 is not paid by liability insurance coverage of a governmental unit,
21 or (7) the dollar amount by which restricted funds budgeted by a
22 natural resources district to administer and implement ground water
23 management activities and integrated management activities under
24 the Nebraska Ground Water Management and Protection Act exceed its
25 restricted funds budgeted to administer and implement ground water
26 management activities and integrated management activities for
27 FY2003-04.

28 Sec. 5. Section 46-226.03, Revised Statutes Supplement,

1 2002, is amended to read:

2 46-226.03. For purposes of sections 46-226 to 46-243 and
3 section 10 of this act:

4 (1) Department means the Department of Natural Resources;

5 (2) Director means the Director of Natural Resources;

6 (3) Incidental underground water storage has the same
7 meaning as in section 46-296;

8 (4) Induced ground water recharge means the process by
9 which ground water withdrawn from wells near a natural stream is
10 replaced by surface water flowing in the stream;

11 (5) Intentional underground water storage has the same
12 meaning as in section 46-296;

13 (6) Public water supplier means a city, village,
14 municipal corporation, metropolitan utilities district, rural water
15 district, natural resources district, irrigation district,
16 reclamation district, or sanitary and improvement district which
17 supplies or intends to supply water to inhabitants of cities,
18 villages, or rural areas for domestic or municipal purposes;

19 (7) Underground water storage has the same meaning as in
20 section 46-296; and

21 (8) Well means a well, subsurface collector, or other
22 artificial opening or excavation in the ground from which ground
23 water flows under natural pressure or is artificially withdrawn.

24 Sec. 6. Section 46-229, Revised Statutes Supplement,
25 2002, is amended to read:

26 46-229. All appropriations for water must be for a ~~some~~
27 beneficial or useful purpose and, except as provided in sections
28 46-290 to 46-294 and 46-2,122 to 46-2,125, when the ~~appropriator~~

1 owner of an appropriation or his or her successor in interest
 2 ceases to use it for such purpose for more than ~~three~~ five
 3 consecutive years, the right may be terminated only by the director
 4 ~~following a hearing~~ pursuant to sections 46-229.02 to 46-229.05.

5 Sec. 7. Section 46-229.02, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 46-229.02. If it shall appear that any water
 8 appropriation has not been used for some beneficial or useful
 9 purpose or having been so used at one time has ceased to be used
 10 for such purpose for more than three consecutive years, the
 11 department shall appoint a place and time of hearing, shall serve
 12 notice upon the owners of such water appropriation or such ditch,
 13 canal, or other diverting works to show cause by such time and at
 14 such place why the water appropriation owned by such person should
 15 not be declared forfeited and annulled because such water
 16 appropriation had not been used for more than three consecutive
 17 years prior to receiving such notice, and shall also serve such
 18 notice upon the landowners under such water appropriation, ditch,
 19 or canal. The notice shall contain a copy of section ~~46-229.04~~ and
 20 a department telephone number which any person may call for
 21 information regarding sufficient cause for nonuse.

22 A water appropriation may be canceled by the department
 23 without complying with sections ~~46-229.01 to 46-229.04~~ if the owner
 24 of such appropriation fails to comply with any of the conditions of
 25 approval in the permit. (1) If, based upon the results of a field
 26 investigation or upon information, however obtained, the department
 27 makes preliminary determinations (a) that an appropriation has not
 28 been used, in whole or in part, for a beneficial or useful purpose

1 or having been so used at one time has ceased to be used, in whole
2 or in part, for such purpose for more than five consecutive years
3 and (b) that the department knows of no reason that constitutes
4 sufficient cause, as provided in section 46-229.04, for such nonuse
5 or that such nonuse has continued beyond the additional time
6 permitted because of the existence of any applicable sufficient
7 cause, the department shall serve notice of such preliminary
8 determinations upon the owner or owners of such appropriation and
9 upon any other person who is an owner of the land under such
10 appropriation. Such notice shall contain the information required
11 by section 46-229.03, shall be provided in the manner required by
12 such section, and shall be posted on the department's web site.
13 Each owner of the appropriation and any owner of the land under
14 such appropriation shall have thirty days after the mailing or last
15 publication, as applicable, of such notice to notify the
16 department, on a form provided by the department, that he or she
17 contests the department's preliminary determination of nonuse or
18 the department's preliminary determination of the absence of
19 sufficient cause for such nonuse. Such notification shall indicate
20 the reason or reasons the owner is contesting the department's
21 preliminary determination and include any information the owner
22 believes is relevant to the issues of nonuse or sufficient cause
23 for such nonuse.

24 (2) If no owner of the appropriation or of the land under
25 the appropriation provides notification to the department in
26 accordance with subsection (1) of this section, the director may
27 issue an order canceling the appropriation in whole or in part.
28 The extent of such cancellation shall not exceed the extent

1 described in the department's notice to the owner or owners in
2 accordance with subsection (1) of this section. A copy of the
3 order canceling the appropriation, or part thereof, shall be posted
4 on the department's web site and shall be provided to the owner or
5 owners of the appropriation and to any other owner of the land
6 under the appropriation in the same manner that notices are to be
7 given in accordance with subsection (2), (3), or (4) of section
8 46-229.03, as applicable.

9 (3) If an owner of the appropriation provides
10 notification to the department in accordance with subsection (1) of
11 this section, the department shall review the owner's stated
12 reasons for contesting the department's preliminary determination
13 and any other information provided with the owner's notice. If the
14 department determines that the owner has provided sufficient
15 information for the department to conclude that the appropriation
16 should not be canceled, in whole or in part, it shall inform the
17 owners of the appropriation, and any other owners of the land under
18 the appropriation, of such determination.

19 (4) If the department determines that an owner has
20 provided sufficient information to support the conclusion that the
21 appropriation should be canceled only in part and if (a) the owner
22 or owners filing the notice of contest agree in writing to such
23 cancellation in part and (b) such owner or owners are the only
24 known owners of the appropriation and of the land under the
25 appropriation, the director may issue an order canceling the
26 appropriation to the extent agreed to by the owner or owners and
27 shall provide a copy of such order to such owner or owners.

28 (5) If the department determines that subsections (2),

1 (3), and (4) of this section do not apply, it shall schedule and
2 conduct a hearing on the cancellation of the appropriation in whole
3 or in part. Notice of the hearing shall be provided to the owner
4 or owners who filed notices with the department pursuant to
5 subsection (1) of this section, to any other owner of the
6 appropriation known to the department, and to any other owner of
7 the land under the appropriation. The notice shall be posted on
8 the department's web site and shall be served or published, as
9 applicable, in the manner provided in subsection (2), (3), or (4)
10 of section 46-229.03, as applicable.

11 (6) Following a hearing conducted in accordance with
12 subsection (5) of this section and subsection (1) of section
13 46-229.04, the director shall render a decision by order. A copy
14 of the order shall be provided to the owner or owners of the
15 appropriation and to any other person who is an owner of the land
16 under the appropriation. The copy of the order shall be posted on
17 the department's web site and shall be served or published, as
18 applicable, in the same manner that notices are to be given in
19 accordance with subsection (2), (3), or (4) of section 46-229.03,
20 as applicable, except that if publication is required, it shall be
21 sufficient for the department to publish notice that an order has
22 been issued. Any such published notice shall identify the land or
23 lands involved and shall provide the address and telephone number
24 that may be used to obtain a copy of the order.

25 Sec. 8. Section 46-229.03, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 46-229.03. (1) The notice shall contain the date and
28 place of hearing, a description of the water appropriation, the

1 number thereof upon the books and records of the department, the
2 date of priority, the point of diversion, and a description of the
3 lands which are located under such water appropriation. It shall
4 call upon all persons interested in such water appropriation to
5 show cause why all or part of the same should not be canceled and
6 annulled. The notice shall be served personally or by registered
7 or certified mail at least thirty days before the date of hearing
8 upon those owning or controlling the water appropriation and the
9 ditch, canal, or reservoir for the purpose of using or storing
10 water for any purpose if they are known to the department to be the
11 owners thereof and maintain an office within the State of Nebraska.

12 (2) If the persons named in subsection (1) of this
13 section do not maintain an office within the State of Nebraska,
14 then such notice shall be served by the publication in some legal
15 newspaper published or of general circulation in the county in
16 which the place of diversion of such water appropriation is
17 located, once a week for three consecutive weeks prior to the date
18 of hearing.

19 (3) Except as provided in subsection (4) of this section,
20 a copy of such notice shall be personally served or sent by either
21 registered or certified mail to all other persons appearing from
22 the records of the county clerk or register of deeds to be
23 landowners under such appropriation. The notice provided by the
24 department in accordance with subsection (1) or (5) of section
25 46-229.02 shall contain: (a) A description of the appropriation;
26 (b) the number assigned to the appropriation by the department; (c)
27 the date of priority; (d) the point of diversion; (e) if the notice
28 is published, the section or sections of land which contain the

1 lands located under such appropriation; (f) if the notice is served
2 by personal service or by registered or certified mail, a
3 description of the lands which are located under such
4 appropriation, a description of the information used by the
5 department to reach the preliminary determinations of nonuse, and a
6 copy of section 46-229.04; (g) a description of the owner's options
7 in response to the notice; (h) a department telephone number which
8 any person may call during normal business hours for more
9 information regarding the owner's rights and options, including
10 what constitutes sufficient cause for nonuse; (i) if the notice is
11 provided in accordance with subsection (1) of section 46-229.02 and
12 is mailed, a copy of the form that such owner may file to request a
13 departmental hearing; (j) if the notice is provided in accordance
14 with subsection (1) of section 46-229.02 and is published, the
15 location where the owner may obtain a form to file to request a
16 departmental hearing; and (k) if the notice is provided in
17 accordance with subsection (5) of section 46-229.02, the date,
18 time, and location of the hearing.

19 (2) For any owner whose name and address are known to the
20 department or can be reasonably obtained by the department, the
21 notice shall be served by personal service or by registered mail or
22 certified mail. Any landowner's name or address shall be
23 considered reasonably obtainable if that person is listed as an
24 owner of the land involved, on the records of the county clerk or
25 register of deeds for the county in which the land is located.

26 (3) For any owner whose name and address are not known to
27 the department and cannot reasonably be obtained by the department,
28 such notice shall be served by publication in a legal newspaper

1 published or of general circulation in any county in which the
 2 place of diversion is located and in a legal newspaper published or
 3 of general circulation in each county containing land for which the
 4 right to use water under the appropriation is subject to
 5 cancellation. Each such publication shall be once each week for
 6 three consecutive weeks.

7 (4) Landowners whose property under such appropriation is
 8 located within the corporate limits of a city or village shall be
 9 served by the publication of such notice in a legal newspaper
 10 published or of general circulation in the county in which the city
 11 or village is located. The notice shall be published once a each
 12 week for three consecutive weeks. ~~prior to the date of hearing.~~

13 Sec. 9. Section 46-229.04, Revised Statutes Supplement,
 14 2002, is amended to read:

15 46-229.04. (1) At such hearing the verified field
 16 investigation report of an employee of the department shall be
 17 prima facie evidence for the forfeiture and annulment of such water
 18 appropriation. If no ~~one~~ person appears at the hearing, such water
 19 appropriation or unused part thereof shall be declared forfeited
 20 and annulled. If ~~someone interested~~ an interested person appears
 21 and contests the same, the department shall hear evidence, and if
 22 it appears that such water has not been put to a beneficial use or
 23 has ceased to be used for such purpose for more than ~~three~~ five
 24 consecutive years, the same shall be declared canceled and annulled
 25 unless the department finds that (a) there has been sufficient
 26 cause for such nonuse as provided for in subsection ~~(3)~~ (2), (3),
 27 or (4) of this section or (b) subsection (5) or (6) of this section
 28 applies.

1 (2) If it is determined that such water has not been put
2 to beneficial use or has ceased to be used for such purpose for
3 more than ten consecutive years, the water right shall be declared
4 canceled and annulled, except that for any water appropriation or
5 part of a water appropriation on any tract of land under separate
6 ownership, sufficient cause for nonuse shall be deemed to exist
7 even if the period of nonuse was for more than ten consecutive
8 years if the landowner used the available water supply on only part
9 of the land under the water appropriation because of an inadequate
10 water supply.

11 (3) If the period of nonuse did not exceed ten
12 consecutive years, sufficient cause shall be deemed to exist if
13 such nonuse was a result of one or more of the following:

14 (a) The land subject to the appropriation was placed
15 under an acreage reserve or production quota program or otherwise
16 withdrawn from use as required for participation in any federal or
17 state program;

18 (b) Federal, state, or local laws, rules, or regulations
19 temporarily prevented or restricted such use;

20 (c) The available water supply was inadequate to enable
21 the owner to use the water for a beneficial or useful purpose;

22 (d) Use of the water was unnecessary because of climatic
23 conditions;

24 (e) Circumstances were such that a prudent person,
25 following the dictates of good husbandry, would not have been
26 expected to use the water;

27 (f) The works, diversions, or other facilities essential
28 to use of the water were destroyed by a cause not within the

1 control of the owner of the appropriation, and good faith efforts
2 to repair or replace the works, diversions, or facilities have been
3 and are being made,

4 (g) The owner of the appropriation was in active
5 involuntary service in the armed forces of the United States or was
6 in active voluntary service during a time of crisis, or

7 (h) Legal proceedings prevented or restricted use of the
8 water.

9 The department may specify by rule and regulation other
10 circumstances which shall be deemed to constitute sufficient cause.

11 (4) If at the time of the hearing there is an application
12 for incidental or intentional underground water storage pending
13 before the department and filed by the owner of the appropriation,
14 the proceedings shall be consolidated. Sufficient cause for nonuse
15 shall be deemed to exist for up to thirty consecutive years if such
16 nonuse was caused by the unavailability of water for that use. For
17 a river basin, subbasin, or reach that has been designated as
18 overappropriated pursuant to section 53 of this act or determined
19 by the department to be fully appropriated pursuant to section 54
20 of this act, the period of time within which sufficient cause for
21 nonuse because of the unavailability of water may be deemed to
22 exist may be extended beyond thirty years by the department upon
23 petition therefor by the owner of the appropriation if the
24 department determines that an integrated management plan being
25 implemented in the river basin, subbasin, or reach involved is
26 likely to result in restoration of a usable water supply for the
27 appropriation.

28 (3) Sufficient cause for nonuse shall be deemed to exist

1 indefinitely if such nonuse was the result of one or more of the
2 following:

3 (a) For any tract of land under separate ownership, the
4 available supply was used but on only part of the land under the
5 appropriation because of an inadequate water supply;

6 (b) The appropriation is a storage appropriation and
7 there was an inadequate water supply to provide the water for the
8 storage appropriation or less than the full amount of the storage
9 appropriation was needed to keep the reservoir full; or

10 (c) The appropriation is a storage-use appropriation and
11 there was an inadequate water supply to provide the water for the
12 appropriation or use of the storage water was unnecessary because
13 of climatic conditions.

14 (4) Sufficient cause for nonuse shall be deemed to exist
15 for up to fifteen consecutive years if such nonuse was a result of
16 one or more of the following:

17 (a) Federal, state, or local laws, rules, or regulations
18 temporarily prevented or restricted such use;

19 (b) Use of the water was unnecessary because of climatic
20 conditions;

21 (c) Circumstances were such that a prudent person,
22 following the principles of good husbandry, would not have been
23 expected to use the water;

24 (d) The works, diversions, or other facilities essential
25 to use the water were destroyed by a cause not within the control
26 of the owner of the appropriation and good faith efforts to repair
27 or replace the works, diversions, or facilities have been and are
28 being made;

1 (e) The owner of the appropriation was in active
2 involuntary service in the armed forces of the United States or was
3 in active voluntary service during a time of crisis;

4 (f) Legal proceedings prevented or restricted use of the
5 water; or

6 (g) The land subject to the appropriation is under an
7 acreage reserve program or production quota or is otherwise
8 withdrawn from use as required for participation in any federal or
9 state program or such land previously was under such a program but
10 currently is not under such a program and there have been not more
11 than five consecutive years of nonuse on that land since that land
12 was last under that program.

13 The department may specify by rule and regulation other
14 circumstances that shall be deemed to constitute sufficient cause
15 for nonuse for up to fifteen years.

16 (5) When an appropriation is held in the name of an
17 irrigation district, reclamation district, public power and
18 irrigation district, or mutual irrigation company or canal company
19 and the director determines that water under that appropriation has
20 not been used on a specific parcel of land for more than five years
21 and that no sufficient cause for such nonuse exists, the right to
22 use water under that appropriation on that parcel shall be
23 terminated and notice of the termination shall be posted on the
24 department's web site and shall be given in the manner provided in
25 subsection (2), (3), or (4) of section 46-229.03. The district or
26 company holding such right shall have five years after the
27 determination to assign the right to use that portion of the
28 appropriation to other land within and served by the district or

1 company or to file an application for a transfer in accordance with
2 section 46-290. The department shall be notified of any such
3 assignment within thirty days thereafter. If the district or
4 company does not assign the right to use that portion of the
5 appropriation to other land, does not file an application for a
6 transfer within the five-year period, or does not notify the
7 department within thirty days after any such assignment, that
8 portion of the appropriation shall be canceled without further
9 proceedings by the department and the district or company involved
10 shall be so notified by the department. During the time within
11 which assignment of a portion of an appropriation is pending, the
12 allowable diversion rate for the appropriation involved shall be
13 reduced, as necessary, to avoid inconsistency with the rate allowed
14 by section 46-231 or with any greater rate previously approved for
15 such appropriation by the director in accordance with section 10 of
16 this act.

17 (6) When it is determined by the director that an
18 appropriation, for which the location of use has been temporarily
19 transferred in accordance with sections 46-290 to 46-294, has not
20 been used at the new location for more than five years and that no
21 sufficient cause for such nonuse exists, the right to use that
22 appropriation at the temporary location of use shall be terminated.
23 Notice of that termination shall be posted on the department's web
24 site and shall be given in the manner provided in subsection (2),
25 (3), or (4) of section 46-229.03. The right to reinitiate use of
26 that appropriation at the location of use prior to the temporary
27 transfer shall continue to exist for five years after the
28 director's determination, but if such use is not reinitiated at

1 that location within such five-year period, the appropriation shall
2 be subject to cancellation in accordance with sections 46-229 to
3 46-229.04.

4 (7) If at the time of a hearing conducted in accordance
5 with subsection (1) of this section there is an application for
6 incidental or intentional underground water storage pending before
7 the department and filed by the owner of the appropriation, the
8 proceedings shall be consolidated.

9 Sec. 10. When a departmental proceeding that is
10 conducted pursuant to sections 46-229 to 46-229.04 concerns the
11 partial cancellation of an appropriation, the department may
12 receive evidence on the question of whether, following such partial
13 cancellation, a reduction in the rate of diversion to the maximum
14 rate prescribed in section 46-231 would result in an authorized
15 diversion rate less than the rate necessary, in the interests of
16 good husbandry, for the production of crops on the lands that
17 remain subject to the appropriation. If the director determines,
18 based on a preponderance of the evidence, that such rate would be
19 less than the rate necessary, in the interests of good husbandry,
20 for the production of crops, he or she may approve a diversion rate
21 for the remaining portion of the appropriation greater than the
22 maximum rate authorized by section 46-231. Such increased rate can
23 be no greater than the rate authorized for the appropriation prior
24 to the partial cancellation and no greater than the rate determined
25 by the director to be necessary, in the interests of good
26 husbandry, for the production of crops on the lands that remain
27 subject to the appropriation.

28 Sec. 11. Section 46-230, Revised Statutes Supplement,

1 2002, is amended to read:

2 46-230. (1) As the adjudication of a stream progresses
3 and as each claim is finally adjudicated, the director shall make
4 and cause to be entered of record in his or her office an order
5 determining and establishing the priorities of right to use the
6 water of such stream, the amount of the appropriation of the
7 persons claiming water from such stream and the character of use
8 for which each appropriation is found to have been made, and the
9 address of the owner of each water appropriation. ~~It shall be the~~
10 ~~duty of every owner of an appropriation to give notice to the~~
11 ~~department of its address and any change of its address or of the~~
12 ~~name of the owner of the appropriation. Notification shall be in~~
13 ~~such form and shall include such evidence of ownership as the~~
14 ~~director may by regulation require. Upon receipt of such notice,~~
15 ~~the department shall update its records. The department shall not~~
16 ~~collect a fee for the filing of the notice.~~

17 (2) Whenever requested by the department, the owner of
18 any appropriation not held by an irrigation district, reclamation
19 district, public power and irrigation district, or mutual
20 irrigation or canal company shall provide the department with the
21 name, address, and telephone number of each then-current owner of
22 the appropriation and with the name, address, and telephone number
23 of any tenant or other person who is authorized by the owner to
24 receive opening and closing notices and other departmental
25 communications relating to the appropriation. Each appropriation
26 owner shall also notify the department any time there is a change
27 in any of such names, addresses, or telephone numbers. Notice of
28 ownership changes may be provided to the department in the manner

1 provided in section 76-2,124 or in any other manner authorized by
2 the department. If notice of an ownership change is provided other
3 than in accordance with such section, the notice shall include such
4 evidence of ownership as the director may require. Notice of all
5 other changes may be provided in any manner authorized by the
6 department. Upon receipt of any new information, the department
7 shall update its records. The department shall not collect a fee
8 for the filing of any such information or for updating its records.

9 Sec. 12. Section 46-235.04, Revised Statutes Supplement,
10 2002, is amended to read:

11 46-235.04. (1) Induced ground water recharge
12 appropriations shall be administered in the same manner as
13 prescribed by Chapter 46, article 2, for other appropriations.
14 Appropriations for induced ground water recharge may be canceled
15 and annulled as provided in ~~section 46-229.04~~ sections 46-229.02 to
16 46-229.05.

17 (2) The department may approve the transfer of priority
18 dates among water wells, including replacement water wells, located
19 within a single well field that are subject to an induced recharge
20 appropriation, or are part of an application for such an
21 appropriation, to improve the ~~water~~ well field's efficiency of
22 operation with respect to river flow. The transfers shall be
23 approved if the department finds that (a) the transfers would not
24 increase the quantity of induced ground water recharge under the
25 original priority date or application, (b) the amount of water
26 withdrawn from water wells under the original priority date or
27 application would not increase, (c) the quantity of streamflow
28 needed to sustain well field operation under the original priority

1 date would decrease, (d) the transfer would not impair the rights
2 of other appropriators, and (e) the transfer is in the public
3 interest in the same manner as provided in section 46-235. The
4 department may assign multiple priority dates to a single water
5 well that replaces two or more water wells which are abandoned.
6 Replacement water wells installed pursuant to this subsection must
7 be installed within the same well field as the abandoned water
8 well. Notice shall be furnished and any hearing held as provided
9 in sections 46-291 ~~to 46-293~~ and 46-292. For purposes of this
10 subsection, single well field means those contiguous tracts of land
11 owned or leased by the applicant containing two or more water wells
12 subject to induced recharge.

13 Sec. 13. Section 46-237, Revised Statutes Supplement,
14 2002, is amended to read:

15 46-237. (1) Within six months after approval and
16 allowance of an application other than an application to
17 appropriate public waters for induced ground water recharge, the
18 applicant shall file in the office of the department a map or plat
19 which shall conform to the rules and regulations of the department
20 as to material, size, and coloring, and ~~be upon a scale of not less~~
21 ~~than two inches to the mile~~ scale. Such map or plat shall show the
22 source from which the proposed appropriation is to be taken and all
23 proposed dams, dikes, reservoirs, canals, powerhouses, and other
24 structures for the purpose of storing, conveying, or using water
25 for any purpose whatsoever and their true courses or positions in
26 connection with the boundary lines and corners of lands which they
27 occupy. ~~Land listed for irrigation shall be shown in government~~
28 ~~subdivisions or fractions thereof, as the case may be, and no~~ The

1 lands to be irrigated shall be identified in the manner prescribed
2 by the department. No rights shall be deemed to have been acquired
3 until the provisions of this section have been complied with.
4 Failure Except as provided in subsection (2) of this section,
5 failure to so comply shall work a forfeiture of the appropriation
6 and all rights thereunder.

7 (2) For any appropriation with a priority date earlier
8 than 1958 but for which either the appropriator has failed to
9 comply with the requirements of subsection (1) of this section or a
10 map or plat required by such subsection has been lost or destroyed
11 through no fault of the appropriator, the lack of such compliance
12 or of such map or plat shall not be the basis for a departmental
13 adjudication or cancellation of the appropriation and the
14 appropriation shall not be subject to legal challenge by any party
15 on that basis.

16 (3) The department may notify any appropriator subject to
17 subsection (2) of this section of the need to file a map or plat of
18 lands under such appropriation. Unless the department grants an
19 extension for good cause shown, the appropriator shall file the
20 required map within three years after that notification and such
21 map shall conform to the rules and regulations of the department as
22 to material, size, coloring, and scale. If the appropriator fails
23 to comply, the department may deny the appropriator the right to
24 divert or withdraw water subject to the appropriation until
25 compliance has been achieved.

26 Sec. 14. Section 46-241, Revised Statutes Supplement,
27 2003, is amended to read:

28 46-241. (1) Every person intending to construct and

1 operate a storage reservoir for irrigation or any other beneficial
2 purpose or intending to construct and operate a facility for
3 intentional underground water storage and recovery shall, except as
4 provided in subsections (2) and (3) of this section and section
5 46-243, make an application to the department upon the prescribed
6 form and provide such plans, drawings, and specifications as are
7 necessary to comply with section 46-257. Such application shall be
8 filed and proceedings had thereunder in the same manner and under
9 the same rules and regulations as other applications. Upon the
10 approval of such application under this section and any approval
11 required by section 46-257, the applicant shall have the right to
12 construct and impound in such reservoir, or store in and recover
13 from such underground water storage facility, all water not
14 otherwise appropriated and any appropriated water not needed for
15 immediate use, to construct and operate necessary ditches for the
16 purpose of conducting water to such storage reservoir or facility,
17 and to condemn land for such reservoir, ditches, or other facility.
18 The procedure to condemn property shall be exercised in the manner
19 set forth in sections 76-704 to 76-724.

20 (2) Any person intending to construct an on-channel
21 reservoir with a water storage impounding capacity of less than
22 fifteen acre-feet measured below the crest of the lowest open
23 outlet or overflow shall be exempt from subsection (1) of this
24 section as long as there will be (a) no diversion or withdrawal of
25 water from the reservoir for any purpose other than for watering
26 range livestock and (b) no release ~~of water~~ from the reservoir ~~for~~
27 ~~the purpose of~~ to provide water for a downstream diversion or
28 withdrawal for any purpose other than for watering range livestock.

1 This subsection does not exempt any person from the requirements of
2 section 46-257 or 54-2412.

3 (3) Any person intending to construct a reservoir,
4 holding pond, or lagoon for the sole purpose of holding, managing,
5 or disposing of animal or human waste shall be exempt from
6 subsection (1) of this section. This subsection does not exempt
7 any person from any requirements of section 46-233, 46-257, or
8 54-2412.

9 (4) Every person intending to modify or rehabilitate an
10 existing storage reservoir so that its impounding capacity is to be
11 increased shall comply with subsection (1) of this section.

12 (5) The owner of a storage reservoir or facility shall be
13 liable for all damages arising from leakage or overflow of the
14 water therefrom or from the breaking of the embankment of such
15 reservoir. The owner or possessor of a reservoir or intentional
16 underground water storage facility does not have the right to store
17 water in such reservoir or facility during the time that such water
18 is required in ditches for direct irrigation or for any reservoir
19 or facility holding a senior right. Every person who owns,
20 controls, or operates a reservoir or intentional underground water
21 storage facility, except political subdivisions of this state,
22 shall be required to pass through the outlets of such reservoir or
23 facility, whether presently existing or hereafter constructed, a
24 portion of the measured inflows to furnish water for livestock in
25 such amounts and at such times as directed by the department to
26 meet the requirements for such purposes as determined by the
27 department, except that a reservoir or facility owner shall not be
28 required to release water for this purpose which has been legally

1 stored. Any dam shall be constructed in accordance with section
2 46-257, and the outlet works shall be installed so that water may
3 be released in compliance with this section. The requirement for
4 outlet works may be waived by the department upon a showing of good
5 cause. Whenever any person diverts water from a public stream and
6 returns it into the same stream, he or she may take out the same
7 amount of water, less a reasonable deduction for losses in transit,
8 to be determined by the department, if no prior appropriator for
9 beneficial use is prejudiced by such diversion.

10 (6) An application for storage and recovery of water
11 intentionally stored underground may be made only by an
12 appropriator of record who shows, by documentary evidence,
13 sufficient interest in the underground water storage facility to
14 entitle the applicant to the water requested.

15 Sec. 15. Section 46-261, Revised Statutes Supplement,
16 2002, is amended to read:

17 46-261. (1) The Department of Natural Resources may
18 require an appropriator or his or her agent to furnish the
19 department, by April 1 in any year, a list or map of all lands to
20 be irrigated, the acreage of each tract, and the names of the
21 owners, controllers, or officers for every ditch, reservoir, or
22 other device for appropriating, diverting, carrying, or
23 distributing water to be used as a basis for the distribution of
24 water until April 1 of the following year, and if so ordered such a
25 list or map shall be furnished by the appropriator or his or her
26 agent to the department.

27 (2) By April 1, any district or company which has
28 transferred an appropriation pursuant to sections 46-2,127 to

1 46-2,129 in the previous calendar year shall provide the
2 department:

3 (a) A legal description and list or map of the tracts of
4 land receiving and transferring an appropriation of water, or
5 portion thereof, within the district or company;

6 (b) The water appropriation permit number under sections
7 46-233 to 46-235 and the priority date of the water appropriation;

8 (c) A statement on whether objections were filed, whether
9 a hearing was held, and how consent was given;

10 (d) The effective date of the transfer of the
11 appropriation; and

12 (e) A statement summarizing the water use on the
13 receiving and transferring tracts of land.

14 (3) The department may require the owner or controller of
15 any canal or ditch to install an approved recording gauge at one or
16 more specific locations to record the amount of water used.

17 (4) For any appropriation not held by an irrigation
18 district, a reclamation district, a public power and irrigation
19 district, or a mutual irrigation or canal company, the department
20 may require the owner of an appropriation for irrigation purposes
21 to provide the department with any or all of the following
22 information relative to the use of water under the appropriation
23 during the previous irrigation season: (a) A list or map of all
24 lands irrigated; (b) the acreage of each tract irrigated; (c) the
25 rate at which water was diverted; (d) the amount diverted; (e) for
26 any lands under the appropriation that were not irrigated, any
27 sufficient cause, as described in section 46-229.04, which the
28 appropriator claims was the reason for such nonuse; and (f) any

1 other information needed by the department to properly monitor and
2 administer use of water under the appropriation. If the
3 appropriator claims sufficient cause for nonuse, he or she shall
4 also provide the department with any evidence the department
5 requires as a condition for accepting such claimed cause as
6 sufficient cause to excuse nonuse.

7 (5) The department shall not furnish may deny an
8 appropriator the right to any water to be delivered to or used by
9 or through any ditch, reservoir, or other contrivance for the
10 appropriation, use, or storage of water until this section has been
11 complied with if the appropriator is not in compliance with this
12 section, with subsection (2) of section 46-230, or with any
13 conditions of any permit, notice, or order of the department
14 concerning the appropriation. The department may construct bars or
15 dams or may install such other devices as are necessary to prevent
16 such delivery or use.

17 Sec. 16. Section 46-290, Revised Statutes Supplement,
18 2002, is amended to read:

19 46-290. ~~Except as provided in sections 46-2,120 to~~
20 ~~46-2,130, any person having a permit to appropriate water for~~
21 ~~beneficial purposes issued pursuant to Chapter 46 who desires to~~
22 ~~transfer the use of such water appropriation to a different~~
23 ~~location within the same river basin than that specified in the~~
24 ~~permit shall apply for approval of such change to the Department of~~
25 ~~Natural Resources.~~ (1) (a) Except as provided in this section and
26 sections 46-2,120 to 46-2,130, any person having a permit to
27 appropriate water for beneficial purposes issued pursuant to
28 sections 46-233 to 46-235, 46-241, or 46-242 and who desires (i) to

1 transfer the use of such appropriation to a location other than the
2 location specified in the permit, (ii) to change that appropriation
3 to a different type of appropriation as provided in subsection (3)
4 of this section, or (iii) to change the purpose for which the water
5 is to be used under a natural-flow or storage-use appropriation to
6 a purpose not at that time permitted under the appropriation shall
7 apply for approval of such transfer or change to the Department of
8 Natural Resources.

9 (b) The application for such approval shall contain (i)
10 the number assigned to such appropriation by the department, (ii)
11 the name and address of the present holder of the appropriation,
12 (iii) if applicable, the name and address of the person or entity
13 to whom the appropriation would be transferred or who will be the
14 user of record after a change in the type of appropriation or
15 purpose of use under the appropriation, (iv) the legal description
16 of the land to which the appropriation is now appurtenant, (v) the
17 name and address of each holder of a mortgage or deed of trust for
18 the land to which the appropriation is now appurtenant, (vi) if
19 applicable, the legal description of the land to which the
20 appropriation is proposed to be transferred, (vii) if a transfer is
21 proposed, whether other sources of water are available at the
22 original location of use and whether any provisions have been made
23 to prevent either use of a new source of water at the original
24 location or increased use of water from any existing source at that
25 location, (viii) if applicable, the legal descriptions of the
26 beginning and end of the stream reach to which the appropriation is
27 proposed to be transferred for the purpose of augmenting the flows
28 in that stream reach, (ix) if a proposed transfer is for the

1 purpose of increasing the quantity of water available for use
2 pursuant to another appropriation, the number assigned to such
3 other appropriation by the department, (x) the purpose of the
4 current use, (xi) if a change in purpose of use is proposed, the
5 proposed purpose of use, (xii) if a change in the type of
6 appropriation is proposed, the type of appropriation to which a
7 change is desired, (xiii) if a proposed transfer or change is to be
8 temporary in nature, the duration of the proposed transfer or
9 change, and (xiv) such other information as the department by rule
10 and regulation requires.

11 (2) If a proposed transfer or change is to be temporary
12 in nature, a copy of the proposed agreement between the current
13 appropriator and the person who is to be responsible for use of
14 water under the appropriation while the transfer or change is in
15 effect shall be submitted at the same time as the application.

16 (3) Regardless of whether a transfer or a change in the
17 purpose of use is involved, the following changes in type of
18 appropriation, if found by the Director of Natural Resources to be
19 consistent with section 46-294, may be approved subject to the
20 following:

21 (a) A natural-flow appropriation for direct out-of-stream
22 use may be changed to a natural-flow appropriation for aboveground
23 reservoir storage or for intentional underground water storage;

24 (b) A natural-flow appropriation for intentional
25 underground water storage may be changed to a natural-flow
26 appropriation for direct out-of-stream use or for aboveground
27 reservoir storage;

28 (c) A natural-flow appropriation for direct out-of-stream

1 use, for aboveground reservoir storage, or for intentional
2 underground water storage may be changed to an instream
3 appropriation subject to sections 46-2,107 to 46-2,119 if the
4 director determines that the resulting instream appropriation would
5 be consistent with subdivisions (2), (3), and (4) of section
6 46-2,115;

7 (d) A natural-flow appropriation for direct out-of-stream
8 use, for aboveground reservoir storage, or for intentional
9 underground water storage may be changed to an appropriation for
10 induced ground water recharge if the director determines that the
11 resulting appropriation for induced ground water recharge would be
12 consistent with subdivisions (2)(a)(i) and (ii) of section 46-235;
13 and

14 (e) The incidental underground water storage portion,
15 whether or not previously quantified, of a natural-flow or
16 storage-use appropriation may be separated from the direct-use
17 portion of the appropriation and may be changed to a natural-flow
18 or storage-use appropriation for intentional underground water
19 storage at the same location if the historic consumptive use of the
20 direct-use portion of the appropriation is transferred to another
21 location or is terminated, but such a separation and change may be
22 approved only if, after the separation and change, (i) the total
23 permissible diversion under the appropriation will not increase,
24 (ii) the projected consequences of the separation and change are
25 consistent with the provisions of any integrated management plan
26 adopted in accordance with section 58 or 59 of this act for the
27 geographic area involved, and (iii) if the location of the proposed
28 intentional underground water storage is in a river basin,

1 subbasin, or reach designated as overappropriated in accordance
2 with section 53 of this act, the integrated management plan for
3 that river basin, subbasin, or reach has gone into effect, and that
4 plan requires that the amount of the intentionally stored water
5 that is consumed after the change will be no greater than the
6 amount of the incidentally stored water that was consumed prior to
7 the change. Approval of a separation and change pursuant to this
8 subdivision (e) shall not exempt any consumptive use associated
9 with the incidental recharge right from any reduction in water use
10 required by an integrated management plan for a river basin,
11 subbasin, or reach designated as overappropriated in accordance
12 with section 53 of this act.

13 Whenever any change in type of appropriation is approved
14 pursuant to this subsection and as long as that change remains in
15 effect, the appropriation shall be subject to the statutes, rules,
16 and regulations that apply to the type of appropriation to which
17 the change has been made.

18 (4) The Legislature finds that induced ground water
19 recharge appropriations issued pursuant to sections 46-233 and
20 46-235 and instream appropriations issued pursuant to section
21 46-2,115 are specific to the location identified in the
22 appropriation. Neither type of appropriation shall be transferred
23 to a different location, changed to a different type of
24 appropriation, or changed to permit a different purpose of use.

25 (5) In addition to any other purposes for which transfers
26 and changes may be approved, such transfers and changes may be
27 approved if the purpose is (a) to augment the flow in a specific
28 stream reach for any instream use that the department has

1 determined, through rules and regulations, to be a beneficial use
2 or (b) to increase the frequency that a diversion rate or rate of
3 flow specified in another valid appropriation is achieved.

4 For any transfer or change approved pursuant to
5 subdivision (a) of this subsection, the department shall be
6 provided with a report at least every five years while such
7 transfer or change is in effect. The purpose of such report shall
8 be to indicate whether the beneficial instream use for which the
9 flow is augmented continues to exist. If the report indicates that
10 it does not or if no report is filed within sixty days after the
11 department's notice to the appropriator that the deadline for
12 filing the report has passed, the department may cancel its
13 approval of the transfer or change and such appropriation shall
14 revert to the same location of use, type of appropriation, and
15 purpose of use as prior to such approval.

16 (6) A quantified or unquantified appropriation for
17 incidental underground water storage may be transferred to a new
18 location along with the direct-use appropriation with which it is
19 recognized if the director finds such transfer to be consistent
20 with section 46-294 and determines that the geologic and other
21 relevant conditions at the new location are such that incidental
22 underground water storage will occur at the new location. The
23 director may request such information from the applicant as is
24 needed to make such determination and may modify any such
25 quantified appropriation for incidental underground water storage,
26 if necessary, to reflect the geologic and other conditions at the
27 new location.

28 (7) Unless an incidental underground water storage

1 appropriation is changed as authorized by subdivision (3)(e) of
 2 this section or is transferred as authorized by subsection (6) of
 3 this section or subsection (1) of section 46-291, such
 4 appropriation shall be canceled or modified, as appropriate, by the
 5 director to reflect any reduction in water that will be stored
 6 underground as the result of a transfer or change of the direct-use
 7 appropriation with which the incidental underground water storage
 8 was recognized prior to the transfer or change.

9 Sec. 17. Section 46-291, Revised Statutes Supplement,
 10 2002, is amended to read:

11 46-291. (1) Upon receipt of an application filed under
 12 section 46-290, the Director of Natural Resources shall cause a
 13 notice of such application to be published at the applicant's
 14 expense at least once a week for three weeks in at least one
 15 newspaper of general circulation in each county containing lands on
 16 which the water appropriation is or is proposed to be located and a
 17 newspaper of general circulation in Nebraska.

18 Such notice shall be published at least once a week for
 19 three consecutive weeks and shall contain a description of the
 20 water appropriation, the number assigned such permit in the records
 21 of the Department of Natural Resources, the date of priority, a
 22 description of the lands to which such water appropriation is
 23 proposed to be applied, and any other relevant information.

24 The notice shall state that any person may in writing
 25 object to and request a hearing on the application at any time
 26 prior to the elapse of two weeks from the date of final
 27 publication. for a transfer in the location of use of an
 28 appropriation, the Department of Natural Resources shall review it

1 for compliance with this subsection. The Director of Natural
2 Resources may approve the application without notice or hearing if
3 he or she determines that: (a) The appropriation is used and will
4 continue to be used exclusively for irrigation purposes; (b) the
5 only lands involved in the proposed transfer are (i) lands within
6 the quarter section of land to which the appropriation is
7 appurtenant, (ii) lands within such quarter section of land and one
8 or more quarter sections of land each of which is contiguous to the
9 quarter section of land to which the appropriation is appurtenant,
10 or (iii) lands within the boundaries or service area of and capable
11 of service by the same irrigation district, reclamation district,
12 public power and irrigation district, or mutual irrigation or canal
13 company; (c) after the transfer, the total number of acres
14 irrigated under the appropriation will be no greater than the
15 number of acres that could legally be irrigated under the
16 appropriation prior to the transfer; (d) all the land involved in
17 the transfer is under the same ownership or is within the same
18 irrigation district, reclamation district, public power and
19 irrigation district, or mutual irrigation or canal company; (e) the
20 transfer will not result in a change in the point of diversion; and
21 (f) the transfer will not diminish the water supply available for
22 or otherwise adversely affect any other water appropriator. If
23 transfer of an appropriation with associated incidental underground
24 water storage is approved in accordance with this subsection, the
25 associated incidental underground water storage also may be
26 transferred pursuant to this subsection as long as such transfer
27 would continue to be consistent with the requirements of this
28 subsection. If necessary, the boundaries of the incidental

1 underground water storage area may be modified to reflect any
2 change in the location of that storage consistent with such a
3 transfer. Transfers shall not be approved pursuant to this
4 subsection until the department has adopted and promulgated rules
5 and regulations establishing the criteria it will use to determine
6 whether proposed transfers are consistent with subdivision (1)(f)
7 of this section.

8 (2) If after reviewing an application filed under section
9 46-290 the director determines that it cannot be approved pursuant
10 to subsection (1) of this section, he or she shall cause a notice
11 of such application to be posted on the department's web site, to
12 be sent by certified mail to each holder of a mortgage or deed of
13 trust that is identified by the applicant pursuant to subdivision
14 (1)(b)(v) of section 46-290, and to be published at the applicant's
15 expense at least once each week for three consecutive weeks in at
16 least one newspaper of general circulation in each county
17 containing lands to which the appropriation is appurtenant and, if
18 applicable, in at least one newspaper of general circulation in
19 each county containing lands to which the appropriation is proposed
20 to be transferred.

21 (3) The notice shall contain: (a) A description of the
22 appropriation; (b) the number assigned to such appropriation in the
23 records of the department; (c) the date of priority; (d) if
24 applicable, a description of the land or stream reach to which such
25 water appropriation is proposed to be transferred; (e) if
26 applicable, the type of appropriation to which the appropriation is
27 proposed to be changed; (f) if applicable, the proposed change in
28 the purpose of use; (g) whether the proposed transfer or change is

1 to be permanent or temporary and, if temporary, the duration of the
2 proposed transfer or change; and (h) any other information the
3 director deems relevant and essential to provide the interested
4 public with adequate notice of the proposed transfer or change.

5 (4) The notice shall state (a) that any interested person
6 may object to and request a hearing on the application by filing
7 such objections in writing specifically stating the grounds for
8 each objection and (b) that any such objection and request shall be
9 filed in the office of the department within two weeks after the
10 date of final publication of the notice.

11 (5) Within the time period allowed by this section for
12 the filing of objections and requests for hearings, the county
13 board of any county containing land to which the appropriation is
14 appurtenant and, if applicable, the county board of any county
15 containing land to which the appropriation is proposed to be
16 transferred may provide the department with comments about the
17 potential economic impacts of the proposed transfer or change in
18 such county. The filing of any such comments by a county board
19 shall not make the county a party in the application process, but
20 such comments shall be considered by the director in determining
21 pursuant to section 46-294 whether the proposed transfer or change
22 is in the public interest.

23 Sec. 18. Section 46-292, Revised Statutes Supplement,
24 2002, is amended to read:

25 46-292. The Department of Natural Resources may hold a
26 hearing on an application filed under section 46-290 on its own
27 motion and shall hold a hearing if ~~requested by any person~~ a timely
28 request therefor is filed by any interested person in accordance

1 with section 46-291. Any such hearing shall be subject to section
2 61-206.

3 Sec. 19. Section 46-293, Revised Statutes Supplement,
4 2002, is amended to read:

5 46-293. ~~Any hearing held pursuant to section 46-292~~
6 ~~shall be conducted in accordance with sections 61-206 and 61-207.~~

7 (1) The Director of Natural Resources shall independently review
8 each application subject to subsection (2) of section 46-291 to
9 determine whether the requirements of section 46-294 will be met if
10 the transfer or change is approved. The requirement of this
11 subsection is not altered when there are objectors who have become
12 parties to the proposed transfer or change, but if a hearing is
13 called by the Department of Natural Resources on its own motion or
14 as the result of a request therefor filed in accordance with
15 subsection (4) of section 46-291, any evidence considered by the
16 director in making such determinations shall be made a part of the
17 record of the hearing as provided in section 84-914.

18 (2) Either on his or her own motion or in response to
19 objections or comments received pursuant to subsection (4) or (5)
20 of section 46-291, the director may require the applicant to
21 provide additional information before a hearing will be scheduled
22 or, if no hearing is to be held, before the application will
23 receive further consideration. The information requested may
24 include economic, social, or environmental impact analyses of the
25 proposed transfer or change, information about the amount of water
26 historically consumed under the appropriation, copies of any plans
27 for mitigation of any anticipated adverse impacts that would result
28 from the proposed transfer or change, and such other information as

1 the director deems necessary in order to determine whether the
2 proposed transfer or change is consistent with section 46-294.

3 Sec. 20. Section 46-294, Revised Statutes Supplement,
4 2002, is amended to read:

5 46-294. (1) The Director of Natural Resources shall
6 approve an application filed pursuant to section 46-290 if:

7 (a) The requested change of location is within the same
8 river basin, will not adversely affect any other water
9 appropriator, and will not significantly adversely affect any
10 riparian water user who files an objection in writing prior to the
11 hearing;

12 (b) The requested change will use water from the same
13 source of supply as the current use;

14 (c) The change of location will not diminish the supply
15 of water otherwise available;

16 (d) The water will be applied to a use in the same
17 preference category as the current use, as provided in section
18 46-204; and

19 (e) The requested change is in the public interest.

20 The applicant has the burden of proving that the change
21 of location will comply with subdivisions (a) through (e) of this
22 subsection, except that the burden is on the riparian user to
23 demonstrate his or her riparian status and to demonstrate a
24 significant adverse effect on his or her use in order to prevent
25 approval of an application.

26 (2) In approving an application, the director may impose
27 any reasonable conditions deemed necessary to protect the public
28 interest. An approved change of location shall retain the same

1 ~~priority date as that of the original water right. In approving an~~
2 ~~application, the director may (a) authorize a greater number of~~
3 ~~acres to be irrigated if the amount and rate of water approved~~
4 ~~under the original appropriation is not increased by the change of~~
5 ~~location or (b) authorize the overlying of water appropriations on~~
6 ~~the same lands as long as the limits provided in section 46-231 are~~
7 ~~not exceeded. Except for applications approved in accordance with~~
8 ~~subsection (1) of section 46-291, the Director of Natural Resources~~
9 ~~shall approve an application filed pursuant to section 46-290 only~~
10 ~~if the application and the proposed transfer or change meet the~~
11 ~~following requirements:~~

12 (a) The application is complete and all other information
13 requested pursuant to section 46-293 has been provided;

14 (b) The proposed use of water after the transfer or
15 change will be a beneficial use of water;

16 (c) (i) Any requested transfer in the location of use is
17 within the same river basin as defined in section 46-288 or (ii)
18 the river basin from which the appropriation is to be transferred
19 is tributary to the river basin to which the appropriation is to be
20 transferred;

21 (d) Except as otherwise provided in subsection (4) of
22 this section, the proposed transfer or change, alone or when
23 combined with any new or increased use of any other source of water
24 at the original location or within the same irrigation district,
25 reclamation district, public power and irrigation district, or
26 mutual irrigation or canal company for the original or other
27 purposes, will not diminish the supply of water available for or
28 otherwise adversely affect any other water appropriator and will

1 not significantly adversely affect any riparian water user who
2 files an objection in writing pursuant to section 46-291;

3 (e) The quantity of water that is transferred for
4 diversion or other use at the new location will not exceed the
5 historic consumptive use under the appropriation or portion thereof
6 being transferred, except that this subdivision does not apply to a
7 transfer in the location of use if both the current use and the
8 proposed use are for irrigation, the number of acres to be
9 irrigated will not increase after the transfer, and the location of
10 the diversion from the stream will not change;

11 (f) The appropriation, prior to the transfer or change,
12 is not subject to termination or cancellation pursuant to sections
13 46-229 to 46-229.04;

14 (g) If a proposed transfer or change is of an
15 appropriation that has been used for irrigation and is in the name
16 of an irrigation district, reclamation district, public power and
17 irrigation district, or mutual irrigation or canal company or is
18 dependent upon any such district's or company's facilities for
19 water delivery, such district or company has approved the transfer
20 or change;

21 (h) If the proposed transfer or change is of a
22 storage-use appropriation and if the owner of that appropriation is
23 different from the owner of the associated storage appropriation,
24 the owner of the storage appropriation has approved the transfer or
25 change;

26 (i) If the proposed transfer or change is to be
27 permanent, either (i) the purpose for which the water is to be used
28 before the transfer or change is in the same preference category

1 established by section 46-204 as the purpose for which the water is
2 to be used after the transfer or change or (ii) the purpose for
3 which the water is to be used before the transfer or change and the
4 purpose for which the water is to be used after the transfer or
5 change are both purposes for which no preferences are established
6 by section 46-204;

7 (j) If the proposed transfer or change is to be
8 temporary, it will be for a duration of no less than one year and,
9 except as provided in section 22 of this act, no more than thirty
10 years;

11 (k) The transfer or change will not be inconsistent with
12 any applicable state or federal law and will not jeopardize the
13 state's compliance with any applicable interstate water compact or
14 decree or cause difficulty in fulfilling the provisions of any
15 other formal state contract or agreement; and

16 (1) The proposed transfer or change is in the public
17 interest. The director's considerations relative to the public
18 interest shall include, but not be limited to, (i) the economic,
19 social, and environmental impacts of the proposed transfer or
20 change and (ii) whether and under what conditions other sources of
21 water are available for the uses to be made of the appropriation
22 after the proposed transfer or change. The Department of Natural
23 Resources shall adopt and promulgate rules and regulations to
24 govern the director's determination of whether a proposed transfer
25 or change is in the public interest.

26 (2) The applicant has the burden of proving that the
27 proposed transfer or change will comply with subdivisions (1) (a)
28 through (1) of this section, except that (a) the burden is on a

1 riparian user to demonstrate his or her riparian status and to
2 demonstrate a significant adverse effect on his or her use in order
3 to prevent approval of an application and (b) if both the current
4 use and the proposed use after a transfer are for irrigation, the
5 number of acres to be irrigated will not increase after the
6 transfer, and the location of the diversion from the stream will
7 not change, there is a rebuttable presumption that the transfer
8 will be consistent with subdivision (1) (d) of this section.

9 (3) In approving an application, the director may impose
10 any reasonable conditions deemed necessary to protect the public
11 interest, to ensure consistency with any of the other criteria in
12 subsection (1) of this section, or to provide the department with
13 information needed to properly and efficiently administer the
14 appropriation while the transfer or change remains in effect. If
15 necessary to prevent diminution of supply for any other
16 appropriator, the conditions imposed by the director shall require
17 that historic return flows be maintained or replaced in quantity,
18 timing, and location. After approval of any such transfer or
19 change, the appropriation shall be subject to all water use
20 restrictions and requirements in effect at any new location of use
21 and, if applicable, at any new diversion location. An
22 appropriation for which a transfer or change has been approved
23 shall retain the same priority date as that of the original
24 appropriation. If an approved transfer or change is temporary, the
25 location of use, purpose of use, or type of appropriation shall
26 revert to the location of use, purpose of use, or type of
27 appropriation prior to the transfer or change.

28 (4) In approving an application for a transfer, the

1 director may also authorize the overlying of water appropriations
2 on the same lands, except that if any such overlying of
3 appropriations would result in either the authorized diversion rate
4 or the authorized aggregate annual quantity that could be diverted
5 to be greater than is otherwise permitted by section 46-231, the
6 director shall limit the total diversion rate or aggregate annual
7 quantity for the appropriations overlain to the rate or quantity
8 that he or she determines is necessary, in the exercise of good
9 husbandry, for the production of crops on the land involved. The
10 director may also authorize a greater number of acres to be
11 irrigated if the amount and rate of water approved under the
12 original appropriation is not increased by the change of location.
13 An increase in the number of acres to be irrigated shall be
14 approved only if (a) such an increase will not diminish the supply
15 of water available to or otherwise adversely affect another water
16 appropriator or (b) the transfer would not adversely affect the
17 water supply for any river basin, subbasin, or reach that has been
18 designated as overappropriated pursuant to section 53 of this act
19 or determined to be fully appropriated pursuant to section 54 of
20 this act and (i) the number of acres authorized under the
21 appropriation when originally approved has not been increased
22 previously, (ii) the increase in the number of acres irrigated will
23 not exceed five percent of the number of acres being irrigated
24 under the permit before the proposed transfer or a total of ten
25 acres, whichever acreage is less, and (iii) all the use will be
26 either on the quarter section to which the appropriation was
27 appurtenant before the transfer or on an adjacent quarter section.

28 Sec. 21. Whenever a temporary transfer is approved in

1 accordance with sections 46-290 to 46-294, the Department of
2 Natural Resources shall cause copies of the following to be filed
3 with the county clerk or register of deeds of the county in which
4 the land subject to the appropriation prior to the transfer is
5 located: (1) The permit by which the appropriation was
6 established; (2) the agreement by which the temporary transfer is
7 to be effected; and (3) the order of the Director of Natural
8 Resources approving the temporary transfer. Whenever renewal of a
9 temporary transfer is approved pursuant to section 22 of this act,
10 the department shall cause a copy of the order of the director
11 approving such renewal to be filed with the county clerk or
12 register of deeds of such county. Such documents shall be indexed
13 to the land subject to the appropriation prior to the transfer.
14 The costs of the filing and indexing shall be charged to the
15 applicant for the transfer or renewal, and failure to pay such
16 costs shall be grounds for the director to negate any prior
17 approval of the transfer or renewal.

18 Sec. 22. A temporary transfer or a change in the type or
19 purpose of use of an appropriation may be renewed or otherwise
20 extended by the parties thereto at any time following the midpoint
21 of the transfer or change term, but any such renewal or extension
22 is subject to review and approval pursuant to sections 46-290 to
23 46-294. No renewal or extension shall cause the term of any such
24 temporary transfer or change to exceed thirty years in duration
25 from the date the renewal or extension is approved by the Director
26 of Natural Resources.

27 Sec. 23. For purposes of assessment pursuant to sections
28 77-1343 to 77-1363, neither the temporary transfer or change of an

1 appropriation nor any resulting land-use changes on the land to
2 which the appropriation was appurtenant prior to the transfer or
3 change shall cause the land to be reclassified to a lower value use
4 or the valuation of the land to be reduced, but the land may be
5 reclassified to a higher value use and its valuation may be
6 increased if a higher value use is made of the land while the
7 temporary transfer or change is in effect. Land from which an
8 appropriation has been permanently transferred shall be classified
9 and valued for tax purposes in accordance with the use of the land
10 after the transfer.

11 Sec. 24. During the time within which a temporary
12 transfer or change in purpose of use of an appropriation is in
13 effect, the appropriation may not be used to invoke any rights of
14 condemnation that are based on preference of use, but such
15 appropriation shall be subject to the exercise of such rights by
16 owners of other appropriations that are for water uses superior to
17 the pretransfer or prechange use of the water under the transferred
18 or changed appropriation.

19 Sec. 25. The Director of Natural Resources may adopt
20 and promulgate rules and regulations to carry out sections 46-290
21 to 46-294 and sections 21 to 24 of this act.

22 Sec. 26. Section 46-295, Revised Statutes Supplement,
23 2002, is amended to read:

24 46-295. The Legislature recognizes that, as a result of
25 water project operations, surface water in some areas of the state
26 has been, is, and will be in the future intentionally and
27 incidentally stored in and withdrawn from underground strata. The
28 Legislature acknowledges that rights to water intentionally or

1 incidentally stored underground and rights to withdrawal of such
2 water should be formally recognized and quantified and recognizes
3 the propriety of all beneficiaries proportionately sharing, to the
4 extent of potential benefit from intentional underground water
5 storage, in the financial obligations necessary for construction,
6 operation, and maintenance of water projects which cause
7 intentional underground water storage.

8 The Legislature finds that uses of water for incidental
9 and intentional underground water storage are beneficial uses of
10 water which contribute to the recharge of Nebraska's aquifers and
11 that comprehensive, conjunctive management of surface water and
12 intentional or incidental underground water storage is essential
13 for the continued economic prosperity and well-being of the state,
14 serves the public interest by providing an element of certainty
15 essential for investment in water resources development, and will
16 improve Nebraska's standing in the event of interstate dispute.

17 To facilitate optimum beneficial use of water by the
18 people of Nebraska, the Legislature recognizes the need for
19 authorizing the recognition of incidental underground water
20 storage, for authorizing intentional underground water storage, and
21 for authorizing the levying and collection of fees and assessments
22 on persons who withdraw or otherwise use or benefit from
23 intentional underground water storage as provided in sections
24 46-299 to 46-2,106.

25 Nothing in sections 46-202, 46-226.01, 46-226.02, 46-233,
26 46-240, 46-241, 46-242, 46-295 to 46-2,106, and 46-544, ~~and~~
27 ~~46-656.23~~ and section 52 of this act shall be construed to alter
28 existing statutes regarding the relationship between naturally

1 occurring surface and ground water.

2 Sec. 27. Section 46-296, Revised Statutes Supplement,
3 2002, is amended to read:

4 46-296. ~~As used in~~ For purposes of sections 33-105,
5 46-202, and 46-295 to 46-2,106, unless the context otherwise
6 requires:

7 (1) Department means the Department of Natural Resources;

8 (2) Director means the Director of Natural Resources;

9 (3) Person means a natural person, partnership, limited
10 liability company, association, corporation, municipality, or
11 agency or political subdivision of the state or of the federal
12 government;

13 (4) Underground water storage means the act of storing or
14 recharging water in underground strata. Such water shall be known
15 as water stored underground but does not include ground water as
16 defined in section ~~46-656.07~~ 46 of this act which occurs naturally;

17 (5) Intentional underground water storage means
18 underground water storage which is an intended purpose or result of
19 a water project or use. Such storage may be accomplished by any
20 lawful means such as injection wells, infiltration basins, canals,
21 reservoirs, and other reasonable methods; and

22 (6) Incidental underground water storage means
23 underground water storage which occurs as an indirect result,
24 rather than an intended or planned purpose, of a water project or
25 use and includes, but is not limited to, seepage from reservoirs,
26 canals, and laterals, and deep percolation from irrigated lands.

27 Sec. 28. Section 46-2,112, Revised Statutes Supplement,
28 2002, is amended to read:

1 46-2,112. The director shall set a time and place for
2 ~~hearing every fifteen years from the date a A~~ permit to appropriate
3 water for instream flows shall be subject to review every fifteen
4 years after it is granted. Notice of ~~the hearing~~ a pending review
5 ~~shall be given to the parties to the original application and shall~~
6 ~~be~~ published in a newspaper published or of general circulation in
7 the area involved at least once each week for three consecutive
8 weeks, the last publication to be not less than seven days prior to
9 ~~the hearing~~ later than fourteen years and ten months after the
10 permit was granted or after the date of the director's action
11 following the last such review, whichever is later. The notice
12 shall state that any interested person may file comments relating
13 to the review of the instream appropriation or may request a
14 hearing to present evidence relevant to such review. Any such
15 comments or request for hearing shall be filed in the headquarters
16 office of the department within six weeks after the date of final
17 publication of the notice. If requested by any interested person,
18 the director shall schedule a hearing. The purpose of the hearing
19 ~~shall be to receive evidence regarding whether the water~~
20 ~~appropriated under the permit still provides the beneficial uses~~
21 ~~for which the permit was granted and whether the permit is still in~~
22 ~~the public interest. The hearing shall proceed under the~~
23 ~~rebuttable presumption that the appropriation continues to provide~~
24 ~~the beneficial uses for which the permit was granted and that the~~
25 ~~appropriation is in the public interest. After the hearing, the~~
26 ~~director may by order modify or cancel, in whole or in part, the~~
27 ~~instream appropriation.~~

28 Sec. 29. Section 46-2,119, Revised Statutes Supplement,

1 2002, is amended to read:

2 46-2,119. Instream appropriations shall be administered
 3 in the same manner as prescribed by Chapter 46, article 2, for
 4 other appropriations. Reservoirs ~~, except that existing reservoirs~~
 5 shall not be required by the director to release, for the benefit
 6 of an instream appropriation, water previously impounded in
 7 accordance with section 46-241 or 46-243. Reservoirs with storage
 8 rights senior to an instream appropriation shall not be required to
 9 pass, for the benefit of that instream appropriation, inflows that
 10 could be stored by such reservoir if the instream appropriation
 11 were not in effect. Notwithstanding subsection (5) of section
 12 46-241, a reservoir with storage rights senior to an instream
 13 appropriation also shall not be required to pass inflows for
 14 downstream direct irrigation if the appropriation for direct
 15 irrigation is junior to and would be denied water because of that
 16 instream appropriation. ~~impounded water for instream~~
 17 ~~appropriations. Instream flow appropriations shall not be superior~~
 18 ~~to existing storage rights as provided in section 46-241. Instream~~
 19 ~~appropriations may be canceled as provided in section 46-229.04~~
 20 sections 46-229.02 to 46-229.05.

21 Sec. 30. Section 46-2,127, Reissue Revised Statutes of
 22 Nebraska, is amended to read:

23 46-2,127. After obtaining approval of an application for
 24 transfer and map pursuant to sections 46-2,122 to 46-2,126, the
 25 board of directors of any irrigation district, reclamation
 26 district, public power and irrigation district, rural water
 27 district, or mutual irrigation or canal company may transfer an
 28 appropriation of water distributed for agricultural purposes from a

1 tract or tracts of land within the district or served by the
2 company to another tract or tracts of land within the boundaries of
3 the district or served by the company if:

4 (1) The district or company finds that the transferring
5 tract of land has received and had water, delivered by the district
6 or company pursuant to a valid ~~water~~ appropriation, beneficially
7 applied in ~~(a)~~ at least one of the preceding ~~three~~ five consecutive
8 years or ~~(b)~~ at least one of the preceding ~~ten~~ consecutive years if
9 ~~the district or company finds~~ that there has been sufficient cause
10 for nonuse in the same manner as provided in section 46-229.04;

11 (2) The owner of the land to which the water
12 appropriation is attached consents in writing to the transfer of
13 the appropriation from his or her tract of land;

14 (3) The water appropriation, or portion thereof, proposed
15 to be transferred has not been transferred by the board of
16 directors of the district or company in the previous four years;

17 (4) The water allotment on the receiving tract of land
18 will not exceed the amount that can be beneficially used for the
19 purposes for which the appropriation was made and will not exceed
20 the least amount of water that experience may indicate is
21 necessary, in the exercise of good husbandry, for the production of
22 crops; and

23 (5) After the transfer, the aggregate water use within
24 the district or company will not exceed the aggregate water
25 appropriation held by the district or company for the benefit of
26 owners of land to which the water appropriations are attached.

27 Sec. 31. Section 46-2,132, Revised Statutes Supplement,
28 2002, is amended to read:

1 46-2,132. (1) The members of the Water Policy Task Force
2 shall include: (a) Twenty irrigators, with at least one irrigator
3 from each of the state's thirteen river basins, giving
4 consideration to maintaining a balance between surface water users
5 and ground water users. Three irrigators shall be selected from
6 the Republican River Basin, two irrigators shall be selected from
7 the North Platte River Basin, two irrigators shall be selected from
8 the middle Platte River Basin, two irrigators shall be selected
9 from the Loup River Basin, two irrigators shall be selected from
10 the Elkhorn River Basin, two irrigators shall be selected from the
11 Big Blue River Basin, one irrigator shall be selected from the
12 South Platte River Basin, one irrigator shall be selected from the
13 lower Platte River Basin, one irrigator shall be selected from the
14 Little Blue River Basin, one irrigator shall be selected from the
15 Nemaha River Basin, one irrigator shall be selected from the
16 Niobrara River Basin, one irrigator shall be selected from the
17 White Hat River Basin, and one irrigator shall be selected from the
18 Missouri tributaries basin; (b) three representatives from
19 differing agricultural organizations; (c) three representatives
20 from differing environmental organizations; (d) two representatives
21 from differing recreational organizations; (e) three
22 representatives to represent the state at large; (f) five
23 representatives suggested for the Governor's consideration by the
24 Nebraska Association of Resources Districts; (g) four
25 representatives suggested for the Governor's consideration by the
26 Nebraska Power Association; (h) five representatives suggested for
27 the Governor's consideration by the League of Nebraska
28 Municipalities, with consideration given to maintaining a balance

1 between larger and smaller municipalities; and (i) such other
2 members as the Governor deems appropriate to provide the task force
3 with adequate and balanced representation. The Governor shall
4 notify the Legislature upon completion of the appointments.

5 (2) Additional members of the task force shall be: (a)
6 One representative from the Department of Natural Resources to
7 coordinate as appropriate with other state agencies; (b) one
8 representative from the Attorney General's office; (c) the
9 chairperson of the Natural Resources Committee of the Legislature;
10 and (d) the vice chairperson of the Natural Resources Committee of
11 the Legislature. Other members of the Legislature may participate
12 as desired.

13 (3) If any member of the task force is unable to serve
14 for any reason, the Governor shall appoint a successor to such
15 member. The successor shall represent the same constituency as the
16 member such successor replaces.

17 Sec. 32. Section 46-2,135, Revised Statutes Supplement,
18 2002, is amended to read:

19 46-2,135. The Water Policy Task Force shall meet at
20 least ~~four times~~ twice each year to consider the proposals and
21 recommendations of the executive committee and any other additional
22 times as the executive committee determines to be necessary to
23 accomplish the objectives established in section 46-2,131.

24 Sec. 33. Sections 46-2,131 to 46-2,137 terminate
25 December 31, 2009.

26 Sec. 34. Section 46-601.01, Revised Statutes Supplement,
27 2002, is amended to read:

28 46-601.01. For purposes of Chapter 46, article 6:

1 (1) Water well means any excavation that is drilled,
2 cored, bored, washed, driven, dug, jetted, or otherwise constructed
3 for the purpose of exploring for ground water, monitoring ground
4 water, utilizing the geothermal properties of the ground, obtaining
5 hydrogeologic information, or extracting water from or injecting
6 ~~water~~ fluid as defined in section 81-1502 into the underground
7 water reservoir. Water well does not include any excavation made
8 for obtaining or prospecting for oil or natural gas or for
9 inserting media to repressure oil or natural gas bearing formations
10 regulated by the Nebraska Oil and Gas Conservation Commission; and

11 (2) Common carrier means any carrier of water including a
12 pipe, canal, ditch, or other means of piping or adjoining water for
13 irrigation purposes.

14 Sec. 35. Section 46-602, Revised Statutes Supplement,
15 2003, is amended to read:

16 46-602. (1) Each water well completed in this state on
17 or after July 1, 2001, excluding test holes and dewatering wells to
18 be used for less than ninety days, shall be registered with the
19 Department of Natural Resources as provided in this section within
20 sixty days after completion of construction of the water well. The
21 water well contractor as defined in section 46-1213 constructing
22 the water well, or the owner of the water well if the owner
23 constructed the water well, shall file the registration on a form
24 made available by the department and shall also file with the
25 department the information from the well log required pursuant to
26 section 46-1241. The department shall, by January 1, 2002, provide
27 water well contractors with the option of filing such registration
28 forms electronically. No signature shall be required on forms

1 filed electronically. The fee required by subsection (3) of
2 section 46-1224 shall be the source of funds for any required fee
3 to a contractor which provides the on-line services for such
4 registration. Any discount in the amount paid the state by a
5 credit card, charge card, or debit card company or a third-party
6 merchant bank for such registration fees shall be deducted from the
7 portion of the registration fee collected pursuant to section
8 46-1224.

9 (2)(a) If the newly constructed water well is a
10 replacement water well, the registration number of the water well
11 it replaces, if applicable, and the date the original water well
12 was or will be decommissioned shall be included on the registration
13 form. For purposes of this section, replacement water well means a
14 water well which (i) replaces an abandoned water well within three
15 years after the last operation of the abandoned water well or
16 replaces a water well that will not be used after construction of
17 the new water well and the original water well will be abandoned
18 within one year after such construction and (ii) is constructed to
19 provide water to the same tract of land served by the water well
20 being replaced.

21 (b) No water well shall be registered as a replacement
22 water well until the Department of Natural Resources has received a
23 properly completed notice of abandonment for the water well being
24 replaced. Such notice shall be completed by (i) the water well
25 contractor as defined in section 46-1213 who decommissions the
26 water well, (ii) the pump installation contractor as defined in
27 section 46-1209 who decommissions the water well, or (iii) the
28 owner if the owner decommissions a driven sandpoint well which is

1 on land owned by him or her for farming, ranching, or agricultural
2 purposes or as his or her place of abode. The Department of Health
3 and Human Services Regulation and Licensure shall, by rule and
4 regulation, determine which contractor or owner shall be
5 responsible for such notice in situations in which more than one
6 contractor or owner may be required to provide notice under this
7 subsection.

8 (3) For a series of two or more water wells completed and
9 pumped into a common carrier as part of a single site plan for
10 irrigation purposes, a registration form and a detailed site plan
11 shall be filed for each water well. The registration form shall
12 include the registration numbers of other water wells included in
13 the series if such water wells are already registered.

14 (4) A series of water wells completed for purposes of
15 installation of a ground heat exchanger for a structure for
16 utilizing the geothermal properties of the ground shall be
17 considered as one water well. One registration form and a detailed
18 site plan shall be filed for each such series.

19 (5) One registration form shall be required along with a
20 detailed site plan which shows the location of each such water well
21 in the site and a log from each such water well for water wells
22 constructed as part of a single site plan for (a) monitoring ground
23 water, obtaining hydrogeologic information, or extracting
24 contaminants from the ground, (b) water wells constructed as part
25 of remedial action approved by the Department of Environmental
26 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and
27 (c) water well owners who have a permit issued pursuant to the
28 Industrial Ground Water Regulatory Act and also have an underground

1 injection control permit issued by the Department of Environmental
2 Quality.

3 (6) The department shall be notified by the owner of any
4 change in the ownership of a water well required to be registered
5 under this section. Notification shall be in such form and include
6 such evidence of ownership as the Director of Natural Resources by
7 rule and regulation directs. The department shall use such notice
8 to update the registration on file. The department shall not
9 collect a fee for the filing of the notice.

10 (7) The water well contractor or pump installation
11 contractor responsible therefor shall notify the department on a
12 form provided by the department of any pump installation or any
13 modifications to the construction of the water well or pump, after
14 the initial registration of the well. A water well owner shall
15 notify the department on a form provided by the department of any
16 other changes or any inaccuracies in recorded water well
17 information, including, but not limited to, changes in use. The
18 department shall not collect a fee for the filing of the notice.

19 (8) Whenever a water well becomes an illegal water well
20 as defined in section ~~46-656.07~~ 46 of this act, the owner of the
21 water well shall either correct the deficiency that causes the well
22 to be an illegal water well or shall cause the proper
23 decommissioning of the water well in accordance with rules and
24 regulations adopted pursuant to the Water Well Standards and
25 Contractors' Licensing Act. The water well contractor who
26 decommissions the water well, the pump installation contractor who
27 decommissions the water well, or the owner if the owner
28 decommissions a driven sandpoint well which is on land owned by him

1 or her for farming, ranching, or agricultural purposes or as his or
2 her place of abode, shall provide a properly completed notice of
3 abandonment to the Department of Natural Resources within sixty
4 days. The Department of Health and Human Services Regulation and
5 Licensure shall, by rule and regulation, determine which contractor
6 or owner shall be responsible for such notice in situations in
7 which more than one contractor or owner may be required to provide
8 notice under this subsection. The Department of Natural Resources
9 shall not collect a fee for the filing of the notice.

10 (9) Except for water wells which are used solely for
11 domestic purposes and were constructed before September 9, 1993,
12 and for test holes and dewatering wells used for less than ninety
13 days, each water well which was completed in this state before July
14 1, 2001, and which is not registered on that date shall be an
15 illegal water well until it is registered with the Department of
16 Natural Resources. Such registration shall be completed by a water
17 well contractor or by the current owner of the water well, shall be
18 on forms provided by the department, and shall provide as much of
19 the information required by subsections (1) through (5) of this
20 section for registration of a new water well as is possible at the
21 time of registration.

22 (10) Water wells which are or were used solely for
23 injecting any fluid other than water into the underground water
24 reservoir, which were constructed before the operative date of this
25 section, and which have not been properly decommissioned on or
26 before the operative date of this section shall be registered on or
27 before July 1, 2005.

28 Sec. 36. Section 46-609, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 46-609. (1) ~~No~~ Except as otherwise provided by this
 3 section or section 46-610, no irrigation water well shall be
 4 drilled upon any land in this state within six hundred feet of any
 5 registered irrigation water well except (a) any water well the
 6 water from which is used solely for domestic, culinary, stock use
 7 on a ranch or farm, or the watering of lawns and gardens for family
 8 use or profit where the area to be irrigated does not exceed two
 9 acres, (b) as provided in section 46-610, and (c) that any
 10 irrigation water well which replaces an irrigation water well and
 11 no existing nonirrigation water well within six hundred feet of any
 12 registered irrigation water well shall be used for irrigation
 13 purposes. Such spacing requirement shall not apply to (a) any well
 14 used to irrigate two acres or less or (b) any replacement
 15 irrigation water well if it is drilled within fifty feet of the
 16 irrigation water well being replaced and if the water well being
 17 replaced was drilled prior to September 20, 1957, and which is less
 18 than six hundred feet from a registered irrigation water well.
 19 ~~shall be drilled within fifty feet of the old water well.~~

20 (2) The spacing protection of subsection (1) of this
 21 section shall apply to an unregistered water well for a period of
 22 ~~thirty~~ sixty days after completion of such water well.

23 Sec. 37. Section 46-613.02, Revised Statutes Supplement,
 24 2002, is amended to read:

25 46-613.02. Any person violating any provision of
 26 sections 46-601 to 46-613.01 or furnishing false information under
 27 such sections shall be guilty of a Class IV misdemeanor. ~~The~~
 28 ~~Department of Natural Resources may enforce such sections by~~

1 ~~instituting proceedings, actions, and prosecutions~~ Each day of a
2 violation may be considered a separate offense. The Attorney
3 General and the county attorneys may pursue appropriate proceedings
4 pursuant to this section when notified by the Director of Natural
5 Resources that such a violation has occurred.

6 Sec. 38. Section 46-651, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 46-651. (1) Except as provided in section 46-653 or
9 46-654, (a) no irrigation or industrial water well or water well of
10 any other public water supplier shall be drilled within one
11 thousand feet of any registered water well of any public water
12 supplier, (b) no water well of any such public water supplier shall
13 be drilled within one thousand feet of any registered irrigation or
14 industrial water well, (c) no irrigation water well shall be
15 drilled within one thousand feet of a registered industrial water
16 well, and (d) no industrial water well shall be drilled within one
17 thousand feet of a registered irrigation or industrial water well.
18 Such prohibitions shall not apply to water wells owned by the same
19 person.

20 (2) An existing water well for which a change in the
21 intended use is proposed shall be subject to any spacing
22 requirement in subsection (1) of this section that would apply to
23 the drilling of a new water well at the same location for the new
24 use intended.

25 (3) The well-spacing protection of ~~subsection (1)~~
26 subsections (1) and (2) of this section shall apply to an
27 unregistered water well for a period of only ~~thirty~~ sixty days
28 following completion of such water well.

1 (4) The spacing requirements in subsection (1) of this
2 section shall not apply to any replacement water well if that water
3 well is drilled within fifty feet of the water well being replaced
4 and if the water well being replaced was drilled prior to the
5 operative date of this section, was in compliance with any
6 applicable spacing statute when drilled, and is less than one
7 thousand feet from the registered water well for which spacing
8 protection is provided.

9 Sec. 39. Section 46-653, Revised Statutes Supplement,
10 2002, is amended to read:

11 46-653. Any person may apply to the Director of Natural
12 Resources for a special permit to drill or to change the intended
13 use of a water well without regard to the spacing requirements of
14 section 46-651. Such application shall be on a form prescribed and
15 furnished by the director and shall contain a statement of the
16 precise location of the water well or proposed water well, facts
17 justifying the request for such special permit, the size or
18 proposed size of such water well, expressed in gallons per minute,
19 to the extent that capacity is susceptible of advance
20 determination, and, if applicable, the name of the person who is
21 actually going to drill the water well. A separate application
22 shall be submitted for each water well for which a special permit
23 is sought, and each application shall be accompanied by a fee of
24 twelve dollars and fifty cents which shall be remitted to the State
25 Treasurer for credit to the General Fund. When considering the
26 approval or rejection of any such application, the director shall
27 consider the facts offered as justification of the need for the
28 special permit, the known ground water supply, and such other

1 pertinent information as may be available. Such application may be
2 approved or disapproved in whole or in part and the special permit
3 issued or refused accordingly.

4 Sec. 40. (1) A public water supplier as defined in
5 section 46-638 may obtain protection for a public water supply
6 wellfield from encroachment from other water wells by filing with
7 the Department of Natural Resources a notice of intent to consider
8 a wellfield. The notice of intent shall include:

9 (a) The legal description of the land being considered as
10 a public water supply wellfield; and

11 (b) Written consent of the owner of the land considered
12 for a public water supply wellfield, allowing the public water
13 supplier to conduct an evaluation as to whether such land is
14 suitable for a public water supply wellfield.

15 (2) A notice of intent filed under this section shall be
16 limited to a contiguous tract of land. No public water supplier
17 shall have more than three notices of intent under this section on
18 file with the department at any one time.

19 (3) A notice of intent filed under this section shall
20 expire one year after the date of filing and may be renewed for one
21 additional year by filing with the department a notice of renewal
22 of the original notice of intent filed under this section before
23 expiration of the original notice of intent.

24 (4) At the time a notice of intent or a notice of renewal
25 is filed with the department, the public water supplier shall:

26 (a) Provide a copy of the notice to the owners of land
27 adjoining the land being considered for a wellfield;

28 (b) Provide a copy of the notice to the natural resources

1 district or districts within which the land being considered for a
2 wellfield is located; and

3 (c) Publish a copy of the notice in a newspaper of
4 general circulation in the area in which the wellfield is being
5 considered.

6 (5) (a) Except as provided in subdivisions (b) and (c) of
7 this subsection, during the time that a notice of intent under this
8 section is in effect, no person may drill or construct a water
9 well, as defined in section 46-601.01, within the following number
10 of feet of the boundaries of the land described in the notice of
11 intent, whichever is greater:

12 (i) One thousand feet; or

13 (ii) The maximum number of feet specified in any
14 applicable regulations of a natural resources district that a well
15 of a public water supplier must be spaced from another well.

16 (b) Any person who, at least one hundred eighty days
17 prior to filing a notice of intent, obtained a valid permit from a
18 natural resources district to drill or construct a water well
19 within the area subject to the protection provided by this section
20 is not prohibited from drilling or constructing a water well.

21 (c) The public water supplier may waive the protection
22 provided by this section and allow a person to drill or construct a
23 new or replacement water well within the area subject to the
24 protection provided by this section.

25 (6) Within thirty days after the public water supplier
26 reaches a determination that the land described in a particular
27 notice of intent is not suitable for a public water supply
28 wellfield, the public water supplier shall notify the Department of

1 Natural Resources, the owner of the land described in the notice of
2 intent, and the owners of the contiguous tracts of land of such
3 determination. Upon receipt by the department of the notice of
4 such determination, the notice of intent that contains the
5 description of such tract of land shall terminate immediately,
6 notwithstanding any other provision of this section.

7 Sec. 41. Section 46-656.01, Revised Statutes Supplement,
8 2003, is amended to read:

9 ~~46-656.01.~~ Sections ~~46-656.01 to 46-656.67~~ 41 to 93 of
10 this act shall be known and may be cited as the Nebraska Ground
11 Water Management and Protection Act.

12 Sec. 42. Section 46-656.02, Revised Statutes Supplement,
13 2003, is amended to read:

14 ~~46-656.02.~~ The Legislature finds that ownership of water
15 is held by the state for the benefit of its citizens, that ground
16 water is one of the most valuable natural resources in the state,
17 and that an adequate supply of ground water is essential to the
18 general welfare of the citizens of this state and to the present
19 and future development of agriculture in the state. The
20 Legislature recognizes its duty to define broad policy goals
21 concerning the utilization and management of ground water and to
22 ensure local implementation of those goals. The Legislature also
23 finds that natural resources districts have the legal authority to
24 regulate certain activities and, except as otherwise specifically
25 provided by statute, as local entities are the preferred regulators
26 of activities which may contribute to ground water depletion.

27 Every landowner shall be entitled to a reasonable and
28 beneficial use of the ground water underlying his or her land

1 subject to the provisions of Chapter 46, article 6, and the
2 Nebraska Ground Water Management and Protection Act and the
3 correlative rights of other landowners when the ground water supply
4 is insufficient for all users. The Legislature determines that the
5 goal shall be to extend ground water reservoir life to the greatest
6 extent practicable consistent with beneficial use of the ground
7 water and best management practices.

8 The Legislature further recognizes and declares that the
9 management, protection, and conservation of ground water and the
10 beneficial use thereof are essential to the economic prosperity and
11 future well-being of the state and that the public interest demands
12 procedures for the implementation of management practices to
13 conserve and protect ground water supplies and to prevent the
14 contamination or inefficient or improper use thereof. The
15 Legislature recognizes the need to provide for orderly management
16 systems in areas where management of ground water is necessary to
17 achieve locally determined ground water management objectives and
18 where available data, evidence, or other information indicates that
19 present or potential ground water conditions, including
20 subirrigation conditions, require the designation of areas with
21 special regulation of development and use.

22 ~~Nothing in the Nebraska Ground Water Management and~~
23 ~~Protection Act relating to the contamination of ground water is~~
24 ~~intended to limit the powers of the Department of Environmental~~
25 ~~Quality provided in Chapter 81, article 15.~~

26 Sec. 43. Section 46-656.05, Revised Statutes Supplement,
27 2002, is amended to read:

28 ~~46-656.05.~~ The Legislature further finds:

1 (1) The management, conservation, and beneficial use of
2 hydrologically connected ground water and surface water are
3 essential to the continued economic prosperity and well-being of
4 the state, including the present and future development of
5 agriculture in the state;

6 (2) Hydrologically connected ground water and surface
7 water may need to be managed differently from unconnected ground
8 water and surface water in order to permit equity among water users
9 and to optimize the beneficial use of interrelated ground water and
10 surface water supplies;

11 (3) Natural resources districts already have significant
12 legal authority to regulate activities which contribute to declines
13 in ground water levels and to nonpoint source contamination of
14 ground water and are the preferred entities to regulate, through
15 ground water management areas, ground water related activities
16 which are contributing to or are, in the reasonably foreseeable
17 future, likely to contribute to conflicts between ground water
18 users and surface water appropriators or ~~which may be necessary in~~
19 ~~order to resolve disputes over interstate compacts or decrees, or~~
20 ~~to carry out the provisions of other formal state contracts or~~
21 ~~agreements~~ to water supply shortages in fully appropriated or
22 overappropriated river basins, subbasins, or reaches;

23 (4) The Legislature recognizes that ground water use or
24 surface water use in one natural resources district may have
25 adverse affects on water supplies in another district or in an
26 adjoining state. The Legislature intends and expects that each
27 natural resources district within which water use is causing
28 external impacts will accept responsibility for ground water

1 management in accordance with the Nebraska Ground Water Management
2 and Protection Act in the same manner and to the same extent as if
3 the impacts were contained within that district;

4 ~~(4)~~ (5) The Department of Natural Resources is
5 responsible for regulation of surface water resources and local
6 surface water project sponsors are responsible for much of the
7 structured irrigation utilizing surface water supplies, and these
8 entities should be responsible for regulation of surface water
9 related activities which contribute to ~~such~~ conflicts between
10 ground water users and surface water appropriators or to water
11 supply shortages in fully appropriated or overappropriated river
12 basins, subbasins, or reaches; or provide opportunities for such
13 dispute resolution;

14 ~~(5)~~ The department, following review and concurrence of
15 need by the Interrelated Water Review Committee of the Nebraska
16 Natural Resources Commission, should also be given authority to
17 regulate ground water related activities to mitigate or eliminate
18 disputes over interstate compacts or decrees or difficulties in
19 carrying out the provisions of other formal state contracts or
20 agreements if natural resources districts do not utilize their
21 ground water management authority in a reasonable manner to prevent
22 or minimize such disputes or difficulties, and

23 (6) All involved natural resources districts, the
24 department, and surface water project sponsors should cooperate and
25 collaborate on the identification and implementation of management
26 solutions to ~~such~~ conflicts or provide opportunities for mitigation
27 or elimination of such disputes or difficulties between ground
28 water users and surface water appropriators or to water supply

1 shortages in fully appropriated or overappropriated river basins,
2 subbasins, and reaches; and

3 (7) An Interrelated Water Review Board is needed to
4 resolve any conflicts between the department and the involved
5 natural resources districts concerning the content, implementation,
6 or enforcement of integrated management plans for fully
7 appropriated and overappropriated river basins, subbasins, and
8 reaches.

9 Sec. 44. Section 46-656.03, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 ~~46-656.03.~~ The Legislature also finds that:

12 (1) The levels of nitrate nitrogen and other contaminants
13 in ground water in certain areas of the state are increasing;

14 (2) Long-term solutions should be implemented and efforts
15 should be made to prevent the levels of ground water contaminants
16 from becoming too high and to reduce high levels sufficiently to
17 eliminate health hazards;

18 (3) Agriculture has been very productive and should
19 continue to be an important industry to the State of Nebraska;

20 (4) Natural resources districts have the legal authority
21 to regulate certain activities and, as local entities, are the
22 preferred regulators of activities which may contribute to ground
23 water contamination in both urban and rural areas;

24 (5) The Department of Environmental Quality should be
25 given authority to regulate sources of contamination when necessary
26 to prevent serious deterioration of ground water quality;

27 (6) The powers given to districts and the Department of
28 Environmental Quality should be used to stabilize, reduce, and

1 prevent the increase or spread of ground water contamination; and

2 (7) There is a need to provide for the orderly management
3 of ground water quality in areas where available data, evidence,
4 and other information indicate that present or potential ground
5 water conditions require the designation of such areas as
6 management areas.

7 Sec. 45. Section 46-656.04, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 ~~46-656.04. Nothing in sections 46-656.35 to 46-656.48~~
10 the Nebraska Ground Water Management and Protection Act shall be
11 construed to limit the powers of the Department of Health and Human
12 Services Regulation and Licensure provided in the Nebraska Safe
13 Drinking Water Act.

14 Nothing in the Nebraska Ground Water Management and
15 Protection Act relating to the contamination of ground water is
16 intended to limit the powers of the Department of Environmental
17 Quality provided in Chapter 81, article 15.

18 Sec. 46. Section 46-656.07, Revised Statutes Supplement,
19 2003, is amended to read:

20 ~~46-656.07. For purposes of the Municipal and Rural~~
21 Domestic Ground Water Transfers Permit Act, the Nebraska Ground
22 Water Management and Protection Act, and sections 46-601 to
23 46-613.02, 46-636, 46-637, and 46-651 to 46-655, unless the context
24 otherwise requires:

25 (1) Person ~~shall mean~~ means a natural person, a
26 partnership, a limited liability company, an association, a
27 corporation, a municipality, an irrigation district, an agency or a
28 political subdivision of the state, or a department, an agency, or

1 a bureau of the United States;

2 (2) Ground water ~~shall mean~~ means that water which occurs
3 in or moves, seeps, filters, or percolates through ground under the
4 surface of the land;

5 (3) Contamination or contamination of ground water ~~shall~~
6 ~~mean~~ means nitrate nitrogen or other material which enters the
7 ground water due to action of any person and causes degradation of
8 the quality of ground water sufficient to make such ground water
9 unsuitable for present or reasonably foreseeable beneficial uses;

10 (4) District ~~shall mean~~ means a natural resources
11 district operating pursuant to Chapter 2, article 32;

12 (5) Illegal water well ~~shall mean~~ means (a) any water
13 well operated or constructed without or in violation of a permit
14 required by the Nebraska Ground Water Management and Protection
15 Act, (b) any water well not in compliance with rules and
16 regulations adopted and promulgated pursuant to the act, (c) any
17 water well not properly registered in accordance with sections
18 46-602 to 46-604, or (d) any water well not in compliance with any
19 other applicable laws of the State of Nebraska or with rules and
20 regulations adopted and promulgated pursuant to such laws;

21 (6) To commence construction of a water well ~~shall mean~~
22 means the beginning of the boring, drilling, jetting, digging, or
23 excavating of the actual water well from which ground water is to
24 be withdrawn;

25 (7) Management area ~~shall mean~~ means any area so
26 designated by a district pursuant to section ~~46-656.20~~ 52 or 58 of
27 this act, by the Director of Environmental Quality pursuant to
28 section ~~46-656.39~~ 65 of this act, or by the ~~Director of Natural~~

1 ~~Resources~~ Interrelated Water Review Board pursuant to section
 2 ~~46-656.52~~ 59 of this act. Management area ~~shall include~~ includes a
 3 control area or a special ground water quality protection area
 4 designated prior to July 19, 1996;

5 (8) Management plan ~~shall mean~~ means a ground water
 6 management plan developed by a district and submitted to the
 7 Director of Natural Resources for review pursuant to ~~sections~~
 8 ~~46-656.12 to 46-656.15~~ section 51 of this act;

9 (9) Ground water reservoir life goal ~~shall mean~~ means the
 10 finite or infinite period of time which a district establishes as
 11 its goal for maintenance of the supply and quality of water in a
 12 ground water reservoir at the time a ground water management plan
 13 is adopted;

14 (10) Board ~~shall mean~~ means the board of directors of a
 15 district;

16 ~~(11) Irrigated acre shall mean any acre that is certified~~
 17 ~~as such pursuant to rules and regulations of the district and that~~
 18 ~~is actually capable of being supplied water through irrigation~~
 19 ~~works, mechanisms, or facilities existing at the time of the~~
 20 ~~allocation;~~

21 ~~(12)~~ (11) Acre-inch ~~shall mean~~ means the amount of water
 22 necessary to cover an acre of land one inch deep;

23 ~~(13)~~ (12) Subirrigation or subirrigated land ~~shall mean~~
 24 means the natural occurrence of a ground water table within the
 25 root zone of agricultural vegetation, not exceeding ten feet below
 26 the surface of the ground;

27 ~~(14)~~ (13) Best management practices ~~shall mean~~ means
 28 schedules of activities, maintenance procedures, and other

1 management practices utilized to prevent or reduce present and
 2 future contamination of ground water which may include irrigation
 3 scheduling, proper rate and timing of fertilizer application, and
 4 other fertilizer and pesticide management programs. In determining
 5 the rate of fertilizer application, the district shall consult with
 6 the University of Nebraska or a certified crop advisor certified by
 7 the American Society of Agronomy;

8 ~~(15)~~ (14) Point source ~~shall mean~~ means any discernible,
 9 confined, and discrete conveyance, including, but not limited to,
 10 any pipe, channel, tunnel, conduit, well, discrete fissure,
 11 container, rolling stock, vessel, other floating craft, or other
 12 conveyance, over which the Department of Environmental Quality has
 13 regulatory authority and from which a substance which can cause or
 14 contribute to contamination of ground water is or may be
 15 discharged;

16 ~~(16)~~ (15) Allocation, as it relates to water use for
 17 irrigation purposes, means ~~shall mean~~ the allotment of a specified
 18 total number of acre-inches of irrigation water per irrigated acre
 19 per year or an average number of acre-inches of irrigation water
 20 per irrigated acre over any reasonable period of time;

21 ~~(17)~~ (16) Rotation ~~shall mean~~ means a recurring series of
 22 use and nonuse of irrigation wells on an hourly, daily, weekly,
 23 monthly, or yearly basis;

24 ~~(18)~~ (17) Water well ~~shall have~~ has the same meaning as
 25 in section 46-601.01; ~~and~~

26 ~~(19)~~ (18) Surface water project sponsor ~~shall mean~~ means
 27 an irrigation district created pursuant to Chapter 46, article 1, a
 28 reclamation district created pursuant to Chapter 46, article 5, or

1 a public power and irrigation district created pursuant to Chapter
2 70, article 6;

3 (19) Beneficial use means that use by which water may be
4 put to use to the benefit of humans or other species;

5 (20) Consumptive use means the amount of water that is
6 consumed under appropriate and reasonably efficient practices to
7 accomplish without waste the purposes for which the appropriation
8 or other legally permitted use is lawfully made;

9 (21) Dewatering well means a well constructed and used
10 solely for the purpose of lowering the ground water table
11 elevation;

12 (22) Emergency situation means any set of circumstances
13 that requires the use of water from any source that might otherwise
14 be regulated or prohibited and the agency, district, or
15 organization responsible for regulating water use from such source
16 reasonably and in good faith believes that such use is necessary to
17 protect the public health, safety, and welfare, including, if
18 applicable, compliance with federal or state water quality
19 standards;

20 (23) Good cause shown means a reasonable justification
21 for granting a variance for a consumptive use of water that would
22 otherwise be prohibited by rule or regulation and which the
23 granting agency, district, or organization reasonably and in good
24 faith believes will provide an economic, environmental, social, or
25 public health and safety benefit that is equal to or greater than
26 the benefit resulting from the rule or regulation from which a
27 variance is sought;

28 (24) Historic consumptive use means the amount of water

1 that has previously been consumed under appropriate and reasonably
2 efficient practices to accomplish without waste the purposes for
3 which the appropriation or other legally permitted use was lawfully
4 made;

5 (25) Monitoring well means a water well that is designed
6 and constructed to provide ongoing hydrologic or water quality
7 information and is not intended for consumptive use;

8 (26) Order, except as otherwise specifically provided,
9 includes any order required by the Nebraska Ground Water Management
10 and Protection Act, by rule or regulation, or by a decision adopted
11 by a district by vote of the board of directors of the district
12 taken at any regularly scheduled or specially scheduled meeting of
13 the board;

14 (27) Overall difference between the current and fully
15 appropriated levels of development means the extent to which
16 existing uses of hydrologically connected surface water and ground
17 water and conservation activities result in the water supply
18 available for purposes identified in subsection (3) of section 53
19 of this act to be less than the water supply available if the river
20 basin, subbasin, or reach had been determined to be fully
21 appropriated in accordance with section 54 of this act;

22 (28) Test hole means a hole designed solely for the
23 purposes of obtaining information on hydrologic or geologic
24 conditions; and

25 (29) Variance means the approval to act in a manner
26 contrary to existing rules or regulations from a governing body
27 whose rule or regulation is otherwise applicable.

28 Sec. 47. Section 46-656.08, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 ~~46-656.08.~~ Regardless of whether or not any portion of a
3 district has been designated as a management area, in order to
4 administer and enforce the Nebraska Ground Water Management and
5 Protection Act and to effectuate the policy of the state to
6 conserve ground water resources, a district may:

7 (1) Adopt and promulgate rules and regulations necessary
8 to discharge the administrative duties assigned in the act;

9 (2) Require such reports from ground water users as may
10 be necessary;

11 (3) Require meters to be placed on any water wells for
12 the purpose of acquiring water use data;

13 (4) Require decommissioning of water wells that are not
14 properly classified as active status water wells as defined in
15 section 46-1204.02 or inactive status water wells as defined in
16 section 46-1207.02;

17 (5) Conduct investigations and cooperate or contract with
18 agencies of the United States, agencies or political subdivisions
19 of this state, public or private corporations, or any association
20 or individual on any matter relevant to the administration of the
21 act;

22 ~~(5)~~ (6) Report to and consult with the Department of
23 Environmental Quality on all matters concerning the entry of
24 contamination or contaminating materials into ground water
25 supplies; and

26 ~~(6)~~ (7) Issue cease and desist orders, following ten
27 days' notice to the person affected stating the contemplated action
28 and in general the grounds for the action and following reasonable

1 opportunity to be heard, to enforce any of the provisions of the
2 act or of orders or permits issued pursuant to the act, to initiate
3 suits to enforce the provisions of orders issued pursuant to the
4 act, and to restrain the construction of illegal water wells or the
5 withdrawal or use of water from illegal water wells.

6 Before any rule or regulation is adopted pursuant to this
7 section, a public hearing shall be held within the district.
8 Notice of the hearing shall be given as provided in section 83 of
9 this act.

10 Sec. 48. Section 46-656.11, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~46-656.11.~~ (1) In order to conserve ground water
13 supplies and to prevent the inefficient or improper runoff of such
14 ground water, each person who uses ground water irrigation in the
15 state shall take action to control or prevent the runoff of water
16 used in such irrigation.

17 (2) Each district shall adopt, following public hearing,
18 notice of which shall be given in the manner provided in section
19 ~~46-656.19~~ 83 of this act, rules and regulations necessary to
20 control or prohibit surface runoff of water derived from ground
21 water irrigation. Such rules and regulations shall prescribe (a)
22 standards and criteria delineating what constitutes the inefficient
23 or improper runoff of ground water used in irrigation, (b)
24 procedures to prevent, control, and abate such runoff, (c) measures
25 for the construction, modification, extension, or operation of
26 remedial measures to prevent, control, or abate runoff of ground
27 water used in irrigation, and (d) procedures for the enforcement of
28 this section.

1 (3) Each district may, upon ten days' notice to the
2 person affected, stating the contemplated action and in general the
3 grounds therefor, and upon reasonable opportunity to be heard,
4 issue cease and desist orders to enforce any of the provisions of
5 this section or rules and regulations issued pursuant to this
6 section.

7 Sec. 49. Section 46-656.12, Revised Statutes Supplement,
8 2003, is amended to read:

9 ~~46-656.12.~~ Each district shall ~~prepare~~ maintain a ground
10 water management plan based upon the best available information and
11 ~~submit~~ shall submit amendments to such plan to the Director of
12 Natural Resources for review and approval.

13 The plan shall include, but not be limited to, the
14 identification to the extent possible of:

15 (1) Ground water supplies within the district including
16 transmissivity, saturated thickness maps, and other ground water
17 reservoir information, if available;

18 (2) Local recharge characteristics and rates from any
19 sources, if available;

20 (3) Average annual precipitation and the variations
21 within the district;

22 (4) Crop water needs within the district;

23 (5) Current ground water data-collection programs;

24 (6) Past, present, and potential ground water use within
25 the district;

26 (7) Ground water quality concerns within the district;

27 (8) Proposed water conservation and supply augmentation
28 programs for the district;

1 (9) The availability of supplemental water supplies,
2 including the opportunity for ground water recharge;

3 (10) The opportunity to integrate and coordinate the use
4 of water from different sources of supply;

5 (11) Ground water management objectives, including a
6 proposed ground water reservoir life goal for the district. For
7 management plans adopted or revised after July 19, 1996, the ground
8 water management objectives may include any proposed integrated
9 management objectives for hydrologically connected ground water and
10 surface water supplies but a management plan does not have to be
11 revised prior to the adoption or implementation of a ~~joint action~~
12 ~~plan pursuant to section 46-656.28~~ an integrated management plan
13 pursuant to section 58 or 59 of this act;

14 (12) Existing subirrigation uses within the district;

15 (13) The relative economic value of different uses of
16 ground water proposed or existing within the district; and

17 (14) The geographic and stratigraphic boundaries of any
18 proposed management area.

19 If the expenses incurred by a district preparing or
20 amending a ground water management plan exceed twenty-five percent
21 of the district's current budget, the district may make application
22 to the Nebraska Resources Development Fund for assistance.

23 Each district's ground water management plan shall also
24 identify, to the extent possible, the levels and sources of ground
25 water contamination within the district, ground water quality
26 goals, long-term solutions necessary to prevent the levels of
27 ground water contaminants from becoming too high and to reduce high
28 levels sufficiently to eliminate health hazards, and practices

1 recommended to stabilize, reduce, and prevent the occurrence,
2 increase, or spread of ground water contamination.

3 If a control area, management area, or special ground
4 water quality protection area has been designated in a district
5 prior to July 19, 1996, the area shall be designated a management
6 area but the district shall not be required to adopt or amend its
7 existing rules, regulations, action plan, or ground water
8 management plan, due to that change in designation, for the
9 geographical area of the district included in such control area,
10 management area, or special ground water quality protection area.
11 A district may change references from control area or special
12 ground water quality protection area to management area without
13 holding a public hearing. Before taking any action described in
14 the remainder of this section, a district shall hold a public
15 hearing within the district. Notice of the hearing shall be given
16 as provided in section ~~46-656.19~~. If the changes made by Laws
17 1996, LB 108, require substantive changes to the district's rules,
18 regulations, or plans, the district shall enact appropriate
19 amendments to such rules, regulations, or plans. A district in
20 which a special ground water quality protection area was designated
21 prior to July 19, 1996, shall insure compliance with section
22 ~~46-656.29~~. A district in which a control area, management area, or
23 special ground water quality protection area was designated prior
24 to July 19, 1996, may adopt any of the controls permitted by
25 section ~~46-656.25~~.

26 Sec. 50. Section 46-656.13, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~46-656.13~~. During preparation or modification of a

1 ground water management plan, the district shall actively solicit
2 public comments and opinions and shall utilize and draw upon
3 existing research, data, studies, or any other information which
4 has been compiled by or is in the possession of state or federal
5 agencies, natural resources districts, or any other subdivision of
6 the state. State agencies, districts, and other subdivisions shall
7 furnish information or data upon the request of any district
8 preparing or modifying such a plan. A district shall not be
9 required to initiate new studies or data-collection efforts or to
10 develop computer models in order to prepare or modify a plan.

11 Sec. 51. Section 46-656.14, Revised Statutes Supplement,
12 2002, is amended to read:

13 ~~46-656.14.~~ (1) The Director of Natural Resources shall
14 review any ground water management plan or plan modification
15 submitted by a district to ensure that the best available studies,
16 data, and information, whether previously existing or newly
17 initiated, were utilized and considered and that such plan is
18 supported by and is a reasonable application of such information.
19 If a management area is proposed and the primary purpose of the
20 proposed management area is protection of water quality, the
21 director shall consult with the Department of Environmental Quality
22 regarding approval or denial of the management plan. The director
23 shall consult with the Conservation and Survey Division of the
24 University of Nebraska and such other state or federal agencies the
25 director shall deem necessary when reviewing plans. Within ninety
26 days after receipt of a plan, the director shall transmit his or
27 her specific findings, conclusions, and reasons for approval or
28 disapproval to the district submitting the plan.

1 (2) If the Director of Natural Resources disapproves a
2 ground water management plan, the district which submitted the plan
3 shall, in order to establish a management area, submit to the
4 director either the original or a revised plan with an explanation
5 of how the original or revised plan addresses the issues raised by
6 the director in his or her reasons for disapproval. Once a
7 district has submitted an explanation pursuant to this section,
8 such district may proceed to schedule a hearing pursuant to section
9 52 of this act.

10 Sec. 52. Section 46-656.19, Revised Statutes Supplement,
11 2002, is amended to read:

12 ~~46-656.19. Prior to proceeding toward establishing a~~
13 ~~management area, a~~ (1) A natural resources district may establish a
14 ground water management area in accordance with this section to
15 accomplish any one or more of the following objectives: (a)
16 Protection of ground water quantity; (b) protection of ground water
17 quality; or (c) prevention or resolution of conflicts between users
18 of ground water and appropriators of surface water, which ground
19 water and surface water are hydrologically connected.

20 (2) Prior to establishment by a district of a management
21 area other than a management area being established in accordance
22 with section 58 of this act, the district's management plan shall
23 have been approved by the Director of Natural Resources or the
24 district shall have completed the requirements of subsection (2) of
25 section ~~46-656.15~~ 51 of this act. If necessary to determine
26 whether a management area should be designated, the district may
27 initiate new studies and data-collection efforts and develop
28 computer models. In order to establish a management area, the

1 district shall fix a time and place for a public hearing to
2 consider the management plan information supplied by the director
3 and to hear any other evidence. The hearing shall be located
4 within or in reasonable proximity to the area proposed for
5 designation as a management area. Notice of the hearing shall be
6 published as provided in section 83 of this act, and the hearing
7 shall be conducted in accordance with such section.

8 (3) (a) Within ninety days after the hearing, the district
9 shall determine whether a management area shall be designated. If
10 the district determines that no management area shall be
11 established, the district shall issue an order to that effect.

12 (b) If the district determines that a management area
13 shall be established, the district shall by order designate the
14 area as a management area and shall adopt one or more controls
15 authorized by section 79 of this act to be utilized within the area
16 in order to achieve the ground water management objectives
17 specified in the plan. Such an order shall include a geographic
18 and stratigraphic definition of the area. The boundaries and
19 controls shall take into account any considerations brought forth
20 at the hearing and administrative factors directly affecting the
21 ability of the district to implement and carry out local ground
22 water management.

23 (c) The controls adopted shall not include controls
24 substantially different from those set forth in the notice of the
25 hearing. The area designated by the order shall not include any
26 area not included in the notice of the hearing.

27 (4) Modification of the boundaries of a
28 district-designated management area or dissolution of such an area

1 shall be in accordance with the procedures established in this
2 section. Hearings for such modifications or for dissolution may
3 not be initiated more often than once a year. Hearings for
4 modification of controls may be initiated as often as deemed
5 necessary by the district, and such modifications may be
6 accomplished using the procedure in this section.

7 (5) A district shall, prior to adopting or amending any
8 rules or regulations for a management area, consult with any
9 holders of permits for intentional or incidental underground water
10 storage and recovery issued pursuant to section 46-226.02, 46-233,
11 46-240, 46-241, 46-242, or 46-297. at the expense of the district
12 in a newspaper published or of general circulation in the area
13 involved at least once each week for three consecutive weeks, the
14 last publication to be not less than seven days prior to the
15 hearing. The notice shall provide a general description of the
16 contents of the plan and of the area which will be considered for
17 inclusion in the management area and a general description of all
18 controls proposed for adoption or amendment by the district and
19 shall identify all locations where a copy of the full text of the
20 proposed controls may be obtained. The full text of all controls
21 shall be available to the public upon request not later than the
22 date of first publication.

23 All interested persons shall be allowed to appear and
24 present testimony. The hearing shall include testimony of a
25 representative of the Department of Natural Resources and, if the
26 primary purpose of the proposed management area is protection of
27 water quality, of the Department of Environmental Quality and shall
28 include the results of any studies or investigations conducted by

1 ~~the district.~~

2 Sec. 53. (1) (a) By January 1 of each year beginning in
3 2006 and except as otherwise provided in this section and section
4 60 of this act, the Department of Natural Resources shall complete
5 an evaluation of the expected long-term availability of
6 hydrologically connected water supplies for both existing and new
7 surface water uses and existing and new ground water uses in each
8 of the state's river basins and shall issue a report that describes
9 the results of the evaluation. For purposes of the evaluation and
10 the report, a river basin may be divided into two or more subbasins
11 or reaches. A river basin, subbasin, or reach for which an
12 integrated management plan has been or is being developed pursuant
13 to sections 55 to 57 of this act or pursuant to section 59 of this
14 act shall not be evaluated unless it is being reevaluated as
15 provided in subsection (2) of this section. For each river basin,
16 subbasin, or reach evaluated, the report shall describe (i) the
17 nature and extent of use of both surface water and ground water in
18 each river basin, subbasin, or reach, (ii) the geographic area
19 within which the department preliminarily considers surface water
20 and ground water to be hydrologically connected and the criteria
21 used for that determination, and (iii) the extent to which the
22 then-current uses affect available near-term and long-term water
23 supplies. River basins, subbasins, and reaches designated as
24 overappropriated in accordance with subsection (4) of this section
25 shall not be evaluated by the department.

26 (b) Based on the information reviewed in the evaluation
27 process, the department shall arrive at a preliminary conclusion
28 for each river basin, subbasin, and reach evaluated as to whether

1 such river basin, subbasin, or reach presently is fully
2 appropriated without the initiation of additional uses. The
3 department shall also determine if and how such preliminary
4 conclusion would change if no additional legal constraints were
5 imposed on future development of hydrologically connected surface
6 water and ground water and reasonable projections are made about
7 the extent and location of future development in such river basin,
8 subbasin, or reach.

9 (c) In addition to the conclusion about whether a river
10 basin, subbasin, or reach is fully appropriated, the department
11 shall include in the report, for informational purposes only, a
12 summary of relevant data provided by any interested party
13 concerning the social, economic, and environmental impacts of
14 additional hydrologically connected surface water and ground water
15 uses on resources that are dependent on streamflow or ground water
16 levels but are not protected by appropriations or regulations.

17 (d) In preparing the report, the department shall rely on
18 the best scientific data and information readily available. Upon
19 request by the department, state agencies, natural resources
20 districts, irrigation districts, reclamation districts, public
21 power and irrigation districts, mutual irrigation companies, canal
22 companies, municipalities, and other water users and stakeholders
23 shall provide relevant data and information in their possession.
24 The Department of Natural Resources shall specify by rule and
25 regulation the types of scientific data and other information that
26 will be considered for making the preliminary determinations
27 required by this section.

28 (2) The department shall complete a reevaluation of a

1 river basin, subbasin, or reach for which an integrated management
2 plan has been or is being prepared if the department has reason to
3 believe that a reevaluation might lead to a different determination
4 about whether such river basin, subbasin, or reach is fully
5 appropriated or overappropriated. A decision to reevaluate may be
6 reached by the department on its own or in response to a petition
7 filed with the department by any interested person. To be
8 considered sufficient to justify a reevaluation, a petition shall
9 be accompanied by supporting information showing that (a) new
10 scientific data or other information relevant to the determination
11 of whether the river basin, subbasin, or reach is fully
12 appropriated or overappropriated has become available since the
13 last evaluation of such river basin, subbasin, or reach, (b) the
14 department relied on incorrect or incomplete information when the
15 river basin, subbasin, or reach was last evaluated, or (c) the
16 department erred in its interpretation or application of the
17 information available when the river basin, subbasin, or reach was
18 last evaluated. If a petition determined by the department to be
19 sufficient is filed before March 1 of any year, the reevaluation of
20 the river basin, subbasin, or reach involved shall be included in
21 the next annual report prepared in accordance with subsection (1)
22 of this section. If any such petition is filed on or after March 1
23 of any year, the department may defer the reevaluation of the river
24 basin, subbasin, or reach involved until the second annual report
25 after such filing.

26 (3) A river basin, subbasin, or reach shall be deemed
27 fully appropriated if the department determines that then-current
28 uses of hydrologically connected surface water and ground water in

1 the river basin, subbasin, or reach cause or will in the reasonably
2 foreseeable future cause (a) the surface water supply to be
3 insufficient to sustain over the long term the beneficial or useful
4 purposes for which existing natural flow or storage appropriations
5 were granted and the beneficial or useful purposes for which, at
6 the time of approval, any existing instream appropriation was
7 granted, (b) the streamflow to be insufficient to sustain over the
8 long term the beneficial uses from wells constructed in aquifers
9 dependent on recharge from the river or stream involved, or (c)
10 reduction in the flow of a river or stream sufficient to cause
11 noncompliance by Nebraska with an interstate compact or decree,
12 other formal state contract or agreement, or applicable state or
13 federal laws.

14 (4) (a) A river basin, subbasin, or reach shall be deemed
15 overappropriated if, on the operative date of this section, the
16 river basin, subbasin, or reach is subject to an interstate
17 cooperative agreement among three or more states and if, prior to
18 such date, the department has declared a moratorium on the issuance
19 of new surface water appropriations in such river basin, subbasin,
20 or reach and has requested each natural resources district with
21 jurisdiction in the affected area in such river basin, subbasin, or
22 reach either (i) to close or to continue in effect a previously
23 adopted closure of all or part of such river basin, subbasin, or
24 reach to the issuance of additional water well permits in
25 accordance with subdivision (1) (k) of section 46-656.25 as such
26 section existed prior to the operative date of this section or (ii)
27 to temporarily suspend or to continue in effect a temporary
28 suspension, previously adopted pursuant to section 46-656.28 as

1 such section existed prior to the operative date of this section,
2 on the drilling of new water wells in all or part of such river
3 basin, subbasin, or reach.

4 (b) Within sixty days after the operative date of this
5 section, the department shall designate which river basins,
6 subbasins, or reaches are overappropriated. The designation shall
7 include a description of the geographic area within which the
8 department has determined that surface water and ground water are
9 hydrologically connected and the criteria used to make such
10 determination.

11 Sec. 54. (1) Whenever the Department of Natural
12 Resources makes a preliminary determination that a river basin,
13 subbasin, or reach not previously designated as overappropriated
14 and not previously determined to be fully appropriated has become
15 fully appropriated, the department shall place an immediate stay on
16 the issuance of any new natural-flow, storage, or storage-use
17 appropriations in such river basin, subbasin, or reach. The
18 department shall also provide prompt notice of such preliminary
19 determination to all licensed water well contractors in the state
20 and to each natural resources district that encompasses any of the
21 geographic area involved. Immediately upon receipt of such notice
22 by the natural resources district, there shall be a stay on
23 issuance of water well construction permits in the geographic area
24 preliminarily determined by the department to include
25 hydrologically connected surface water and ground water in such
26 river basin, subbasin, or reach. The department shall also notify
27 the public of the preliminary determination that the river basin,
28 subbasin, or reach is fully appropriated and of the affected

1 geographic area. Such notice shall be provided by publication once
2 each week for three consecutive weeks in at least one newspaper of
3 statewide circulation and in such other newspaper or newspapers as
4 are deemed appropriate by the department to provide general
5 circulation in the river basin, subbasin, or reach.

6 (2) If the department preliminarily determines a river
7 basin, subbasin, or reach to be fully appropriated and has
8 identified the existence of hydrologically connected surface water
9 and ground water in such river basin, subbasin, or reach, stays
10 shall also be imposed (a) on the construction of any new water well
11 in the area covered by the determination if such construction has
12 not commenced prior to the determination, whether or not a
13 construction permit for such water well was previously obtained
14 from the department or a natural resources district, and (b) on the
15 use of an existing water well or an existing surface water
16 appropriation in the affected area to increase the number of acres
17 historically irrigated. Such additional stays shall begin ten days
18 after the first publication, in a newspaper of statewide
19 circulation, of the notice of the preliminary determination that
20 the river basin, subbasin, or reach is fully appropriated.

21 (3) Exceptions to the stays imposed pursuant to
22 subsection (1), (2), (9), or (10) of this section shall exist for
23 (a) test holes, (b) dewatering wells with an intended use of one
24 year or less, (c) monitoring wells, (d) wells constructed pursuant
25 to a ground water remediation plan under the Environmental
26 Protection Act, (e) water wells designed and constructed to pump
27 fifty gallons per minute or less, except that no two or more water
28 wells that each pump fifty gallons per minute or less may be

1 connected or otherwise combined to serve a single project such that
2 the collective pumping would exceed fifty gallons per minute, (f)
3 water wells for range livestock, (g) new surface water uses or
4 water wells that are necessary to alleviate an emergency situation
5 involving the provision of water for human consumption or public
6 health and safety, (h) water wells defined by the applicable
7 natural resources district as replacement water wells, but the
8 consumptive use of any such replacement water well can be no
9 greater than the historic consumptive use of the water well it is
10 to replace or, if applicable, the historic consumptive use of the
11 surface water use it is to replace, (i) new surface water uses and
12 water wells to which a right or permit is transferred in accordance
13 with state law, but the consumptive use of any such new use can be
14 no greater than the historic consumptive use of the surface water
15 use or water well from which the right or permit is being
16 transferred, (j) water wells and increases in ground water
17 irrigated acres for which a variance is granted by the applicable
18 natural resources district for good cause shown, (k) to the extent
19 permitted by the applicable natural resources district, increases
20 in ground water irrigated acres that result from the use of water
21 wells that were constructed within the nine months prior to the
22 effective date of the stay but were not used for irrigation prior
23 to that effective date, (l) to the extent permitted by the
24 applicable natural resources district, increases in ground water
25 irrigated acres that result from the use of water wells that are
26 constructed after the effective date of the stay in accordance with
27 a permit granted by that natural resources district prior to the
28 effective date of the stay, (m) surface water uses for which

1 temporary public-use construction permits are issued pursuant to
2 subsection (8) of section 46-233, (n) surface water uses and
3 increases in surface water irrigated acres for which a variance is
4 granted by the department for good cause shown, and (o) water wells
5 for which permits have been approved by the Department of Natural
6 Resources pursuant to the Municipal and Rural Domestic Ground Water
7 Transfers Permit Act prior to the effective date of the stay.

8 (4) Except as otherwise provided in this section, any
9 stay imposed pursuant to subsections (1) and (2) of this section
10 shall remain in effect for the affected river basin, subbasin, or
11 reach until the department has made a final determination regarding
12 whether the river basin, subbasin, or reach is fully appropriated
13 and, if the department's final determination is that the river
14 basin, subbasin, or reach is fully appropriated, shall remain in
15 effect as provided in subsection (12) of this section. Within the
16 time period between the dates of the preliminary and final
17 determinations, the department and the affected natural resources
18 districts shall consult with any irrigation district, reclamation
19 district, public power and irrigation district, mutual irrigation
20 company, canal company, or municipality that relies on water from
21 the affected river basin, subbasin, or reach and with other water
22 users and stakeholders as deemed appropriate by the department or
23 the natural resources districts. The department shall also hold
24 one or more public hearings not more than ninety days after the
25 first publication of the notice required by subsection (1) of this
26 section. Notice of the hearings shall be provided in the same
27 manner as the notice required by such subsection. Any interested
28 person may appear at such hearing and present written or oral

1 testimony and evidence concerning the appropriation status of the
2 river basin, subbasin, or reach, the department's preliminary
3 conclusions about the extent of the area within which the surface
4 water and ground water supplies for the river basin, subbasin, or
5 reach are determined to be hydrologically connected, and whether
6 the stays on new uses should be terminated.

7 (5) Within thirty days after the final hearing under
8 subsection (4) of this section, the department shall notify the
9 appropriate natural resources districts of the department's final
10 determination with respect to the appropriation status of the river
11 basin, subbasin, or reach. If the final determination is that the
12 river basin, subbasin, or reach is fully appropriated, the
13 department, at the same time, shall (a) decide whether to continue
14 or to terminate the stays on new surface water uses and on
15 increases in the number of surface water irrigated acres and (b)
16 designate the geographic area within which the department considers
17 surface water and ground water to be hydrologically connected in
18 the river basin, subbasin, or reach and describe the methods and
19 criteria used in making that determination. The department shall
20 provide notice of its decision to continue or terminate the stays
21 in the same manner as the notice required by subsection (1) of this
22 section.

23 (6) If the department's final determination is that the
24 river basin, subbasin, or reach is not fully appropriated, the
25 department shall provide notice of such determination as provided
26 in subsection (1) of this section, the stays imposed pursuant to
27 subsections (1) and (2) of this section shall terminate
28 immediately, and no further action pursuant to subsections (7)

1 through (12) of this section and sections 55 to 59 of this act
2 shall be required.

3 (7) Within ninety days after a final determination by the
4 department that a river basin, subbasin, or reach is fully
5 appropriated, an affected natural resources district may hold one
6 or more public hearings on the question of whether the stays on the
7 issuance of new water well permits, on the construction of new
8 water wells, or on increases in ground water irrigated acres should
9 be terminated. Notice of the hearings shall be published as
10 provided in section 83 of this act.

11 (8) Within forty-five days after a natural resources
12 district's final hearing pursuant to subsection (7) of this
13 section, the natural resources district shall decide (a) whether to
14 terminate the stay on new water wells in all or part of the natural
15 resources district subject to the stay and (b) whether to terminate
16 the stay on increases in ground water irrigated acres. If the
17 natural resources district decides not to terminate the stay on new
18 water wells in any geographic area, it shall also decide whether to
19 exempt from such stay the construction of water wells for which
20 permits were issued prior to the issuance of the stay but for which
21 construction had not begun prior to issuance of the stay. If
22 construction of water wells for which permits were issued prior to
23 the stay is allowed, all permits that were valid when the stay went
24 into effect shall be extended by a time period equal to the length
25 of the stay.

26 (9) Whenever the department designates a river basin,
27 subbasin, or reach as overappropriated, each previously declared
28 moratorium on the issuance of new surface water appropriations in

1 the river basin, subbasin, or reach shall continue in effect. The
2 department shall also provide prompt notice of such designation to
3 all licensed water well contractors in the state and to each
4 natural resources district that encompasses any of the geographic
5 area involved. Immediately upon receipt of such notice by a
6 natural resources district, there shall be a stay on the issuance
7 of new water well construction permits in any portion of such
8 natural resources district that is within the hydrologically
9 connected area designated by the department. The department shall
10 also notify the public of its designation of such river basin,
11 subbasin, or reach as overappropriated and of the geographic area
12 involved in such designation. Such notice shall be published once
13 each week for three consecutive weeks in at least one newspaper of
14 statewide circulation and in such other newspapers as are deemed
15 appropriate by the department to provide general notice in the
16 river basin, subbasin, or reach.

17 (10) Beginning ten days after the first publication of
18 notice under subsection (9) of this section in a newspaper of
19 statewide circulation, there shall also be stays (a) on the
20 construction of any new water well in the hydrologically connected
21 area if such construction has not commenced prior to such date and
22 if no permit for construction of the water well has been issued
23 previously by either the department or the natural resources
24 district, (b) on the use of an existing water well in the
25 hydrologically connected area to increase the number of acres
26 historically irrigated, and (c) on the use of an existing surface
27 water appropriation to increase the number of acres historically
28 irrigated in the affected area.

1 (11) Within ninety days after a designation by the
2 department of a river basin, subbasin, or reach as
3 overappropriated, a natural resources district that encompasses any
4 of the hydrologically connected area designated by the department
5 may hold one or more public hearings on the question of whether to
6 terminate the stays on (a) the construction of new water wells
7 within all or part of its portion of the hydrologically connected
8 area, (b) the issuance of new water well construction permits in
9 such area, or (c) the increase in ground water irrigated acres in
10 such area. Notice of any hearing for such purpose shall be
11 provided pursuant to section 83 of this act. Prior to the
12 scheduling of a natural resources district hearing on the question
13 of whether to terminate any such stay, the department and the
14 affected natural resources district shall consult with any
15 irrigation district, reclamation district, public power and
16 irrigation district, mutual irrigation company, canal company, or
17 municipality that relies on water from the affected river basin,
18 subbasin, or reach and with other water users and stakeholders as
19 deemed appropriate by the department or the natural resources
20 district.

21 (12) Any stay issued pursuant to this section shall
22 remain in effect until (a) the stay has been terminated pursuant to
23 subsection (5), (6), (8), or (11) of this section, (b) an
24 integrated management plan for the affected river basin, subbasin,
25 or reach has been adopted by the department and the affected
26 natural resources districts and has taken effect, (c) an integrated
27 management plan for the affected river basin, subbasin, or reach
28 has been adopted by the Interrelated Water Review Board and has

1 taken effect, (d) the department has completed a reevaluation
2 pursuant to subsection (2) of section 53 of this act and has
3 determined that the affected river basin, subbasin, or reach is not
4 fully appropriated or overappropriated, or (e) the stay expires
5 pursuant to this subsection. Such stay may be imposed initially
6 for not more than three years following the department's
7 designation of the river basin, subbasin, or reach as
8 overappropriated or the department's final determination that a
9 river basin, subbasin, or reach is fully appropriated and may be
10 extended thereafter on an annual basis by agreement of the
11 department and the affected natural resources district for not more
12 than two additional years if necessary to allow the development,
13 adoption, and implementation of an integrated management plan
14 pursuant to sections 55 to 59 of this act.

15 Sec. 55. (1) Whenever the Department of Natural
16 Resources has designated a river basin, subbasin, or reach as
17 overappropriated or has made a final determination that a river
18 basin, subbasin, or reach is fully appropriated, the natural
19 resources districts encompassing such river basin, subbasin, or
20 reach and the department shall jointly develop an integrated
21 management plan for such river basin, subbasin, or reach. The plan
22 shall be completed, adopted, and take effect within three years
23 after such designation or final determination unless the department
24 and the natural resources districts jointly agree to an extension
25 of not more than two additional years.

26 (2) In developing an integrated management plan, the
27 effects of existing and potential new water uses on existing
28 surface water appropriators and ground water users shall be

1 considered. An integrated management plan shall include the
2 following: (a) Clear goals and objectives with a purpose of
3 sustaining a balance between water uses and water supplies so that
4 the economic viability, social and environmental health, safety,
5 and welfare of the river basin, subbasin, or reach can be achieved
6 and maintained for both the near term and the long term; (b) a map
7 clearly delineating the geographic area subject to the integrated
8 management plan; (c) one or more of the ground water controls
9 authorized for adoption by natural resources districts pursuant to
10 section 79 of this act; and (d) one or more of the surface water
11 controls authorized for adoption by the department pursuant to
12 section 56 of this act. The plan may also provide for utilization
13 of any applicable incentive programs authorized by law. Nothing in
14 the integrated management plan for a fully appropriated river
15 basin, subbasin, or reach shall require a natural resources
16 district to regulate ground water uses in place at the time of the
17 department's preliminary determination that the river basin,
18 subbasin, or reach is fully appropriated, but a natural resources
19 district may voluntarily adopt such regulations.

20 (3) The ground water and surface water controls proposed
21 for adoption in the integrated management plan pursuant to
22 subsection (1) of this section shall, when considered together and
23 with any applicable incentive programs, (a) be consistent with the
24 goals and objectives of the plan, (b) be sufficient to ensure that
25 the state will remain in compliance with applicable state and
26 federal laws and with any applicable interstate water compact or
27 decree or other formal state contract or agreement pertaining to
28 surface water or ground water use or supplies, and (c) protect the

1 ground water users whose water wells are dependent on recharge from
2 the river or stream involved and the surface water appropriators on
3 such river or stream from streamflow depletion caused by surface
4 water uses and ground water uses begun after the date the river
5 basin, subbasin, or reach was designated as overappropriated or was
6 preliminarily determined to be fully appropriated in accordance
7 with section 53 of this act.

8 (4) (a) In any river basin, subbasin, or reach that is
9 designated as overappropriated, when the designated area lies
10 within two or more natural resources districts, the department and
11 the affected natural resources districts shall jointly develop a
12 basin-wide plan for the area designated as overappropriated. Such
13 plan shall be developed using the consultation and collaboration
14 process described in subdivision (b) of this subsection, shall be
15 developed concurrently with the development of the integrated
16 management plan required pursuant to subsections (1) through (3) of
17 this section, and shall be designed to achieve, in the incremental
18 manner described in subdivision (d) of this subsection, the goals
19 and objectives described in subsection (2) of this section. The
20 basin-wide plan shall be adopted after hearings by the department
21 and the affected natural resources districts.

22 (b) In any river basin, subbasin, or reach designated as
23 overappropriated and subject to this subsection, the department and
24 each natural resources district encompassing such river basin,
25 subbasin, or reach shall jointly develop an integrated management
26 plan for such river basin, subbasin, or reach pursuant to
27 subsections (1) through (3) of this section. Each integrated
28 management plan for a river basin, subbasin, or reach subject to

1 this subsection shall be consistent with any basin-wide plan
2 developed pursuant to subdivision (a) of this subsection. Such
3 integrated management plan shall be developed after consultation
4 and collaboration with irrigation districts, reclamation districts,
5 public power and irrigation districts, mutual irrigation companies,
6 canal companies, and municipalities that rely on water from within
7 the affected area and that, after being notified of the
8 commencement of the plan development process, indicate in writing
9 their desire to participate in such process. In addition, the
10 department or the affected natural resources districts may include
11 designated representatives of other stakeholders. If agreement is
12 reached by all parties involved in such consultation and
13 collaboration process, the department and each natural resources
14 district shall adopt the agreed-upon integrated management plan.
15 If agreement cannot be reached by all parties involved, the
16 integrated management plan shall be developed and adopted by the
17 department and the affected natural resources district pursuant to
18 sections 55 to 58 of this act or by the Interrelated Water Review
19 Board pursuant to section 59 of this act.

20 (c) Any integrated management plan developed under this
21 subsection shall identify the overall difference between the
22 current and fully appropriated levels of development. Such
23 determination shall take into account cyclical supply, including
24 drought, identify the portion of the overall difference between the
25 current and fully appropriated levels of development that is due to
26 conservation measures, and identify the portions of the overall
27 difference between the current and fully appropriated levels of
28 development that are due to water use initiated prior to July 1,

1 1997, and to water use initiated on or after such date.

2 (d) Any integrated management plan developed under this
3 subsection shall adopt an incremental approach to achieve the goals
4 and objectives identified under subdivision (2)(a) of this section
5 using the following steps:

6 (i) The first incremental goals shall be to address the
7 impact of streamflow depletions to (A) surface water appropriations
8 and (B) water wells constructed in aquifers dependent upon recharge
9 from streamflow, to the extent those depletions are due to water
10 use initiated after July 1, 1997, and, unless an interstate
11 cooperative agreement for such river basin, subbasin, or reach is
12 no longer in effect, to prevent streamflow depletions that would
13 cause noncompliance by Nebraska with such interstate cooperative
14 agreement. During the first increment, the department and the
15 affected natural resources districts shall also pursue voluntary
16 efforts, subject to the availability of funds, to offset any
17 increase in streamflow depletive effects that occur after July 1,
18 1997, but are caused by ground water uses initiated prior to such
19 date. The department and the affected natural resources districts
20 may also use other appropriate and authorized measures for such
21 purpose;

22 (ii) The department and the affected natural resources
23 districts may amend an integrated management plan subject to this
24 subsection (4) as necessary based on an annual review of the
25 progress being made toward achieving the goals for that increment;

26 (iii) During the ten years following adoption of an
27 integrated management plan developed under this subsection (4) or
28 during the ten years after the adoption of any subsequent increment

1 of the integrated management plan pursuant to subdivision (d) (iv)
2 of this subsection, the department and the affected natural
3 resources district shall conduct a technical analysis of the
4 actions taken in such increment to determine the progress towards
5 meeting the goals and objectives adopted pursuant to subsection (2)
6 of this section. The analysis shall include an examination of (A)
7 available supplies and changes in long-term availability, (B) the
8 effects of conservation practices and natural causes, including,
9 but not limited to, drought, and (C) the effects of the plan on
10 reducing the overall difference between the current and fully
11 appropriated levels of development identified in subdivision (4) (c)
12 of this section. The analysis shall determine whether a subsequent
13 increment is necessary in the integrated management plan to meet
14 the goals and objectives adopted pursuant to subsection (2) of this
15 section and reduce the overall difference between the current and
16 fully appropriated levels of development identified in subdivision
17 (4) (c) of this section;

18 (iv) Based on the determination made in subdivision
19 (d) (iii) of this subsection, the department and the affected
20 natural resources districts, utilizing the consultative and
21 collaborative process described in subdivision (b) of this
22 subsection, shall if necessary identify goals for a subsequent
23 increment of the integrated management plan. Subsequent increments
24 shall be completed, adopted, and take effect not more than ten
25 years after adoption of the previous increment; and

26 (v) If necessary, the steps described in subdivisions
27 (d) (ii) through (iv) of this subsection shall be repeated until the
28 department and the affected natural resources districts agree that

1 the goals and objectives identified pursuant to subsection (2) of
2 this section have been met and the overall difference between the
3 current and fully appropriated levels of development identified in
4 subdivision (4)(c) of this section has been addressed so that the
5 river basin, subbasin, or reach has returned to a fully
6 appropriated condition.

7 Sec. 56. (1) The surface water controls that may be
8 included in an integrated management plan and may be adopted by the
9 Department of Natural Resources are: (a) Increased monitoring and
10 enforcement of surface water diversion rates and amounts diverted
11 annually; (b) the prohibition or limitation of additional surface
12 water appropriations; (c) requirements for surface water
13 appropriators to apply or utilize reasonable conservation measures
14 consistent with good husbandry and other requirements of section
15 46-231 and consistent with reasonable reliance by other surface
16 water or ground water users on return flows or on seepage to the
17 aquifer; and (d) other reasonable restrictions on surface water use
18 which are consistent with the intent of section 55 of this act and
19 the requirements of section 46-231.

20 (2) If during the development of the integrated
21 management plan the department determines that surface water
22 appropriators should be required to apply or utilize conservation
23 measures or that other reasonable restrictions on surface water use
24 need to be imposed, the department's portion of the integrated
25 management plan shall allow the affected surface water
26 appropriators and surface water project sponsors a reasonable
27 amount of time, not to exceed one hundred eighty days unless
28 extended by the department, to identify the conservation measures

1 to be applied or utilized, to develop a schedule for such
2 application and utilization, and to comment on any other proposed
3 restrictions.

4 Sec. 57. (1) In developing an integrated management
5 plan, the Department of Natural Resources and the affected natural
6 resources districts shall utilize the best scientific data and
7 other information available and shall review and consider any rules
8 and regulations in effect in any existing ground water management
9 area that encompasses all or part of the geographic area to be
10 encompassed by the plan. Consideration shall be given to the
11 applicable scientific data and other information relied upon by the
12 department in preparing the annual report required by section 53 of
13 this act and to other types of data and information that may be
14 deemed appropriate by the department. The department, after
15 seeking input from the affected natural resources districts, shall
16 specify by rule and regulation the types of scientific data and
17 other information that will be considered in developing an
18 integrated management plan. The natural resources districts shall
19 adopt similar rules and regulations specifying the types of
20 scientific data and other information necessary for purposes of
21 this section. Existing research, data, studies, or any other
22 relevant information which has been compiled by or is in possession
23 of other state or federal agencies, other natural resources
24 districts, and other political subdivisions within the State of
25 Nebraska shall be utilized. State agencies and political
26 subdivisions shall furnish information or data upon request of the
27 department or any affected natural resources district. Neither the
28 department nor the natural resources districts shall be required to

1 conduct new research or to develop new computer models to prepare
2 an integrated management plan, but such new research may be
3 conducted or new computer models developed within the limits of
4 available funding if the additional information is desired by the
5 department or the affected natural resources districts.

6 (2) During preparation of an integrated management plan
7 for a fully appropriated river basin, subbasin, or reach, the
8 department and the affected natural resources districts shall
9 consult with any irrigation district, reclamation district, public
10 power and irrigation district, mutual irrigation company, canal
11 company, or municipality that relies on water from the affected
12 river basin, subbasin, or reach and with other water users and
13 stakeholders as deemed appropriate by the department or by the
14 affected natural resources districts. They shall also actively
15 solicit public comments and opinions through public meetings and
16 other means.

17 Sec. 58. (1) If the Department of Natural Resources and
18 the affected natural resources districts preparing an integrated
19 management plan reach agreement on (a) the proposed goals and
20 objectives of the plan for the affected river basin, subbasin, or
21 reach, (b) the proposed geographic area to be subject to controls,
22 and (c) the surface water and ground water controls and any
23 incentive programs that are proposed for adoption and
24 implementation in the river basin, subbasin, or reach, they shall
25 schedule one or more public hearings to take testimony on the
26 proposed integrated management plan and the proposed controls.
27 Such hearings shall be held within forty-five days after reaching
28 agreement and within or in reasonable proximity to the area to be

1 affected by implementation of the integrated management plan.
2 Notice of such hearings shall be published as provided in section
3 83 of this act. The costs of publishing the notice shall be shared
4 between the department and the affected natural resources
5 districts. All interested persons may appear at the hearings and
6 present testimony or provide other evidence relevant to the issues
7 being considered.

8 (2) Within sixty days after the final hearing under this
9 section, the department and the affected natural resources
10 districts shall jointly decide whether to implement the plan
11 proposed, with or without modifications, and whether to adopt and
12 implement the surface water and ground water controls and incentive
13 programs proposed in the plan. If the department and the natural
14 resources districts agree to implement the plan and to adopt and
15 implement the proposed controls, the natural resources districts
16 shall by order designate a ground water management area for
17 integrated management or, if the geographic area subject to the
18 integrated management plan is already in a ground water management
19 area, the order shall designate an integrated management subarea
20 for that area. The order shall include a geographic and
21 stratigraphic definition of the ground water management area or
22 integrated management subarea and shall adopt the controls in the
23 integrated management plan that are authorized for adoption by the
24 natural resources district pursuant to section 79 of this act. The
25 department shall by order adopt the controls in the integrated
26 management plan that are authorized for adoption by the department
27 pursuant to section 56 of this act. Neither the controls adopted
28 by the district nor those adopted by the department shall include

1 controls substantially different from those set forth in the notice
2 of hearing. The area designated as a ground water management area
3 or an integrated management subarea by the natural resources
4 district shall not include any area that was not identified in the
5 notice of the hearing as within the area proposed to be subject to
6 the controls in the plan. The department and the natural resources
7 district shall each cause a copy of its order to be published in
8 the manner provided in section 84 of this act.

9 (3) If at any time during the development of a basin-wide
10 plan or an integrated management plan either the department or the
11 affected natural resources districts conclude that the parties will
12 be unable to reach a timely agreement on the basin-wide plan or on
13 (a) the goals and objectives of the integrated management plan for
14 the affected river basin, subbasin, or reach, (b) the geographic
15 area to be subject to controls, or (c) the surface water or ground
16 water controls or any incentive programs to be proposed for
17 adoption and implementation in the affected river basin, subbasin,
18 or reach, the Governor shall be notified and the dispute shall be
19 submitted to the Interrelated Water Review Board as provided in
20 subsection (2) of section 59 of this act.

21 Sec. 59. (1) (a) The Interrelated Water Review Board is
22 created for the purposes stated in subsections (2) through (5) of
23 this section. The board shall consist of five members. The board,
24 when appointed and convened, shall continue in existence only until
25 it has resolved a dispute referred to it pursuant to such
26 subsections. The Governor shall appoint and convene the board
27 within forty-five days of being notified of the need to resolve a
28 dispute. The board shall be chaired by the Governor or his or her

1 designee, which designee shall be knowledgeable concerning surface
2 water and ground water issues. The Governor shall appoint one
3 additional member of his or her choosing and shall appoint the
4 other three members of the board from a list of no fewer than six
5 nominees provided by the Nebraska Natural Resources Commission
6 within twenty days after request by the Governor for a list of
7 nominees.

8 (b) Not more than two members of the board shall reside
9 in the geographic area involved in the dispute. A person is not
10 eligible for membership on the board if the decisions to be made by
11 the board would or could cause financial benefit or detriment to
12 the person, a member of his or her immediate family, or a business
13 with which the person is associated, unless such benefit or
14 detriment is indistinguishable from the effects of such action on
15 the public generally or a broad segment of the public. The board
16 shall be subject to the Open Meetings Act.

17 (c) For purposes of subsections (2) and (3) of this
18 section, action may be taken by a vote of three of the board's five
19 members. For purposes of subsections (4) and (5) of this section,
20 action may be taken only by a vote of at least four of the board's
21 five members.

22 (2) (a) If the Department of Natural Resources and the
23 affected natural resources districts cannot resolve disputes over
24 the content of a basin-wide plan or an integrated management plan
25 by utilizing the process described in sections 55 to 58 of this
26 act, the Governor shall be notified and the dispute submitted to
27 the Interrelated Water Review Board. When the board has been
28 appointed and convened to resolve disputes over a basin-wide plan,

1 the department and each affected district shall present their
2 proposed basin-wide plans to the board. When the board has been
3 convened to resolve disputes over an integrated management plan,
4 the department and each affected natural resources district shall
5 present their (i) proposed goals and objectives for the integrated
6 management plan, (ii) proposed geographic area to be subject to
7 controls, and (iii) proposed surface water and ground water
8 controls and any proposed incentive program for adoption and
9 implementation in the river basin, subbasin, or reach involved.
10 The department and each affected natural resources district shall
11 also be given adequate opportunity to comment on the proposals made
12 by the other parties to the dispute.

13 (b) When the Interrelated Water Review Board concludes
14 that the issues in dispute have been fully presented and commented
15 upon by the parties to the dispute, which conclusion shall be made
16 not more than forty-five days after the board is convened, the
17 board shall select the proposals or portions of proposals that the
18 board will consider for adoption and shall schedule one or more
19 public hearings to take testimony on the selected proposals. The
20 hearings shall be held within forty-five days after the board's
21 selection of proposals to consider for adoption and shall be within
22 or in reasonable proximity to the area that would be affected by
23 implementation of any of the proposals to be considered at the
24 hearings. Notice of the hearings shall be published as provided in
25 section 83 of this act. The cost of publishing the notice shall be
26 shared by the department and the affected natural resources
27 districts. All interested persons may appear at the hearings and
28 present testimony or provide other evidence relevant to the issues

1 being considered.

2 (c) Within forty-five days after the final hearing
3 pursuant to subdivision (b) of this subsection, the Interrelated
4 Water Review Board shall by order, as applicable, adopt a
5 basin-wide plan or an integrated management plan for the affected
6 river basin, subbasin, or reach and, in the case of an integrated
7 management plan, shall designate a ground water management plan for
8 integrated management or an integrated management subarea for such
9 river basin, subbasin, or reach. An integrated management plan
10 shall be consistent with subsection (2) of section 55 of this act,
11 and the surface water and ground water controls and any applicable
12 incentive programs adopted as part of that plan shall be consistent
13 with subsection (3) of section 55 of this act. The controls
14 adopted by the board shall not be substantially different from
15 those described in the notice of hearing. The area designated as a
16 ground water management area or an integrated management subarea
17 shall not include any area that was not identified in the notice of
18 the hearing as within the area proposed to be subject to the
19 controls in the plan.

20 (d) The order adopted under this subsection shall be
21 published in the manner prescribed in section 84 of this act.

22 (e) Surface water controls adopted by the Interrelated
23 Water Review Board shall be implemented and enforced by the
24 department. Ground water controls adopted by the Interrelated
25 Water Review Board shall be implemented and enforced by the
26 affected natural resources districts.

27 (3) Whether an integrated management plan is adopted
28 pursuant to section 58 of this act or by the Interrelated Water

1 Review Board pursuant to subsection (2) of this section, the
2 department or a natural resources district responsible in part for
3 implementation and enforcement of an integrated management plan may
4 propose modification of the goals or objectives of that plan, of
5 the area subject to the plan, or of the surface water controls,
6 ground water controls, or incentive programs adopted to implement
7 the plan. The department and the affected natural resources
8 districts shall utilize the procedures in sections 55 to 58 of this
9 act in an attempt to reach agreement on and to adopt and implement
10 proposed modifications. If agreement on such modifications cannot
11 be achieved utilizing those procedures, either the department or an
12 affected natural resources district may notify the Governor of the
13 dispute. The Interrelated Water Review Board shall be appointed
14 and convened in accordance with subsection (1) of this section to
15 resolve the dispute and, if applicable, to adopt any modifications
16 utilizing the procedures in subsection (2) of this section.

17 (4) The department and the affected natural resources
18 districts may also raise objections concerning the implementation
19 or enforcement of previously adopted surface water or ground water
20 controls. The department and the affected natural resources
21 districts shall utilize the procedures in sections 55 to 58 of this
22 act in an attempt to reach agreement on such implementation or
23 enforcement issues. If agreement on such issues cannot be achieved
24 utilizing such procedures, either the department or an affected
25 natural resources district may notify the Governor of the dispute.
26 The Interrelated Water Review Board shall be appointed and convened
27 in accordance with subsection (1) of this section. After
28 permitting each party to fully express its reasons for its position

1 on the disputed issues, the board may either take no action or
2 conclude (a) that one or more parties needs to modify its approach
3 to implementation or enforcement and direct that such modifications
4 take place or (b) that one or more parties either has not made a
5 good faith effort to implement or enforce the portion of the plan
6 or controls for which it is responsible or is unable to fully
7 implement and enforce such portion and that such party's
8 jurisdiction with respect to implementation and enforcement of the
9 plan and controls shall be terminated and reassigned to one or more
10 of the other parties responsible for implementation and
11 enforcement. A decision by the Interrelated Water Review Board to
12 terminate and reassign jurisdiction of any portion of the plan or
13 controls shall take effect immediately upon that decision. Notice
14 of such reassignment shall be published at least once in one or
15 more newspapers as necessary to provide general circulation in the
16 area affected by such reassignment.

17 (5) The board may be reconvened in accordance with
18 subsection (1) of this section at a later date upon request to the
19 Governor by the party for which jurisdiction for implementation and
20 enforcement was terminated if such party desires to have its
21 jurisdiction reinstated, but no such request shall be honored until
22 at least one year after the termination and not more than once per
23 year thereafter. The board may reinstate jurisdiction to that
24 party only upon a clear showing by such party that it is willing
25 and able to fully implement and enforce the plan and any applicable
26 controls. Notice that a party's jurisdiction has been reinstated
27 shall be provided in the same manner that notice of the earlier
28 termination was given.

1 Sec. 60. (1) The Legislature finds that, prior to the
2 operative date of this section, actions were taken by the
3 Department of Natural Resources and by one or more natural
4 resources districts pursuant to section 46-656.28, as such section
5 existed immediately prior to such date, for the purpose of
6 addressing circumstances that are, after such date, to be addressed
7 in accordance with sections 53 to 59 of this act. It is the intent
8 of the Legislature that actions taken pursuant to section
9 46-656.28, as such section existed immediately prior to the
10 operative date of this section, should not be negated and that
11 transition from the authorities and responsibilities granted by
12 such section to those granted by sections 53 to 59 of this act
13 should occur in as efficient a manner as possible. Such transition
14 shall be therefor governed by subsections (2) through (5) of this
15 section, and all references in such subsections to section
16 46-656.28 shall be construed to mean section 46-656.28 as such
17 section existed immediately prior to the operative date of this
18 section.

19 (2) If, prior to the operative date of this section, (a)
20 a natural resources district requested pursuant to subsection (1)
21 of section 46-656.28 that affected appropriators, affected surface
22 water project sponsors, and the department consult and that studies
23 and a hearing be held but (b) the Director of Natural Resources has
24 not made a preliminary determination relative to that request
25 pursuant to subsection (2) of section 46-656.28, no further action
26 on the district's request shall be required of the department. If
27 under the same circumstances a temporary suspension in the drilling
28 of certain water wells has been imposed by the district pursuant to

1 subsection (16) of section 46-656.28 and remains in effect
2 immediately prior to the operative date of this section, such
3 temporary suspension shall remain in effect for thirty days after
4 the department issues its first annual report under section 53 of
5 this act, except that (i) such temporary suspension shall not apply
6 to water wells for which a permit has been obtained pursuant to the
7 Municipal and Rural Domestic Ground Water Transfers Permit Act and
8 (ii) to the extent any such temporary suspension is in effect for
9 all or part of a hydrologically connected area for a river basin,
10 subbasin, or reach designated as overappropriated by the
11 department, such temporary suspension shall remain in effect only
12 until it is superseded by the stays imposed pursuant to subsections
13 (9) and (10) of section 54 of this act. To the extent that any
14 such temporary suspension applies to a geographic area
15 preliminarily considered by the department to have ground water
16 hydrologically connected to the surface water of a fully
17 appropriated river basin, subbasin, or reach, such temporary
18 suspension shall be superseded by the stays imposed pursuant to
19 subsections (1) and (2) of section 54 of this act.

20 (3) (a) If prior to the operative date of this section (i)
21 the director has made a preliminary determination pursuant to
22 subsection (2) of section 46-656.28 that there is reason to believe
23 that the use of hydrologically connected ground water and surface
24 water in a specific geographic area is contributing to or is in the
25 reasonably foreseeable future likely to contribute to any conflict,
26 dispute, or difficulty listed in such subsection, (ii) the director
27 has not made a determination pursuant to subsection (4) of section
28 46-656.28 that a joint action plan should not be prepared, and

1 (iii) preparation of a joint action plan pursuant to subsections
2 (5) through (9) of such section has not been completed, the
3 geographic area involved shall become subject to sections 53 to 59
4 of this act on the operative date of this section and the
5 department need not evaluate such geographic area in its first
6 annual report issued pursuant to section 53 of this act.

7 (b) For purposes of this subsection and section 54 of
8 this act and except as otherwise provided in this section, (i) the
9 operative date of this section shall result in the imposition in
10 any geographic area subject to this subsection of the stays
11 required by subsections (1) and (2) of section 54 of this act, (ii)
12 such stays shall be imposed in the manner required by such section,
13 and (iii) the operative date of this section shall be treated as if
14 it were the date of a departmental preliminary determination
15 pursuant to section 53 of this act that such area is a geographic
16 area within which ground water and surface water of a fully
17 appropriated river basin, subbasin, or reach are hydrologically
18 connected. Notwithstanding the other provisions of this
19 subsection, if a temporary suspension in the drilling of certain
20 new water wells has previously been imposed by the affected natural
21 resources district, (A) the stays on construction of new water
22 wells and on the increase in ground water irrigated acres shall be
23 limited in geographic extent to only that part of the affected area
24 within which the temporary suspension was in effect unless the
25 director determines that inclusion of additional area is necessary
26 because ground water and surface water are hydrologically connected
27 in such additional area and (B) the stays on construction of
28 certain new water wells shall not apply to a water well constructed

1 in accordance with the terms of a water well construction permit
2 approved by the district prior to the operative date of this
3 section unless such well was subject to the district's temporary
4 suspension. If, prior to the operative date of this section, the
5 director has held a hearing on a report issued pursuant to
6 subsection (3) of section 46-656.28 but has not yet determined
7 whether a joint action plan should be prepared, no departmental
8 hearing shall be required pursuant to subsection (4) of section 54
9 of this act before a final determination is made about whether the
10 river basin, subbasin, or reach involved is fully appropriated.
11 If, prior to the operative date of this section, the director has
12 determined pursuant to subsection (4) of section 46-656.28 that a
13 joint action plan should be prepared, such determination shall have
14 the same effect as a final departmental determination pursuant to
15 subsection (5) of section 54 of this act that the affected river
16 basin, subbasin, or reach is fully appropriated and no separate
17 determination to that effect shall be required. If, after the
18 operative date of this section, the department determines that all
19 or part of the area subject to this subsection is in an
20 overappropriated river basin, subbasin, or reach, that portion of
21 the area shall thereafter be subject to the provisions of the
22 Nebraska Ground Water Management and Protection Act applicable to
23 an overappropriated river basin, subbasin, or reach and stays that
24 have previously taken effect in accordance with this subsection
25 shall continue in effect as stays for an overappropriated river
26 basin, subbasin, or reach without additional action or publication
27 of notice by the department. Any temporary suspension in the
28 drilling of certain water wells that has been imposed in the

1 geographic area involved by a natural resources district pursuant
2 to subsection (16) of section 46-656.28 prior to the operative date
3 of this section shall remain in effect until superseded by the
4 stays imposed pursuant to subsections (1) and (2) of section 54 of
5 this act.

6 (4) If, prior to the operative date of this section,
7 preparation of a joint action plan has been completed pursuant to
8 subsections (5) through (9) of section 46-656.28 but the plan has
9 not yet been adopted pursuant to subsection (11) of such section,
10 the department need not evaluate the affected geographic area in
11 its first annual report issued pursuant to section 53 of this act.
12 The department and the affected natural resources district shall
13 review the completed joint action plan for its compliance with
14 sections 55 to 57 of this act. If the joint action plan is
15 determined to be in compliance with sections 55 to 57 of this act
16 or if agreement is reached on the revisions necessary to bring it
17 into such compliance, the department and the district shall adopt
18 the plan and implement the controls as provided in section 58 of
19 this act. If the joint action plan is determined not to be in
20 compliance with sections 55 to 57 of this act and agreement on the
21 proposed plan or the proposed controls cannot be reached pursuant
22 to section 58 of this act, section 59 of this act shall apply.
23 Except to the extent that any portion of the affected area is
24 designated as all or part of an overappropriated river basin,
25 subbasin, or reach, any temporary suspension in the drilling of
26 certain water wells imposed in the affected geographic area by a
27 natural resources district pursuant to subsection (16) of section
28 46-656.28 shall remain in effect until (a) the department and the

1 affected district have jointly decided to implement the plan, with
2 or without modifications, and controls have been adopted and taken
3 effect or (b) the Interrelated Water Review Board, pursuant to
4 section 59 of this act, has adopted an integrated management plan
5 for the affected river basin, subbasin, or reach and the controls
6 adopted by the board have taken effect. To the extent that any
7 portion of the affected area is designated as all or part of an
8 overappropriated river basin, subbasin, or reach, any temporary
9 suspension in the drilling of water wells shall be superseded by
10 the stays imposed pursuant to subsections (9) and (10) of section
11 54 of this act.

12 (5) If, before the operative date of this section, a
13 joint action plan has been adopted and implemented pursuant to
14 subsections (10) through (12) of section 46-656.28 and is in effect
15 immediately prior to such date, the department need not evaluate
16 the geographic area subject to the plan in the department's first
17 annual report issued pursuant to section 53 of this act. For
18 purposes of the Nebraska Ground Water Management and Protection
19 Act, (a) the plan adopted shall be considered an integrated
20 management plan adopted pursuant to section 58 of this act, (b) the
21 management area designated shall be considered an integrated
22 management area or subarea designated pursuant to section 58 of
23 this act, and (c) the controls adopted shall be considered controls
24 adopted pursuant to section 58 of this act and shall remain in
25 effect until amended or repealed pursuant to section 58 or 59 of
26 this act.

27 Sec. 61. Section 46-656.35, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~46-656.35.~~ Each state agency and political subdivision
2 shall promptly report to the Department of Environmental Quality
3 any information which indicates that contamination is occurring.

4 Sec. 62. Section 46-656.36, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~46-656.36.~~ If, as a result of information provided
7 pursuant to section ~~46-656.35~~ 61 of this act or studies conducted
8 by or otherwise available to the Department of Environmental
9 Quality and following preliminary investigation, the Director of
10 Environmental Quality makes a preliminary determination (1) that
11 there is reason to believe that contamination of ground water is
12 occurring or likely to occur in an area of the state in the
13 reasonably foreseeable future and (2) that the natural resources
14 district or districts in which the area is located have not
15 designated a management area or have not implemented adequate
16 controls to prevent such contamination from occurring, the
17 department shall, in cooperation with any appropriate state agency
18 and district, conduct a study to determine the source or sources of
19 the contamination and the area affected by such contamination and
20 shall issue a written report within one year of the initiation of
21 the study. During the study, the department shall consider the
22 relevant water quality portions of the management plan developed by
23 each district pursuant to sections ~~46-656.12 to 46-656.16~~ 49 to 51
24 of this act, whether the district has designated a management area
25 encompassing the area studied, and whether the district has adopted
26 any controls for the area.

27 Sec. 63. Section 46-656.37, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~46-656.37.~~ If the Director of Environmental Quality
 2 determines from the study conducted pursuant to section ~~46-656.36~~
 3 62 of this act that one or more sources of contamination are point
 4 sources, he or she shall expeditiously use the procedures
 5 authorized in the Environmental Protection Act to stabilize or
 6 reduce the level and prevent the increase or spread of such
 7 contamination.

8 Sec. 64. Section 46-656.38, Revised Statutes Supplement,
 9 2002, is amended to read:

10 ~~46-656.38.~~ If the Director of Environmental Quality
 11 determines from the study conducted pursuant to section ~~46-656.36~~
 12 62 of this act that one or more sources of contamination are not
 13 point sources and if a management area, a purpose of which is
 14 protection of water quality, has been established which includes
 15 the affected area, the Director of Environmental Quality shall
 16 consider whether to require the district which established the
 17 management area to adopt an action plan as provided in sections
 18 ~~46-656.39 to 46-656.43~~ 65 to 69 of this act.

19 If the Director of Environmental Quality determines that
 20 one or more of the sources are not point sources and if such a
 21 management area has not been established or does not include all
 22 the affected area, he or she shall, within thirty days after
 23 completion of the report required by section ~~46-656.36~~ 62 of this
 24 act, consult with the district within whose boundaries the area
 25 affected by such contamination is located and fix a time and place
 26 for a public hearing to consider the report, hear any other
 27 evidence, and secure testimony on whether a management area should
 28 be designated or whether an existing area should be modified. The

1 hearing shall be held within one hundred twenty days after
2 completion of the report. Notice of the hearing shall be given as
3 provided in section 83 of this act, and the hearing shall be
4 conducted in accordance with such section. ~~7 shall be open to the~~
5 ~~public, and shall be located within or in reasonable proximity to~~
6 ~~the area considered in the report. Notice of the hearing shall be~~
7 ~~published in a newspaper published or of general circulation in the~~
8 ~~area involved at least once each week for three consecutive weeks,~~
9 ~~the last publication to be not less than seven days prior to the~~
10 ~~hearing. The notice shall provide a general description of all~~
11 ~~areas which will be considered for inclusion in the management~~
12 ~~area.~~

13 At the hearing, all interested persons shall be allowed
14 to appear and present testimony. The Conservation and Survey
15 Division of the University of Nebraska, the Department of Health
16 and Human Services Regulation and Licensure, the Department of
17 Natural Resources, and the appropriate district may offer as
18 evidence any information in their possession which they deem
19 relevant to the purpose of the hearing. After the hearing and
20 after any studies or investigations conducted by or on behalf of
21 the Director of Environmental Quality as he or she deems necessary,
22 the director shall determine whether a management area shall be
23 designated.

24 Sec. 65. Section 46-656.39, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~46-656.39.~~ (1) When determining whether to designate or
27 modify the boundaries of a management area or to require a district
28 which has established a management area, a purpose of which is

1 protection of water quality, to adopt an action plan for the
2 affected area, the Director of Environmental Quality shall
3 consider:

4 (a) Whether contamination of ground water has occurred or
5 is likely to occur in the reasonably foreseeable future;

6 (b) Whether ground water users, including, but not
7 limited to, domestic, municipal, industrial, and agricultural
8 users, are experiencing or will experience within the foreseeable
9 future substantial economic hardships as a direct result of current
10 or reasonably anticipated activities which cause or contribute to
11 contamination of ground water;

12 (c) Whether methods are available to stabilize or reduce
13 the level of contamination;

14 (d) Whether, if a management area has been established
15 which includes the affected area, the controls adopted by the
16 district pursuant to section ~~46-656.25~~ 79 of this act as
17 administered and enforced by the district are sufficient to address
18 the ground water quality issues in the management area; and

19 (e) Administrative factors directly affecting the ability
20 to implement and carry out regulatory activities.

21 (2) If the Director of Environmental Quality determines
22 that no such area should be established, he or she shall issue an
23 order declaring that no management area shall be designated.

24 (3) If the Director of Environmental Quality determines
25 that a management area shall be established, that the boundaries of
26 an existing management area shall be modified, or that the district
27 shall be required to adopt an action plan, he or she shall consult
28 with relevant state agencies and with the district or districts

1 affected and determine the boundaries of the area, taking into
2 account the effect on political subdivisions and the socioeconomic
3 and administrative factors directly affecting the ability to
4 implement and carry out local ground water management, control, and
5 protection. The report by the Director of Environmental Quality
6 shall include the specific reasons for the creation of the
7 management area or the requirement of such an action plan and a
8 full disclosure of the possible causes.

9 (4) When the boundaries of an area have been determined
10 or modified, the Director of Environmental Quality shall issue an
11 order designating the area as a management area, specifying the
12 modified boundaries of the management area, or requiring such an
13 action plan. Such an order shall include a geographic and
14 stratigraphic definition of the area. Such order shall be
15 published in the manner provided in section 84 of this act.

16 Sec. 66. Section 46-656.40, Revised Statutes Supplement,
17 2002, is amended to read:

18 ~~46-656.40.~~ (1) Within one hundred eighty days after the
19 designation of a management area or the requiring of an action plan
20 for a management area, a purpose of which is protection of water
21 quality, the district or districts within whose boundaries the area
22 is located shall prepare an action plan designed to stabilize or
23 reduce the level and prevent the increase or spread of ground water
24 contamination. Whenever a management area or the affected area of
25 such a management area encompasses portions of two or more
26 districts, the responsibilities and authorities delegated in this
27 section shall be exercised jointly and uniformly by agreement of
28 the respective boards of all districts so affected.

1 (2) Within thirty days after an action plan has been
2 prepared, a public hearing on such plan shall be held by the
3 district. Notice of the hearing shall be given as provided in
4 section 83 of this act, and the hearing shall be conducted in
5 accordance with such section. in reasonable proximity to the area
6 to be affected. Notice of the hearing shall be published in a
7 newspaper published or of general circulation in the area involved
8 at least once each week for three consecutive weeks, the last
9 publication to be not less than seven days prior to the hearing.
10 The notice shall provide a general description of all areas to be
11 affected by the proposed action plan and shall provide the text of
12 all controls proposed for adoption by the district.

13 (3) Within thirty days after the hearing, the district
14 shall adopt and submit an action plan to the Department of
15 Environmental Quality. Notice of the district's order adopting an
16 action plan shall be published as required by section 84 of this
17 act.

18 Sec. 67. Section 46-656.41, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 ~~46-656.41.~~ An action plan filed by a district pursuant
21 to section ~~46-656.40~~ 66 of this act shall include the specifics of
22 an educational program to be instituted by the district to inform
23 persons of methods available to stabilize or reduce the level or
24 prevent the increase or spread of ground water contamination. The
25 action plan shall include one or more of the controls authorized by
26 section ~~46-656.25~~ 79 of this act.

27 Sec. 68. Section 46-656.42, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 ~~46-656.42.~~ (1) In adopting or amending an action plan
 2 authorized by subsection (2) of this section, the district's
 3 considerations shall include, but not be limited to, whether it
 4 reasonably appears that such action will mitigate or eliminate the
 5 condition which led to designation of the management area or the
 6 requirement of an action plan for a management area or will improve
 7 the administration of the area.

8 (2) The Director of Environmental Quality shall approve
 9 or deny the adoption or amendment of an action plan within one
 10 hundred twenty days after the date the plan is submitted by the
 11 district. He or she may hold a public hearing to consider
 12 testimony regarding the action plan prior to the issuance of an
 13 order approving or disapproving the adoption or amendment. In
 14 approving the adoption or amendment of the plan in such an area,
 15 considerations shall include, but not be limited to, those
 16 enumerated in subsection (1) of this section.

17 (3) If the director denies approval of an action plan by
 18 the district, the order shall list the reason the action plan was
 19 not approved. A district may submit a revised action plan within
 20 sixty days after denial of its original action plan to the director
 21 for approval subject to section ~~46-656.45~~ 71 of this act.

22 Sec. 69. Section 46-656.43, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 ~~46-656.43.~~ Following approval of the action plan by the
 25 Director of Environmental Quality, the district shall cause a copy
 26 of ~~each control~~ the order adopted pursuant to section ~~46-656.42~~ 68
 27 of this act to be published ~~once each week for three consecutive~~
 28 ~~weeks in a newspaper published or of general circulation in the~~

1 area involved, the last publication of which shall be not less than
2 seven days prior to the date when such control becomes effective in
3 the manner provided in section 84 of this act.

4 Sec. 70. Section 46-656.44, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~46-656.44.~~ Each district in which a management area has
7 been designated or an action plan for a management area has been
8 required pursuant to section ~~46-656.39~~ 65 of this act shall, in
9 cooperation with the Department of Environmental Quality, establish
10 a program to monitor the quality of the ground water in the area
11 and shall if appropriate provide each landowner or operator of an
12 irrigation system with current information available with respect
13 to fertilizer and chemical usage for the specific soil types
14 present and cropping patterns used.

15 Sec. 71. Section 46-656.45, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~46-656.45.~~ (1) The power to specify controls authorized
18 by section ~~46-656.25~~ 79 of this act shall vest in the Director of
19 Environmental Quality if (a) at the end of one hundred eighty days
20 following the designation of a management area or the requiring of
21 an action plan for a management area pursuant to section ~~46-656.39~~
22 65 of this act, a district encompassed in whole or in part by the
23 management area has not completed and adopted an action plan, (b) a
24 district does not submit a revised action plan within sixty days
25 after denial of its original action plan, or (c) the district
26 submits a revised action plan which is not approved by the
27 director.

28 (2) If the power to specify controls in such a management

1 area is vested in the Director of Environmental Quality, he or she
2 shall within ninety days adopt and promulgate by rule and
3 regulation such measures as he or she deems necessary for carrying
4 out the intent of the Nebraska Ground Water Management and
5 Protection Act. He or she shall conduct one or more public
6 hearings prior to the adoption of controls. Notice of any such
7 additional hearings shall be given in the manner provided in
8 section ~~46-656.40~~ 83 of this act. The enforcement of controls
9 adopted pursuant to this section shall be the responsibility of the
10 Department of Environmental Quality.

11 Sec. 72. Section 46-656.46, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~46-656.46.~~ The controls in the action plan approved by
14 the Director of Environmental Quality pursuant to section ~~46-656.42~~
15 68 of this act shall be exercised by the district for the period of
16 time necessary to stabilize or reduce the level of contamination
17 and prevent the increase or spread of ground water contamination.
18 An action plan may be amended by the same method utilized in the
19 adoption of the action plan.

20 Sec. 73. Section 46-656.47, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~46-656.47.~~ A district may petition the Director of
23 Environmental Quality to remove the director's designation of the
24 area as a management area or the requirement of an action plan for
25 a management area or to modify the boundaries of a management area
26 designated pursuant to section ~~46-656.39~~ 65 of this act. If the
27 director determines that the level of contamination in a management
28 area has stabilized at or been reduced to a level which is not

1 detrimental to beneficial uses of ground water, he or she may
2 remove the designation or action plan requirement or modify the
3 boundaries of the management area.

4 Sec. 74. Section 46-656.48, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 ~~46-656.48.~~ The Environmental Quality Council shall adopt
7 and promulgate, in accordance with the Administrative Procedure
8 Act, such rules and regulations as are necessary to the discharge
9 of duties under sections ~~46-656.35 to 46-656.47~~ 61 to 73 of this
10 act.

11 Sec. 75. Section 46-656.29, Revised Statutes Supplement,
12 2003, is amended to read:

13 ~~46-656.29.~~ (1) Any person who intends to construct a
14 water well in a management area in this state on land which he or
15 she owns or controls shall, before commencing construction, apply
16 with the district in which the water well will be located for a
17 permit on forms provided by the district, except that (a) no permit
18 shall be required for test holes or dewatering wells with an
19 intended use of ninety days or less, (b) no permit shall be
20 required for a single water well designed and constructed to pump
21 fifty gallons per minute or less, and (c) a district may provide by
22 rule and regulation that a permit need not be obtained for water
23 wells defined by the district to be replacement water wells. A
24 district may require a permit for a water well designed and
25 constructed to pump fifty gallons per minute or less if such water
26 well is commingled, combined, clustered, or joined with any other
27 water well or wells or other water source, other than a water
28 source used to water range livestock. Such wells shall be

1 considered one water well and the combined capacity shall be used
2 as the rated capacity. A district may by rule and regulation
3 require that a permit be obtained for each water well or for one or
4 more categories of water wells designed and constructed to pump
5 fifty gallons per minute or less, other than a water source
6 required for human needs as it relates to health, fire control, and
7 sanitation or used to water range livestock, in ground water
8 management areas in which regulations have been imposed to control
9 declining ground water levels. Forms shall be made available at
10 each district in which a management area is located, in whole or in
11 part, and at such other places as may be deemed appropriate. The
12 district shall review such application and issue or deny the permit
13 within thirty days after the application is filed.

14 (2) A person shall apply for a permit under this section
15 before he or she modifies a water well for which a permit was not
16 required under subsection (1) of this section into one for which a
17 permit would otherwise be required under such subsection.

18 (3) The application shall be accompanied by a
19 fifty-dollar filing fee payable to the district and shall contain
20 (a) the name and post office address of the applicant or
21 applicants, (b) the nature of the proposed use, (c) the intended
22 location of the proposed water well or other means of obtaining
23 ground water, (d) the intended size, type, and description of the
24 proposed water well and the estimated depth, if known, (e) the
25 estimated capacity in gallons per minute, (f) the acreage and
26 location by legal description of the land involved if the water is
27 to be used for irrigation, (g) a description of the proposed use if
28 other than for irrigation purposes, (h) the registration number of

1 the water well being replaced if applicable, and (i) such other
2 information as the district requires.

3 (4) Any person who has failed or in the future fails to
4 obtain a permit required by subsection (1) or (2) of this section
5 shall make application for a late permit on forms provided by the
6 district.

7 (5) The application for a late permit shall be
8 accompanied by a two-hundred-fifty-dollar fee payable to the
9 district and shall contain the same information required in
10 subsection (3) of this section.

11 Sec. 76. Section 46-656.30, Revised Statutes Supplement,
12 2003, is amended to read:

13 ~~46-656.30.~~ An application for a permit or late permit
14 for a water well in a management area shall be denied only if the
15 district in which the water well is to be located finds (1) that
16 the location or operation of the proposed water well or other work
17 would conflict with any regulations or controls adopted by the
18 district, (2) that the proposed use would not be a beneficial use
19 of water, or (3) in the case of a late permit only, that the
20 applicant did not act in good faith in failing to obtain a timely
21 permit.

22 If the district finds that the application is incomplete
23 or defective, it shall return the application for correction. If
24 the correction is not made within sixty days, the application shall
25 be canceled. All permits shall be issued with or without
26 conditions attached or denied not later than thirty days after
27 receipt by the district of a complete and properly prepared
28 application.

1 A permit issued shall specify all regulations and
2 controls adopted by a district relevant to the construction or
3 utilization of the proposed water well. No refund of any
4 application fees shall be made regardless of whether the permit is
5 issued, canceled, or denied. The district shall transmit one copy
6 of each permit issued to the Director of Natural Resources.

7 Sec. 77. Section 46-656.31, Revised Statutes Supplement,
8 2002, is amended to read:

9 ~~46-656.31.~~ The issuance by the district of a permit
10 pursuant to section ~~46-656.30~~ 76 of this act or registration of a
11 water well by the Director of Natural Resources pursuant to section
12 46-602 shall not vest in any person the right to violate any
13 district rule, regulation, or control in effect on the date of
14 issuance of the permit or the registration of the water well or to
15 violate any rule, regulation, or control properly adopted after
16 such date.

17 Sec. 78. Section 46-656.32, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~46-656.32.~~ When any permit is approved pursuant to
20 section ~~46-656.30~~ 76 of this act, the applicant shall commence
21 construction as soon as possible after the date of approval and
22 shall complete the construction and equip the water well prior to
23 the date specified in the conditions of approval, which date shall
24 be not more than one year after the date of approval, unless it is
25 clearly demonstrated in the application that one year is an
26 insufficient period of time for such construction. If the
27 applicant fails to complete the project under the terms of the
28 permit, the district may withdraw the permit.

1 Sec. 79. Section 46-656.25, Revised Statutes Supplement,
2 2002, is amended to read:

3 ~~46-656.25.~~ (1) A district in which a management area has
4 been designated shall by order adopt one or more of the following
5 controls for the management area:

6 (a) It may ~~determine the permissible total withdrawal of~~
7 ~~ground water for each day, month, or year and allocate such~~
8 ~~withdrawal among the ground water users~~ allocate the amount of
9 ground water that may be withdrawn by ground water users;

10 (b) It may adopt a system of rotation for use of ground
11 water;

12 (c) It may adopt well-spacing requirements more
13 restrictive than those found in sections 46-609 and 46-651;

14 (d) It may require the installation of devices for
15 measuring ground water withdrawals from water wells;

16 (e) It may adopt a system which requires reduction of
17 irrigated acres pursuant to subsection (2) of section ~~46-656.26~~ 80
18 of this act;

19 (f) It may limit or prevent the expansion of irrigated
20 acres or otherwise limit or prevent increases in the consumptive
21 use of ground water withdrawals from water wells used for
22 irrigation or other beneficial purposes;

23 (g) It may require the use of best management practices;

24 (h) It may require the analysis of water or deep soils
25 for fertilizer and chemical content;

26 (i) It may ~~provide educational requirements, including~~
27 impose mandatory educational requirements, designed to protect
28 water quality or to stabilize or reduce the incidence of ground

1 water depletion, conflicts between ground water users and surface
2 water appropriators, disputes over interstate compacts or decrees,
3 or difficulties fulfilling the provisions of other formal state
4 contracts or agreements;

5 (j) It may require water quality monitoring and reporting
6 of results to the district for all water wells within all or part
7 of the management area;

8 (k) It may require district approval of (i) transfers of
9 ground water off the land where the water is withdrawn or (ii)
10 transfers of rights to use ground water that result from district
11 allocations imposed pursuant to subdivision (1) (a) of this section
12 or from other restrictions on use that are imposed by the district
13 in accordance with this section. Such approval may be required
14 whether the transfer is within the management area, from inside to
15 outside the management area, or from outside to inside the
16 management area, except that transfers for which permits have been
17 obtained from the Department of Natural Resources prior to the
18 operative date of this section or pursuant to the Municipal and
19 Rural Domestic Ground Water Transfers Permit Act shall not be
20 subject to district approval pursuant to this subdivision. If the
21 district adopts rules and regulations pursuant to this subdivision,
22 such regulations shall require that the district deny or condition
23 the approval of any such transfer when and to the extent such
24 action is necessary to (A) ensure the consistency of the transfer
25 with the purpose or purposes for which the management area was
26 designated, (B) prevent adverse effects on other ground water users
27 or on surface water appropriators, (C) prevent adverse effects on
28 the state's ability to comply with an interstate compact or decree

1 or to fulfill the provisions of any other formal state contract or
 2 agreement, and (D) otherwise protect the public interest and
 3 prevent detriment to the public welfare;

4 (1) It may require, when conditions so permit, that new
 5 or replacement water wells to be used for domestic or other
 6 purposes shall be constructed to such a depth that they are less
 7 likely to be affected by seasonal water level declines caused by
 8 other water wells in the same area;

9 (m) It may close all or a portion of the management area
 10 to the issuance of additional permits or may condition the issuance
 11 of additional permits on compliance with other rules and
 12 regulations adopted and promulgated by the district to achieve the
 13 purpose or purposes for which the management area was designated;
 14 and - This subdivision may be implemented whenever the district
 15 determines the impact on surface water supplies or the depletion or
 16 contamination of the ground water supply in the management area or
 17 any portion of the management area cannot be protected through
 18 implementation of reasonable controls specified in subdivisions
 19 ~~(1)(a) through (1)(j) of this section, and~~

20 ~~(1)~~ (n) It may adopt and promulgate such other reasonable
 21 rules and regulations as are necessary to carry out the purpose for
 22 which a management area was designated.

23 (2) In adopting, amending, or repealing any control
 24 authorized by subsection (1) of this section or sections ~~46-656.26~~
 25 ~~and 46-656.27~~ 80 and 81 of this act, the district's considerations
 26 shall include, but not be limited to, whether it reasonably appears
 27 that such action will mitigate or eliminate the condition which led
 28 to designation of the management area or will improve the

1 administration of the area.

2 (3) Upon request by the district or when any of the
3 controls being proposed are for the purpose of integrated
4 management of hydrologically connected ground water and surface
5 water, the Director of Natural Resources shall review and comment
6 on the adoption, amendment, or repeal of any authorized control in
7 a management area. The director may hold a public hearing to
8 consider testimony regarding the control prior to commenting on the
9 adoption, amendment, or repeal of the control. The director shall
10 consult with the district and fix a time, place, and date for such
11 hearing. In reviewing and commenting on an authorized control in a
12 management area, the director's considerations shall include, but
13 not be limited to, those enumerated in subsection (2) of this
14 section.

15 (4) If because of varying ground water uses, varying
16 surface water uses, different irrigation distribution systems, or
17 varying climatic, hydrologic, geologic, or soil conditions existing
18 within a management area the uniform application throughout such
19 area of one or more controls would fail to carry out the intent of
20 the Nebraska Ground Water Management and Protection Act in a
21 reasonably effective and equitable manner, the controls adopted by
22 the district pursuant to this section may contain different
23 provisions for different categories of ground water use or portions
24 of the management area which differ from each other because of
25 varying climatic, hydrologic, geologic, or soil conditions. Any
26 differences in such provisions shall recognize and be directed
27 toward such varying ground water uses or varying conditions.
28 ~~Except as otherwise provided in this section, the provisions of all~~

1 controls for different categories of ground water use shall be
2 uniform for all portions of the area which have substantially
3 similar climatic, hydrologic, geologic, and soil conditions Except
4 as otherwise provided in this section, if the district adopts
5 different controls for different categories of ground water use,
6 those controls shall be consistent with section 46-613 and shall,
7 for each such category, be uniform for all portions of the area
8 which have substantially similar climatic, hydrologic, geologic,
9 and soil conditions.

10 (5) The district may establish different water
11 allocations for different irrigation distribution systems.

12 (6) (a) The district may establish different provisions
13 for different hydrologic relationships between ground water and
14 surface water.

15 (b) For management areas a purpose of which is the
16 integrated management of hydrologically connected ground water and
17 surface water, the district may establish different provisions for
18 water wells constructed before the designation of a management area
19 for integrated management of hydrologically connected ground water
20 and surface water and for water wells constructed on or after the
21 designation date or any other later date or dates established by
22 the district.

23 (c) For a management area in a river basin or part of a
24 river basin that is or was the subject of litigation over an
25 interstate water compact or decree in which the State of Nebraska
26 is a named defendant, the district may establish different
27 provisions for restriction of water wells constructed after January
28 1, 2001, if such litigation was commenced before or on May 22,

1 2001. If such litigation is commenced after May 22, 2001, the
2 district may establish different provisions for restriction of
3 water wells constructed after the date on which such litigation is
4 commenced in federal court. An appeal from a decision of the
5 district under this subdivision shall be in accordance with the
6 hearing procedures established in the Nebraska Ground Water
7 Management and Protection Act.

8 (d) ~~The~~ Except as otherwise authorized by law, the
9 district shall make a replacement water well as defined in section
10 46-602, or as further defined in district rules and regulations,
11 subject to the same provisions as the water well it replaces.

12 (7) If the district has included controls delineated in
13 subdivision ~~(1)(k)~~ (1)(m) of this section in its management plan,
14 but has not implemented such controls within two years after the
15 initial public hearing on the controls, the district shall hold a
16 public hearing, as provided in section ~~46-656.19~~ 52 of this act,
17 regarding the controls before implementing them.

18 (8) Whenever a management area designated under section
19 ~~46-656.39~~ 52 or 65 of this act or ~~46-656.52~~ sections 53 to 59 of
20 this act encompasses portions of two or more districts, the
21 responsibilities and authorities delegated in this section and
22 sections ~~46-656.26 and 46-656.27~~ 80 and 81 of this act shall be
23 exercised jointly and uniformly by agreement of the respective
24 boards of all districts so affected. Whenever management areas
25 designated by two or more districts adjoin each other, the
26 districts are encouraged to exercise the responsibilities and
27 authorities jointly and uniformly by agreement of the respective
28 boards.

1 (9) For the purpose of determining whether conflicts
2 exist between ground water users and surface water appropriators,
3 surface water appropriators under the Nebraska Ground Water
4 Management and Protection Act does not include holders of instream
5 flow appropriations under sections ~~46-2,107~~ to ~~46-2,119~~. In
6 addition to the controls listed in subsection (1) of this section,
7 a district in which a management area has been designated may also
8 adopt and implement one or more of the following measures if it
9 determines that any such measures would help the district and water
10 users achieve the goals and objectives of the management area: (a)
11 It may sponsor nonmandatory educational programs; and (b) it may
12 establish and implement financial or other incentive programs. As
13 a condition for participation in an incentive program, the district
14 may require water users or landowners to enter into and perform
15 such agreements or covenants concerning the use of land or water as
16 are necessary to produce the benefits for which the incentive
17 program is established.

18 Sec. 80. Section 46-656.26, Revised Statutes Supplement,
19 2002, is amended to read:

20 ~~46-656.26.~~ (1) If allocation is adopted for use of
21 ground water for irrigation purposes in a management area, the
22 permissible withdrawal of ground water shall be allocated equally
23 per irrigated acre except as permitted by subsections (4) through
24 (6) of section ~~46-656.25~~ 79 of this act. Such allocation shall
25 specify the total number of acre-inches that are allocated per
26 irrigated acre per year, except that the district may allow a
27 ground water user to average his or her allocation over any
28 reasonable period of time. A ground water user may use his or her

1 allocation on all or any part of the irrigated acres to which the
2 allocation applies or in any other manner approved by the district.

3 (2) ~~if~~ Except as permitted pursuant to subsections (4)
4 through (6) of section 79 of this act, if annual rotation or
5 reduction of irrigated acres is adopted for use of ground water for
6 irrigation purposes in a management area, the nonuse of irrigated
7 acres shall be a uniform percentage reduction of each landowner's
8 irrigated acres within the management area or a subarea of the
9 management area. Such uniform reduction may be adjusted for each
10 landowner based upon crops grown on his or her land to reflect the
11 varying consumptive requirements between crops.

12 Sec. 81. Section 46-656.27, Revised Statutes Supplement,
13 2002, is amended to read:

14 ~~46-656.27.~~ A district may review any allocation,
15 rotation, or reduction control imposed in a management area and
16 shall adjust allocations, rotations, or reductions to accommodate
17 new or additional uses or otherwise reflect findings of such
18 review, consistent with the ground water management objectives.
19 Such review shall consider new development or additional ground
20 water uses within the area, more accurate data or information that
21 was not available at the time of the allocation, rotation, or
22 reduction order, the availability of supplemental water supplies,
23 any changes in ground water recharge, and such other factors as the
24 district deems appropriate.

25 Sec. 82. Section 46-656.24, Revised Statutes Supplement,
26 2003, is amended to read:

27 ~~46-656.24.~~ (1) Whenever a natural resources district
28 ~~pursuant to subsection (16) of section 46-656.28 has temporarily~~

1 ~~suspended~~ the drilling of new wells in all or part of the district
2 has been stayed pursuant to section 54 of this act, ground water
3 withdrawn outside the affected area shall not be transported for
4 use inside such area unless (a) such withdrawal and transport began
5 before the ~~temporary suspension stay~~ took effect, (b) the water is
6 used solely for domestic purposes, or (c) such withdrawal and
7 transport is approved in advance by the district ~~imposing the~~
8 temporary suspension in which the stay is in effect and, if the
9 water is withdrawn in another natural resources district, by the
10 other district.

11 (2) Whenever a natural resources district pursuant to
12 subdivision ~~(1)(k)~~ (1)(m) of section ~~46-656.25~~ 79 of this act has
13 closed all or part of the district to the issuance of additional
14 well permits, ground water withdrawn outside the affected area
15 shall not be transported for use inside such area unless (a) such
16 withdrawal and transport began before the affected area was closed
17 to the issuance of additional well permits, (b) the water is used
18 solely for domestic purposes, or (c) such withdrawal and transport
19 is approved in advance by the district that closed the affected
20 area to additional well permits and, if the water is withdrawn in
21 another natural resources district, by the other district.

22 (3) If a proposed withdrawal and transport of water under
23 subsection (1) or (2) of this section is intended for municipal
24 purposes, the natural resources district shall approve the
25 withdrawal and transport of ground water into the affected area
26 when a public water supplier providing water for municipal purposes
27 receives a permit from the Department of Natural Resources pursuant
28 to the Municipal and Rural Domestic Ground Water Transfers Permit

1 Act.

2 Sec. 83. Any public hearing required under the Nebraska
3 Ground Water Management and Protection Act shall comply with the
4 following requirements:

5 (1) The hearing shall be located within or in reasonable
6 proximity to the area proposed for designation as a management area
7 or affected by the proposed rule or regulation;

8 (2) Notice of the hearing shall be published in a
9 newspaper published or of general circulation in the affected area
10 at least once each week for three consecutive weeks, the last
11 publication of which shall be not less than seven days prior to the
12 hearing;

13 (3) As to the designation of a management area, adoption
14 or amendment of an action plan or integrated management plan, or
15 adoption or amendment of controls, the notice shall provide, as
16 applicable, a general description of (a) the contents of the plan,
17 (b) the geographic area which will be considered for inclusion in
18 the management area, and (c) a general description of all controls
19 proposed for adoption or amendment and shall identify all locations
20 where a copy of the full text of the proposed plan or controls may
21 be obtained;

22 (4) For all other rules and regulations, the notice shall
23 provide a general description of the contents of the rules and
24 regulations proposed for adoption or amendment and shall identify
25 all locations where a copy of the full text of the proposed rules
26 and regulations may be obtained;

27 (5) The full text of all controls, rules, or regulations
28 shall be available to the public upon request not later than the

1 date of first publication;

2 (6) All interested persons shall be allowed to appear and
3 present testimony; and

4 (7) The hearing shall include testimony of a
5 representative of the Department of Natural Resources and, if the
6 primary purpose of the proposed management area is protection of
7 water quality, testimony of a representative of the Department of
8 Environmental Quality and shall include the results of any relevant
9 water quality studies or investigations conducted by the district.

10 Sec. 84. Section 46-656.21, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~46-656.21. The district shall cause a copy of any Any~~
13 order adopted pursuant to section 46-656.20 to 52, 58, 59, 65, or
14 66 of this act shall be published once each week for three
15 consecutive weeks in a local newspaper published or of general
16 circulation in the area involved, the last publication of which
17 shall be not less than seven days prior to the date set for the
18 effective date of the order. The publication shall provide a
19 general description of the text of all controls adopted or amended
20 by the district and shall identify all locations where a copy of
21 the full text of the proposed controls may be obtained. The full
22 text of all controls adopted shall be available to the public upon
23 request at least thirty days prior to the effective date of the
24 controls.

25 Such order shall become effective on the date specified
26 by the adopting district, department, or board, as applicable.

27 Sec. 85. Section 46-656.10, Revised Statutes Supplement,
28 2003, is amended to read:

1 ~~46-656.10.~~ (1) Any person who violates a cease and
2 desist order issued by a district pursuant to section ~~46-656.08~~ 47
3 of this act shall be subject to a civil penalty of not less than
4 one thousand dollars and not more than five thousand dollars for
5 each day an intentional violation occurs. In assessing the amount
6 of the civil penalty, the court shall consider the degree and
7 extent of the violation, the size of the operation, whether the
8 violator has been previously convicted or subjected to a civil
9 penalty under this section, and any economic benefit derived from
10 noncompliance. Any civil penalty assessed and unpaid shall
11 constitute a debt to the state which may be collected in the manner
12 of a lien foreclosure or sued for and recovered in a proper form of
13 action in the name of the state in the district court of the county
14 in which the violator resides or owns property. The court shall,
15 within thirty days after receipt, remit the civil penalty to the
16 State Treasurer for credit to the permanent school fund.

17 (2) (a) Prior to issuing a cease and desist order against
18 a public water supplier as defined in section 46-638, the district
19 shall consult with the Attorney General. If the Attorney General
20 determines that the district does not have sufficient grounds to
21 issue a cease and desist order, the district shall abide by such
22 determination and shall not issue a cease and desist order. The
23 Attorney General shall have exclusive authority to enforce actions
24 under this subsection.

25 (b) Any determination as to whether a water well is
26 properly registered under sections 46-602 to 46-604 or whether a
27 water well is properly permitted under the Municipal and Rural
28 Domestic Ground Water Transfers Permit Act shall be made by the

1 Department of Natural Resources.

2 (3) When the Attorney General, a county attorney, or a
3 private attorney brings an action on behalf of a district to
4 recover a civil penalty under this section, the district shall
5 recover the costs of the action if a civil penalty is awarded. Any
6 recovered costs of the action shall be: (a) Remitted to the State
7 Treasurer for credit to the Department of Justice Natural Resources
8 Enforcement Fund if the action is brought by the Attorney General;
9 (b) credited to the applicable county fund if the action is brought
10 by the county attorney; and (c) remitted to the district if the
11 action is brought by the district's private attorney.

12 (4) The Department of Justice Natural Resources
13 Enforcement Fund is created. The fund shall consist of money
14 credited pursuant to subsection (3) of this section. Money in the
15 fund shall be used to reimburse the office of the Attorney General
16 for the costs incurred in enforcing this section. Any money in the
17 fund available for investment shall be invested by the state
18 investment officer pursuant to the Nebraska Capital Expansion Act
19 and the Nebraska State Funds Investment Act.

20 Sec. 86. Section 46-656.63, Revised Statutes Supplement,
21 2002, is amended to read:

22 ~~46-656.63.~~ (1) Any person who violates any cease and
23 desist order issued by a district pursuant to section 47 of this
24 act or any controls, rules, or regulations adopted by a natural
25 resources district relating to a management area shall be subject
26 to the imposition of penalties imposed through the controls adopted
27 by the district, including, but not limited to, having any
28 allocation of water granted or irrigated acres certified by the

1 district reduced in whole or in part. Before a district takes any
2 action, notice and hearing shall be provided to such person.

3 (2) Any person who violates any of the provisions of
4 sections ~~46-656.35 to 46-656.62~~ 61 to 73 of this act for which a
5 penalty is not otherwise provided, other than the requirements
6 imposed on a district, the Director of Natural Resources, or the
7 Department of Natural Resources, shall be subject to a civil
8 penalty of not more than five hundred dollars. Each day of
9 continued violation shall constitute a separate offense.

10 Sec. 87. Section 46-656.64, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 ~~46-656.64.~~ All hearings conducted pursuant to the
13 Nebraska Ground Water Management and Protection Act shall be of
14 record and available for review.

15 Sec. 88. Section 46-656.62, Revised Statutes Supplement,
16 2002, is amended to read:

17 ~~46-656.62.~~ The Director of Natural Resources shall adopt
18 and promulgate, in accordance with the Administrative Procedure
19 Act, such rules and regulations as are necessary to the discharge
20 of duties assigned to the director or the Department of Natural
21 Resources by the Nebraska Ground Water Management and Protection
22 Act.

23 Sec. 89. Section 46-656.65, Revised Statutes Supplement,
24 2002, is amended to read:

25 ~~46-656.65.~~ In the administration of the Nebraska Ground
26 Water Management and Protection Act, all actions of the Director of
27 Environmental Quality, the Director of Natural Resources, and the
28 districts shall be consistent with the provisions of section

1 46-613.

2 Sec. 90. Section 46-656.66, Revised Statutes Supplement,
3 2002, is amended to read:

4 ~~46-656.66.~~ Any person aggrieved by any order of the
5 district, the Director of Environmental Quality, or the Director of
6 Natural Resources issued pursuant to the Nebraska Ground Water
7 Management and Protection Act may appeal the order. The appeal
8 shall be in accordance with the Administrative Procedure Act.

9 Sec. 91. Section 46-656.33, Revised Statutes Supplement,
10 2002, is amended to read:

11 ~~46-656.33.~~ All fees paid to the Director of Natural
12 Resources ~~in accordance with the terms of~~ pursuant to the Nebraska
13 Ground Water Management and Protection Act shall be ~~paid into~~
14 remitted to the State Treasurer for credit to the Ground Water
15 Management Fund which is hereby created and which shall be
16 administered by the director. Any money credited to the fund may
17 be utilized by the director for payments of expenses incurred in
18 the administration of the act. Any money in the fund available for
19 investment shall be invested by the state investment officer
20 pursuant to the Nebraska Capital Expansion Act and the Nebraska
21 State Funds Investment Act.

22 Sec. 92. Section 46-656.67, Revised Statutes Supplement,
23 2002, is amended to read:

24 ~~46-656.67.~~ The Interrelated Water Management Fund is
25 created. The State Treasurer shall credit to the fund, for the
26 purpose of conducting studies to determine the cause of current or
27 potential conflicts between ground water users and surface water
28 appropriators, disputes over interstate compacts or decrees, or

1 difficulties fulfilling the provisions of other formal state
2 contracts and agreements, such money as is specifically
3 appropriated and such funds, fees, donations, gifts, or services or
4 devises or bequests of real or personal property received by the
5 Department of Natural Resources from any federal, state, public, or
6 private source, to be used by the department for the purpose of
7 funding studies as described in this section. The department may
8 use its budget authority to request appropriations specifically for
9 the purpose of funding studies described in this section. The
10 department shall allocate money from the fund for use by the
11 department, by any state agency, board, or commission, or by any
12 political subdivision of the state, by agreement, or by private
13 organizations or firms as may be contracted with by the department.
14 Any money in the fund available for investment shall be invested by
15 the state investment officer pursuant to the Nebraska Capital
16 Expansion Act and the Nebraska State Funds Investment Act.

17 Sec. 93. (1) The Water Resources Trust Fund is created.
18 The State Treasurer shall credit to the fund such money as is
19 specifically appropriated thereto by the Legislature and such
20 funds, fees, donations, gifts, or bequests received by the
21 Department of Natural Resources from any federal, state, public, or
22 private source for expenditure for the purposes described in the
23 Nebraska Ground Water Management and Protection Act. Money in the
24 fund shall not be subject to any fiscal-year limitation or lapse
25 provision of unexpended balance at the end of any fiscal year or
26 biennium. Any money in the fund available for investment shall be
27 invested by the state investment officer pursuant to the Nebraska
28 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 (2) The fund shall be administered by the department.
2 The department shall adopt and promulgate rules and regulations
3 regarding the allocation and expenditure of money from the fund.

4 (3) Money in the fund may be expended by the department
5 for costs incurred by the department, by natural resources
6 districts, or by other political subdivisions in (a) determining
7 whether river basins, subbasins, or reaches are fully appropriated
8 in accordance with section 53 of this act, (b) developing or
9 implementing integrated management plans for such fully
10 appropriated river basins, subbasins, or reaches or for river
11 basins, subbasins, or reaches designated as overappropriated in
12 accordance with section 53 of this act, (c) developing or
13 implementing integrated management plans in river basins,
14 subbasins, or reaches which have not yet become either fully
15 appropriated or overappropriated, or (d) attaining state compliance
16 with an interstate water compact or decree or other formal state
17 contract or agreement.

18 (4) Except for funds paid to a political subdivision for
19 forgoing or reducing its own water use or for implementing projects
20 or programs intended to aid the state in complying with an
21 interstate water compact or decree or other formal state contract
22 or agreement, a political subdivision that receives funds from the
23 fund shall provide, or cause to be provided, matching funds in an
24 amount at least equal to twenty percent of the amount received from
25 the fund by that natural resources district or political
26 subdivision. The department shall monitor programs and activities
27 funded by the fund to ensure that the required match is being
28 provided.

1 Sec. 94. Section 46-676, Revised Statutes Supplement,
2 2002, is amended to read:

3 46-676. For purposes of the Industrial Ground Water
4 Regulatory Act:

5 (1) The definitions found in section ~~46-656.07~~ 46 of this
6 act are used;

7 (2) Department means the Department of Natural Resources;
8 and

9 (3) Director means the Director of Natural Resources.

10 Sec. 95. Section 46-678.01, Revised Statutes Supplement,
11 2002, is amended to read:

12 46-678.01. Any person who desires to withdraw and
13 transfer a total of less than one hundred fifty acre-feet of ground
14 water per year from aquifers located in the State of Nebraska for
15 industrial purposes to other property within the state which is
16 owned or leased by such person shall provide written notice to the
17 department and install a water meter or meters that meet the
18 approval of the department. Such notice shall include the amount
19 of the proposed transfer, the point of withdrawal, and the point of
20 delivery and shall be published once each week for three
21 consecutive weeks in a newspaper of general circulation in the
22 county or counties in which the point of withdrawal is located.
23 The withdrawal and transfer may be made without a permit issued
24 under the Industrial Ground Water Regulatory Act so long as (1) the
25 property which includes the point of withdrawal and the property
26 which includes the point of delivery are owned or leased by the
27 same person, (2) the water is used by such person, and (3) a total
28 of less than one hundred fifty acre-feet of ground water per year

1 is transferred from all sources to the property which includes the
2 point of delivery.

3 Sec. 96. Section 46-680, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 46-680. (1) After the director has accepted the
6 application made under section 46-677 as a completed application,
7 the director shall ~~set a time and place for a public hearing on the~~
8 ~~application. The hearing shall be held within or in reasonable~~
9 ~~proximity to the area in which the water wells would be located.~~
10 ~~The hearing shall be scheduled within ninety days after the~~
11 ~~application is accepted by the director~~ cause a notice of such
12 application to be published at the applicant's expense at least
13 once a week for three consecutive weeks in a legal newspaper
14 published or of general circulation in each county containing land
15 on which one or more water wells are proposed to be located. The
16 notice shall include (a) the amount of ground water the applicant
17 proposes to use, (b) a description of the proposed use and location
18 of that use, (c) the number of water wells proposed at each
19 location of withdrawal, and (d) any other information deemed
20 necessary by the director to provide adequate notice of the
21 application to interested persons. The notice shall state that any
22 interested person may object to and request a hearing on the
23 application by filing written objections stating the grounds for
24 each objection within two weeks after the date of final publication
25 of the notice. Such objections shall be filed in the headquarters
26 office of the department.

27 (2) The director may hold a hearing on an application
28 made under section 46-677 at his or her discretion and shall hold a

1 hearing on such an application if requested by any interested
2 person pursuant to subsection (1) of this section.

3 Sec. 97. (1) Any person intending to withdraw ground
4 water from any water well located in the State of Nebraska,
5 transport that water off the overlying land, and use it to augment
6 water supplies in any Nebraska wetland or natural stream for the
7 purpose of benefiting fish or wildlife or producing other
8 environmental or recreational benefits may do so only if the
9 natural resources district in which the water well is or would be
10 located allows withdrawals and transport for such purposes and only
11 after applying for and obtaining a permit from such natural
12 resources district. An application for any such permit shall be
13 accompanied by a nonrefundable fee of fifty dollars payable to such
14 district. Such permit shall be in addition to any permit required
15 pursuant to section 75 of this act.

16 (2) Prior to taking action on an application pursuant to
17 this section, the district shall provide an opportunity for public
18 comment on such application at a regular or special board meeting
19 for which advance published notice of the meeting and the agenda
20 therefor have been given consistent with the Open Meetings Act.

21 (3) In determining whether to grant a permit under this
22 section, the board of directors for the natural resources district
23 shall consider:

24 (a) Whether the proposed use is a beneficial use of
25 ground water;

26 (b) The availability to the applicant of alternative
27 sources of surface water or ground water for the proposed
28 withdrawal, transport, and use;

1 (c) Any negative effect of the proposed withdrawal,
2 transport, and use on ground water supplies needed to meet present
3 or reasonable future demands for water in the area of the proposed
4 withdrawal, transport, and use, to comply with any interstate
5 compact or decree, or to fulfill the provisions of any other formal
6 state contract or agreement;

7 (d) Any negative effect of the proposed withdrawal,
8 transport, and use on surface water supplies needed to meet present
9 or reasonable future demands for water within the state, to comply
10 with any interstate compact or decree, or to fulfill the provisions
11 of any other formal state contract or agreement;

12 (e) Any adverse environmental effect of the proposed
13 withdrawal, transport, and use of the ground water;

14 (f) The cumulative effects of the proposed withdrawal,
15 transport, and use relative to the matters listed in subdivisions
16 (3)(c) through (e) of this section when considered in conjunction
17 with all other withdrawals, transports, and uses subject to this
18 section;

19 (g) Whether the proposed withdrawal, transport, and use
20 is consistent with the district's ground water quantity and quality
21 management plan and with any integrated management plan previously
22 adopted or being considered for adoption in accordance with
23 sections 53 to 59 of this act; and

24 (h) Any other factors consistent with the purposes of
25 this section which the board of directors deems relevant to protect
26 the interests of the state and its citizens.

27 (4) Issuance of a permit shall be conditioned on the
28 applicant's compliance with the rules and regulations of the

1 natural resources district from which the water is to be withdrawn
2 and, if the location where the water is to be used to produce the
3 intended benefits is in a different natural resources district,
4 with the rules and regulations of that natural resources district.
5 The board of directors may include such reasonable conditions on
6 the proposed withdrawal, transport, and use as it deems necessary
7 to carry out the purposes of this section.

8 (5) The applicant shall be required to provide access to
9 his or her property at reasonable times for purposes of inspection
10 by officials of any district where the water is to be withdrawn or
11 to be used.

12 Sec. 98. Section 46-1207.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 46-1207.01. (1) Illegal water well shall mean any water
15 well which has not been properly decommissioned and which meets any
16 of the following conditions:

17 (a) The water well is in such a condition that it cannot
18 be placed in active or inactive status;

19 (b) Any necessary operating equipment has been removed
20 and the well has not been placed in inactive status;

21 (c) The water well is in such a state of disrepair that
22 continued use for the purpose for which it was constructed is
23 impractical;

24 (d) The water well was constructed after October 1, 1986,
25 but not constructed by a licensed water well contractor or by an
26 individual on land owned by him or her and used by him or her for
27 farming, ranching, or agricultural purposes or as his or her place
28 of abode;

- 1 (e) The water well poses a health or safety hazard; ~~or~~
- 2 (f) The water well is an illegal water well in accordance
- 3 with section ~~46-656.07~~ 46 of this act; or
- 4 (g) The water well has been constructed after October 1,
- 5 1986, and such well is not in compliance with the standards
- 6 developed under the Water Well Standards and Contractors' Licensing
- 7 Act.

8 (2) Whenever the department classifies a water well as an

9 illegal water well, the landowner may petition the department to

10 reclassify the water well as an active status water well, an

11 inactive status water well, or an abandoned water well.

12 Sec. 99. Section 46-1207.02, Reissue Revised Statutes of

13 Nebraska, is amended to read:

14 46-1207.02. Inactive status water well shall mean a

15 water well that is in a good state of repair and for which the

16 owner has provided evidence of intent for future use by maintaining

17 the water well in a manner which meets the following requirements:

18 (1) The water well does not allow impairment of the water

19 quality in the water well or of the ground water encountered by the

20 water well;

21 (2) The top of the water well or water well casing has a

22 water-tight welded or threaded cover or some other water-tight

23 means to prevent its removal without the use of equipment or tools

24 to prevent unauthorized access, to prevent a safety hazard to

25 humans and animals, and to prevent illegal disposal of wastes or

26 contaminants into the water well;

27 (3) All entrances and discharge piping to the water well

28 are effectively sealed to prevent the entrance of contaminants; and

1 ~~(3)~~ (4) The water well is marked so as to be easily
2 visible and located and is labeled or otherwise marked so as to be
3 easily identified as a water well and the area surrounding the
4 water well is kept clear of brush, debris, and waste material.

5 Sec. 100. Section 46-1212, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 46-1212. Water well shall mean any excavation that is
8 drilled, cored, bored, washed, driven, dug, jetted, or otherwise
9 constructed for the purpose of exploring for ground water,
10 monitoring ground water, utilizing the geothermal properties of the
11 ground, obtaining hydrogeologic information, or extracting water
12 from or injecting ~~water~~ fluid as defined in section 81-1502 into
13 the underground water reservoir. Water well shall not include any
14 excavation made for obtaining or prospecting for oil or natural gas
15 or for inserting media to repressure oil or natural gas bearing
16 formations regulated by the Nebraska Oil and Gas Conservation
17 Commission.

18 Sec. 101. Section 46-1228, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 46-1228. The department shall have (1) authority to
21 inspect water wells constructed, water wells decommissioned, and
22 water well locations, (2) access to ~~such~~ water wells and
23 accompanying pumps and pumping equipment at all reasonable times,
24 and (3) power of inspection in regard to the construction and
25 decommissioning of all water wells.

26 Sec. 102. Section 61-206, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 61-206. (1) The Department of Natural Resources is given

1 jurisdiction over all matters pertaining to water rights for
2 irrigation, power, or other useful purposes except as such
3 jurisdiction is specifically limited by statute. Such department
4 shall adopt and promulgate rules and regulations governing matters
5 coming before it. It may refuse to allow any water to be used by
6 claimants until their rights have been determined and made of
7 record. It may request information relative to irrigation and
8 water power works from any county, irrigation, or power officers
9 and from any other persons. It ~~shall have public~~ may have hearings
10 on complaints, petitions, or applications in connection with any of
11 such matters. Such hearings ~~may~~ shall be had at the time and place
12 designated by the department. The department shall have power to
13 certify official acts, compel attendance of witnesses, take
14 testimony by deposition as in suits at law, and examine books,
15 papers, documents, and records of any county, party, or parties
16 interested in any of the matters mentioned in this section or have
17 such examinations made by its qualified representative and shall
18 make and preserve a true and complete transcript of its proceedings
19 and hearings. If a final decision is made without a hearing, a
20 hearing shall be held at the request of any party to the proceeding
21 if the request is made within fifteen days after the decision is
22 rendered. If a hearing is held at the request of one or more
23 parties, the department may require each such requesting party and
24 each person who requests to be made a party to such hearing to pay
25 the proportional share of the cost of such transcript. Upon any
26 hearing, the department shall receive any evidence relevant to the
27 matter under investigation and the burden of proof shall be upon
28 the person making the complaint, petition, and application. After

1 such hearing and investigation, the department shall render a
2 decision in the premises in writing and shall issue such order or
3 orders duly certified as it may deem necessary.

4 (2) The department shall serve as the official agency of
5 the state in connection with water resources development, soil and
6 water conservation, flood prevention, watershed protection, and
7 flood control.

8 (3) The department shall:

9 (a) Offer assistance as appropriate to the supervisors or
10 directors of any subdivision of government with responsibilities in
11 the area of natural resources conservation, development, and use in
12 the carrying out of any of their powers and programs;

13 (b) Keep the supervisors or directors of each such
14 subdivision informed of the activities and experience of all other
15 such subdivisions and facilitate cooperation and an interchange of
16 advice and experience between such subdivisions;

17 (c) Coordinate the programs of such subdivisions so far
18 as this may be done by advice and consultation;

19 (d) Secure the cooperation and assistance of the United
20 States, any of its agencies, and agencies of this state in the work
21 of such subdivisions;

22 (e) Disseminate information throughout the state
23 concerning the activities and programs of such subdivisions;

24 (f) Plan, develop, and promote the implementation of a
25 comprehensive program of resource development, conservation, and
26 utilization for the soil and water resources of this state in
27 cooperation with other local, state, and federal agencies and
28 organizations;

1 (g) When necessary for the proper administration of the
2 functions of the department, rent or lease space outside the State
3 Capitol; and

4 (h) Assist such local governmental organizations as
5 villages, cities, counties, and natural resources districts in
6 securing, planning, and developing information on flood plains to
7 be used in developing regulations and ordinances on proper use of
8 these flood plains.

9 Sec. 103. Section 66-1501, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 66-1501. Sections 66-1501 to 66-1531 and section 104 of
12 this act shall be known and may be cited as the Petroleum Release
13 Remedial Action Act.

14 Sec. 104. Beginning July 1, 2009, the owner of any new
15 tank at a site where tanks have not been previously located shall
16 be fully insured through private insurance to cover the costs of
17 any remedial action to such tank or the site on which such tank is
18 located after such date.

19 Sec. 105. Section 66-1519, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 66-1519. (1) There is hereby created the Petroleum
22 Release Remedial Action Cash Fund to be administered by the
23 department. Revenue from the following sources shall be remitted
24 to the State Treasurer for credit to the fund:

25 (a) The fees imposed by sections 66-1520 and 66-1521;

26 (b) Money paid under an agreement, stipulation,
27 cost-recovery award under section 66-1529.02, or settlement; and

28 (c) Money received by the department in the form of

1 gifts, grants, reimbursements, property liquidations, or
2 appropriations from any source intended to be used for the purposes
3 of the fund.

4 (2) Money in the fund may be spent for: (a)
5 Reimbursement for the costs of remedial action by a responsible
6 person or his or her designated representative and costs of
7 remedial action undertaken by the department in response to a
8 release first reported after July 17, 1983, and on or before June
9 30, ~~2005~~ 2009, including reimbursement for damages caused by the
10 department or a person acting at the department's direction while
11 investigating or inspecting or during remedial action on property
12 other than property on which a release or suspected release has
13 occurred; (b) payment of any amount due from a third-party claim;
14 (c) fee collection expenses incurred by the State Fire Marshal; (d)
15 direct expenses incurred by the department in carrying out the
16 Petroleum Release Remedial Action Act; (e) other costs related to
17 fixtures and tangible personal property as provided in section
18 66-1529.01; (f) interest payments as allowed by section 66-1524;
19 (g) expenses incurred by the technical advisory committee created
20 in section 81-15,189 in carrying out its duties pursuant to section
21 81-15,190; (h) claims approved by the State Claims Board authorized
22 under section 66-1531; (i) a grant to a city of the metropolitan
23 class in the amount of three hundred thousand dollars, provided
24 within five days after October 1, 2003, to carry out the federal
25 Residential Lead-Based Paint Hazard Reduction Act of 1992, 42
26 U.S.C. 4851 et seq., as such act existed on October 1, 2003; and
27 (j) methyl tertiary butyl ether testing, to be conducted randomly
28 at terminals within the state for up to two years ending June 30,

1 2003. The amount expended on the testing shall not exceed forty
2 thousand dollars. The testing shall be conducted by the Department
3 of Agriculture. The department may enter into contractual
4 arrangements for such purpose. The results of the tests shall be
5 made available to the Department of Environmental Quality.

6 (3) Transfers may be made from the Petroleum Release
7 Remedial Action Cash Fund to the General Fund at the direction of
8 the Legislature. Transfers may be made from the Petroleum Release
9 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund
10 at the direction of the Legislature.

11 (4) Any money in the Petroleum Release Remedial Action
12 Cash Fund available for investment shall be invested by the state
13 investment officer pursuant to the Nebraska Capital Expansion Act
14 and the Nebraska State Funds Investment Act.

15 Sec. 106. Section 66-1523, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 66-1523. (1) Except as provided in subsection (2) of
18 this section, the department shall provide reimbursement from the
19 fund in accordance with section 66-1525 to eligible responsible
20 persons for the cost of remedial action for releases reported after
21 July 17, 1983, and on or before June 30, ~~2005~~ 2009, and for the
22 cost of paying third-party claims. The reimbursement for the cost
23 of remedial action shall not exceed nine hundred seventy-five
24 thousand dollars per occurrence. The total of the claims paid
25 under section 66-1531 and the reimbursement for third-party claims
26 shall not exceed one million dollars per occurrence. The
27 responsible person shall pay the first ten thousand dollars of the
28 cost of the remedial action or third-party claim, twenty-five

1 percent of the remaining cost of the remedial action or third-party
2 claim not to exceed fifteen thousand dollars, and the amount of any
3 reduction authorized under subsection (5) of section 66-1525. If
4 the department determines that a responsible person was ordered to
5 take remedial action for a release which was later found to be from
6 a tank not owned or operated by such person, (a) such person shall
7 be fully reimbursed and shall not be required to pay the first cost
8 or percent of the remaining cost as provided in this subsection and
9 (b) the first cost and percent of the remaining cost not required
10 to be paid by the person ordered to take remedial action shall be
11 paid to the fund as a cost of remedial action by the owner or
12 operator of the tank found to be the cause of the release. In no
13 event shall reimbursements or payments from the fund exceed the
14 annual aggregate of one million nine hundred seventy-five thousand
15 dollars per responsible person. Reimbursement of a cost incurred
16 as a result of a suspension ordered by the department shall not be
17 limited by this subsection if the suspension was caused by
18 insufficiency in the fund to provide reimbursement.

19 (2) Upon the determination by the department that the
20 responsible person sold no less than two thousand gallons of
21 petroleum and no more than two hundred fifty thousand gallons of
22 petroleum during the calendar year immediately preceding the first
23 report of the release or stored less than ten thousand gallons of
24 petroleum in the calendar year immediately preceding the first
25 report of the release, the department shall provide reimbursement
26 from the fund in accordance with section 66-1525 to such an
27 eligible person for the cost of remedial action for releases
28 reported after July 17, 1983, and on or before June 30, ~~2005~~ 2009,

1 and for the cost of paying third-party claims. The reimbursement
2 for the cost of remedial action shall not exceed nine hundred
3 eighty-five thousand dollars per occurrence. The total of the
4 claims paid under section 66-1531 and the reimbursement for
5 third-party claims shall not exceed one million dollars per
6 occurrence. The responsible person shall pay the first five
7 thousand dollars of the cost of the remedial action or third-party
8 claim, twenty-five percent of the remaining cost of the remedial
9 action or third-party claim not to exceed ten thousand dollars, and
10 the amount of any reduction authorized under subsection (5) of
11 section 66-1525. If the department determines that a responsible
12 person was ordered to take remedial action for a release which was
13 later found to be from a tank not owned or operated by such person,
14 (a) such person shall be fully reimbursed and shall not be required
15 to pay the first cost or percent of the remaining cost as provided
16 in this subsection and (b) the first cost and percent of the
17 remaining cost not required to be paid by the person ordered to
18 take remedial action shall be paid to the fund as a cost of
19 remedial action by the owner or operator of the tank found to be
20 the cause of the release. In no event shall reimbursements or
21 payments from the fund exceed the annual aggregate of one million
22 nine hundred eighty-five thousand dollars per responsible person.
23 Reimbursement of a cost incurred as a result of a suspension
24 ordered by the department shall not be limited by this subsection
25 if the suspension was caused by insufficiency in the fund to
26 provide reimbursement.

27 (3) The department may make partial reimbursement during
28 the time that remedial action is being taken if the department is

1 satisfied that the remedial action being taken is as required by
2 the department.

3 (4) If the fund is insufficient for any reason to
4 reimburse the amount set forth in this section, the maximum amount
5 that the fund shall be required to reimburse is the amount in the
6 fund. If reimbursements approved by the department exceed the
7 amount in the fund, reimbursements with interest shall be made when
8 the fund is sufficiently replenished in the order in which the
9 applications for them were received by the department, except that
10 an application pending before the department on January 1, 1996,
11 submitted by a local government as defined in section 13-2202
12 shall, after July 1, 1996, be reimbursed first when funds are
13 available. This exception applies only to local government
14 applications pending on and not submitted after January 1, 1996.

15 (5) Applications for reimbursement properly made before,
16 on, or after April 16, 1996, shall be considered bills for goods or
17 services provided for third parties for purposes of the Prompt
18 Payment Act.

19 (6) Notwithstanding any other provision of law, there
20 shall be no reimbursement from the fund for the cost of remedial
21 action or for the cost of paying third-party claims for any
22 releases reported on or after July 1, ~~2005~~ 2009.

23 (7) For purposes of this section, occurrence shall mean
24 an accident, including continuous or repeated exposure to
25 conditions, which results in a release from a tank.

26 Sec. 107. Section 66-1525, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 66-1525. (1) Any responsible person or his or her

1 designated representative who has taken remedial action in response
2 to a release first reported after July 17, 1983, and on or before
3 June 30, ~~2005~~ 2009, or against whom there is a third-party claim
4 may apply to the department under the rules and regulations adopted
5 and promulgated pursuant to section 66-1518 for reimbursement for
6 the costs of the remedial action or third-party claim. Partial
7 payment of such reimbursement to the responsible person may be
8 authorized by the department at the approved stages prior to the
9 completion of remedial action when a remedial action plan has been
10 approved. If any stage is projected to take more than ninety days
11 to complete partial payments may be requested every sixty days.
12 Such partial payment may include the eligible and reasonable costs
13 of such plan or pilot projects conducted during the remedial
14 action.

15 (2) No reimbursement may be made unless the department
16 makes the following eligibility determinations:

17 (a) The tank was in substantial compliance with any rules
18 and regulations of the United States Environmental Protection
19 Agency, the State Fire Marshal, and the department which were
20 applicable to the tank. Substantial compliance shall be determined
21 by the department taking into consideration the purposes of the
22 Petroleum Release Remedial Action Act and the adverse effect that
23 any violation of the rules and regulations may have had on the tank
24 thereby causing or contributing to the release and the extent of
25 the remedial action thereby required;

26 (b) Either the State Fire Marshal or the department was
27 given notice of the release in substantial compliance with the
28 rules and regulations adopted and promulgated pursuant to the

1 Environmental Protection Act and the Petroleum Products and
2 Hazardous Substances Storage and Handling Act. Substantial
3 compliance shall be determined by the department taking into
4 consideration the purposes of the Petroleum Release Remedial Action
5 Act and the adverse effect that any violation of the notice
6 provisions of the rules and regulations may have had on the
7 remedial action being taken in a prompt, effective, and efficient
8 manner;

9 (c) The responsible person reasonably cooperated with the
10 department and the State Fire Marshal in responding to the release;

11 (d) The department has approved the plan submitted by the
12 responsible person for the remedial action in accordance with rules
13 and regulations adopted and promulgated by the department pursuant
14 to the Environmental Protection Act or the Petroleum Products and
15 Hazardous Substances Storage and Handling Act or that portion of
16 the plan for which payment or reimbursement is requested. However,
17 responsible persons may undertake remedial action prior to approval
18 of a plan by the department or during the time that remedial action
19 at a site was suspended at any time after April 1995 because the
20 fund was insufficient to pay reimbursements and be eligible for
21 reimbursement at a later time if the responsible person complies
22 with procedures provided to the responsible party by the department
23 or set out in rules and regulations adopted and promulgated by the
24 Environmental Quality Council;

25 (e) The costs for the remedial action were actually
26 incurred by the responsible person or his or her designated
27 representative after May 27, 1989, and were eligible and
28 reasonable;

1 (f) If reimbursement for a third-party claim is involved,
2 the cause of action for the third-party claim accrued after April
3 26, 1991, and the Attorney General was notified by any person of
4 the service of summons for the action within ten days of such
5 service; and

6 (g) The responsible person or his or her designated
7 representative has paid the amount specified in subsection (1) or
8 (2) of section 66-1523.

9 (3) The State Fire Marshal shall review each application
10 prior to consideration by the department and provide to the
11 department any information the State Fire Marshal deems relevant to
12 subdivisions (2)(a) through (g) of this section. The State Fire
13 Marshal shall issue a determination with respect to an applicant's
14 compliance with rules and regulations adopted and promulgated by
15 the State Fire Marshal. The State Fire Marshal shall issue a
16 compliance determination to the department within thirty days after
17 receiving an application from the department.

18 (4) The department may withhold taking action on an
19 application during the pendency of an enforcement action by the
20 state or federal government related to the tank or a release from
21 the tank.

22 (5) Reimbursements made for a remedial action may be
23 reduced as much as one hundred percent for failure by the
24 responsible person to comply with applicable statutory or
25 regulatory requirements. In determining the amount of the
26 reimbursement reduction, the department shall consider:

27 (a) The extent of and reasons for noncompliance;

28 (b) The likely environmental impact of the noncompliance;

1 and

2 (c) Whether noncompliance was negligent, knowing, or
3 willful.

4 (6) Except as provided in subsection (4) of this section,
5 the department shall notify the responsible person of its approval
6 or denial of the remedial action plan within one hundred twenty
7 days after receipt of a remedial action plan which contains all the
8 required information. If after one hundred twenty days the
9 department fails to either deny, approve, or amend the remedial
10 action plan submitted, the proposed plan shall be deemed approved.
11 If the remedial action plan is denied, the department shall provide
12 the reasons for such denial.

13 Sec. 108. Section 66-1529.02, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 66-1529.02. (1) The department may undertake remedial
16 actions in response to a release first reported after July 17,
17 1983, and on or before June 30, ~~2005~~ 2009, with money available in
18 the fund if:

19 (a) The responsible person cannot be identified or
20 located;

21 (b) An identified responsible person cannot or will not
22 comply with the remedial action requirements; or

23 (c) Immediate remedial action is necessary, as determined
24 by the Director of Environmental Quality, to protect human health
25 or the environment.

26 (2) The department may pay the costs of a third-party
27 claim meeting the requirements of subdivision (2)(f) of section
28 66-1525 with money available in the fund if the responsible person

1 cannot or will not pay the third-party claim.

2 (3) Reimbursement for any damages caused by the
3 department or a person acting at the department's direction while
4 investigating or inspecting or during remedial action on property
5 other than property on which a release or suspected release has
6 occurred shall be considered as part of the cost of remedial action
7 involving the site where the release or suspected release occurred.
8 The costs shall be reimbursed from money available in the fund. If
9 such reimbursement is deemed inadequate by the party claiming the
10 damages, the party's claim for damages caused by the department
11 shall be filed as provided in section 76-705.

12 (4) All expenses paid from the fund under this section,
13 court costs, and attorney's fees may be recovered in a civil action
14 in the district court of Lancaster County. The action may be
15 brought by the county attorney or Attorney General at the request
16 of the director against the responsible person. All recovered
17 expenses shall be deposited into the fund.

18 Sec. 109. Section 77-27,137.02, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 77-27,137.02. ~~Except as provided in section 46-656.17,~~
21 ~~the~~ The appropriation provided for in section 77-27,136 for aid to
22 natural resources districts shall be distributed to the various
23 natural resources districts of the state on the basis of the ratio
24 of the total amount of property taxes levied by the particular
25 natural resources district to the total amount of property taxes
26 levied by all natural resources districts within the state based on
27 amounts stated in the most recent certificate of taxes levied
28 statement and schedules submitted by each county to the Tax

1 Commissioner pursuant to section 77-1613.01. The Tax Commissioner
2 shall determine the amount to be distributed to the various natural
3 resources districts and certify such amounts by voucher to the
4 Director of Administrative Services. Each amount shall be
5 distributed in seven as nearly as possible equal monthly payments
6 between the fifth and twentieth day of each month beginning
7 December 1, 1982, and each December thereafter. The State
8 Treasurer shall, between the fifth and twentieth day of each month,
9 notify the Director of Administrative Services of the amount of
10 funds available in the General Fund for payment purposes. The
11 Director of Administrative Services shall, upon receipt of such
12 notification and vouchers, draw warrants against funds
13 appropriated. The proceeds of the payments received by the various
14 natural resources districts shall be credited to the general fund
15 of the district.

16 Sec. 110. Section 77-3442, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-3442. (1) Property tax levies for the support of
19 local governments for fiscal years beginning on or after July 1,
20 1998, shall be limited to the amounts set forth in this section
21 except as provided in section 77-3444.

22 (2) (a) Except as provided in subdivision (2) (b) of this
23 section, school districts and multiple-district school systems may
24 levy a maximum levy of (i) one dollar and five cents per one
25 hundred dollars of taxable valuation of property subject to the
26 levy for fiscal years 2003-04 and 2004-05 and (ii) one dollar per
27 one hundred dollars of taxable valuation of property subject to the
28 levy for all fiscal years except fiscal years 2003-04 and 2004-05.

1 Excluded from this limitation are amounts levied to pay for sums
2 agreed to be paid by a school district to certificated employees in
3 exchange for a voluntary termination of employment and amounts
4 levied to pay for special building funds and sinking funds
5 established for projects commenced prior to April 1, 1996, for
6 construction, expansion, or alteration of school district
7 buildings. For purposes of this subsection, commenced means any
8 action taken by the school board on the record which commits the
9 board to expend district funds in planning, constructing, or
10 carrying out the project.

11 (b) Federal aid school districts may exceed the maximum
12 levy prescribed by subdivision (2)(a) of this section only to the
13 extent necessary to qualify to receive federal aid pursuant to
14 Title VIII of Public Law 103-382, as such title existed on
15 September 1, 2001. For purposes of this subdivision, federal aid
16 school district means any school district which receives ten
17 percent or more of the revenue for its general fund budget from
18 federal government sources pursuant to Title VIII of Public Law
19 103-382, as such title existed on September 1, 2001.

20 (c) Beginning with school fiscal year 2002-03 through
21 school fiscal year 2004-05, school districts and multiple-district
22 school systems may, upon a three-fourths majority vote of the
23 school board of the school district, the board of the unified
24 system, or the school board of the high school district of the
25 multiple-district school system that is not a unified system,
26 exceed the maximum levy prescribed by subdivision (2)(a) of this
27 section in an amount equal to the net difference between the amount
28 of state aid that would have been provided under the Tax Equity and

1 Educational Opportunities Support Act without the changes made by
2 Laws 2002, LB 898, for the ensuing school fiscal year for the
3 school district or multiple-district school system and the amount
4 provided under the act as amended by Laws 2002, LB 898. The State
5 Department of Education shall certify to the school districts and
6 multiple-district school systems the amount by which the maximum
7 levy may be exceeded pursuant to subdivision (2)(c) of this section
8 on or before May 15, 2002, for school fiscal year 2002-03, June 30,
9 2003, for school fiscal year 2003-04, and February 15, 2004, for
10 school fiscal year 2004-05.

11 (3) Community colleges may levy a maximum levy on each
12 one hundred dollars of taxable property subject to the levy of
13 seven cents for fiscal year 2000-01 and each fiscal year
14 thereafter, plus amounts allowed under subsection (7) of section
15 85-1536.01.

16 (4) Natural resources districts may levy a maximum levy
17 of four and one-half cents per one hundred dollars of taxable
18 valuation of property subject to the levy. Natural resources
19 districts shall also have the power and authority to levy a tax
20 equal to the dollar amount by which their restricted funds budgeted
21 to administer and implement ground water management activities and
22 integrated management activities under the Nebraska Ground Water
23 Management and Protection Act exceed their restricted funds
24 budgeted to administer and implement ground water management
25 activities and integrated management activities for FY2003-04, not
26 to exceed one cent on each one hundred dollars of taxable valuation
27 annually on all of the taxable property within the district.

28 (5) Educational service units may levy a maximum levy of

1 one and one-half cents per one hundred dollars of taxable valuation
2 of property subject to the levy.

3 (6) (a) Incorporated cities and villages which are not
4 within the boundaries of a municipal county may levy a maximum levy
5 of forty-five cents per one hundred dollars of taxable valuation of
6 property subject to the levy plus an additional five cents per one
7 hundred dollars of taxable valuation to provide financing for the
8 municipality's share of revenue required under an agreement or
9 agreements executed pursuant to the Interlocal Cooperation Act or
10 the Joint Public Agency Act. The maximum levy shall include
11 amounts levied to pay for sums to support a library pursuant to
12 section 51-201, museum pursuant to section 51-501, visiting
13 community nurse, home health nurse, or home health agency pursuant
14 to section 71-1637, or statue, memorial, or monument pursuant to
15 section 80-202.

16 (b) Incorporated cities and villages which are within the
17 boundaries of a municipal county may levy a maximum levy of ninety
18 cents per one hundred dollars of taxable valuation of property
19 subject to the levy. The maximum levy shall include amounts paid
20 to a municipal county for county services, amounts levied to pay
21 for sums to support a library pursuant to section 51-201, a museum
22 pursuant to section 51-501, a visiting community nurse, home health
23 nurse, or home health agency pursuant to section 71-1637, or a
24 statue, memorial, or monument pursuant to section 80-202.

25 (7) Sanitary and improvement districts which have been in
26 existence for more than five years may levy a maximum levy of forty
27 cents per one hundred dollars of taxable valuation of property
28 subject to the levy, and sanitary and improvement districts which

1 have been in existence for five years or less shall not have a
2 maximum levy. Unconsolidated sanitary and improvement districts
3 which have been in existence for more than five years and are
4 located in a municipal county may levy a maximum of eighty-five
5 cents per hundred dollars of taxable valuation of property subject
6 to the levy.

7 (8) Counties may levy or authorize a maximum levy of
8 fifty cents per one hundred dollars of taxable valuation of
9 property subject to the levy, except that five cents per one
10 hundred dollars of taxable valuation of property subject to the
11 levy may only be levied to provide financing for the county's share
12 of revenue required under an agreement or agreements executed
13 pursuant to the Interlocal Cooperation Act or the Joint Public
14 Agency Act. The maximum levy shall include amounts levied to pay
15 for sums to support a library pursuant to section 51-201 or museum
16 pursuant to section 51-501. The county may allocate up to fifteen
17 cents of its authority to other political subdivisions subject to
18 allocation of property tax authority under subsection (1) of
19 section 77-3443 and not specifically covered in this section to
20 levy taxes as authorized by law which do not collectively exceed
21 fifteen cents per one hundred dollars of taxable valuation on any
22 parcel or item of taxable property. The county may allocate to one
23 or more other political subdivisions subject to allocation of
24 property tax authority by the county under subsection (1) of
25 section 77-3443 some or all of the county's five cents per one
26 hundred dollars of valuation authorized for support of an agreement
27 or agreements to be levied by the political subdivision for the
28 purpose of supporting that political subdivision's share of revenue

1 required under an agreement or agreements executed pursuant to the
2 Interlocal Cooperation Act or the Joint Public Agency Act. If an
3 allocation by a county would cause another county to exceed its
4 levy authority under this section, the second county may exceed the
5 levy authority in order to levy the amount allocated.

6 (9) Municipal counties may levy or authorize a maximum
7 levy of one dollar per one hundred dollars of taxable valuation of
8 property subject to the levy. The municipal county may allocate
9 levy authority to any political subdivision or entity subject to
10 allocation under section 77-3443.

11 (10) Property tax levies for judgments, except judgments
12 or orders from the Commission of Industrial Relations, obtained
13 against a political subdivision which require or obligate a
14 political subdivision to pay such judgment, to the extent such
15 judgment is not paid by liability insurance coverage of a political
16 subdivision, for preexisting lease-purchase contracts approved
17 prior to July 1, 1998, for bonded indebtedness approved according
18 to law and secured by a levy on property, and for payments by a
19 public airport to retire interest-free loans from the Department of
20 Aeronautics in lieu of bonded indebtedness at a lower cost to the
21 public airport are not included in the levy limits established by
22 this section.

23 (11) The limitations on tax levies provided in this
24 section are to include all other general or special levies provided
25 by law. Notwithstanding other provisions of law, the only
26 exceptions to the limits in this section are those provided by or
27 authorized by sections 77-3442 to 77-3444.

28 (12) Tax levies in excess of the limitations in this

1 section shall be considered unauthorized levies under section
2 77-1606 unless approved under section 77-3444.

3 (13) For purposes of sections 77-3442 to 77-3444,
4 political subdivision means a political subdivision of this state
5 and a county agricultural society.

6 Sec. 111. Section 81-15,174, Revised Statutes
7 Supplement, 2003, is amended to read:

8 81-15,174. The Nebraska Environmental Trust Fund is
9 created. The fund shall be maintained in the state accounting
10 system as a cash fund. Except as otherwise provided in this
11 section, the fund shall be used to carry out the purposes of the
12 Nebraska Environmental Trust Act, including the payment of
13 administrative costs. Money in the fund shall include proceeds
14 credited pursuant to section 9-812 and proceeds designated by the
15 board pursuant to section 81-15,173. Any money in the fund
16 available for investment shall be invested by the state investment
17 officer pursuant to the Nebraska Capital Expansion Act and the
18 Nebraska State Funds Investment Act.

19 The State Treasurer shall transfer nine hundred
20 twenty-five thousand dollars from the Nebraska Environmental Trust
21 Fund to the Department of Natural Resources Water Issues Cash Fund,
22 as administratively created pursuant to section 81-1111.04, on or
23 after July 1, 2003, but no later than July 10, 2003.

24 The State Treasurer shall transfer one million dollars
25 from the Nebraska Environmental Trust Fund to the Water Resources
26 Trust Fund on July 1, 2004.

27 Sec. 112. The State Treasurer shall transfer one million
28 five hundred thousand dollars from the Petroleum Release Remedial

1 Action Cash Fund to the General Fund on July 1, 2004.

2 Sec. 113. Section 81-15,176, Revised Statutes
3 Supplement, 2002, is amended to read:

4 81-15,176. (1) Subject to subsection (3) of this
5 section, the board shall establish environmental priorities for the
6 trust. The board, after allowing opportunity for public comment,
7 shall designate as priorities those environmental goals which most
8 affect the natural physical and biological environment in Nebraska,
9 including the air, land, ground water and surface water, flora and
10 fauna, prairies and forests, wildlife and wildlife habitat, and
11 areas of aesthetic or scenic values. In designating environmental
12 priorities, the board shall attempt to focus on the areas which
13 promise the greatest opportunities for effective action to achieve
14 and preserve the future environmental quality in the state. The
15 board shall establish priorities for five-year periods beginning
16 July 1, 1995, except that the board may make annual modifications
17 to refine and clarify its priorities. The board shall provide for
18 public involvement in developing the priorities for such five-year
19 periods, including public meetings in each of the three
20 congressional districts.

21 (2) The board shall establish criteria for determining
22 the eligibility of projects for grant assistance, which criteria
23 shall include the following:

24 (a) The grants shall not provide direct assistance to
25 regulatory programs or to implement actions mandated by regulations
26 except remediation;

27 (b) No more than sixty percent of grant allocations in
28 any year shall assist remediation of soils or ground water, and no

1 grants for this purpose shall occur unless all other available
2 sources of funding are, in the opinion of the board, being
3 substantially utilized;

4 (c) The grants shall not pay for projects which provide
5 primarily private benefits or relieve private liability for
6 environmental damage;

7 (d) The grants shall not pay for projects which have
8 direct beneficiaries who could afford the costs of the benefits
9 without experiencing serious financial hardship;

10 (e) The grants should assist those projects which offer
11 the greatest environmental benefits relative to cost;

12 (f) The grants should assist those projects which provide
13 clear and direct environmental benefits;

14 (g) The grants should assist those projects which will
15 make a real contribution to achieving the board's environmental
16 priorities;

17 (h) The grants should assist those projects which offer
18 the greatest public benefits; and

19 (i) The grants shall not pay for land or easements
20 acquired without the full and express consent of the landowner.

21 (3) Until the first five-year priorities become effective
22 on July 1, 1995, the board shall observe the following priorities
23 for allocating grants:

24 (a) Critical habitat areas, including wetlands
25 acquisition, preservation, and restoration and acquisition and
26 easements of areas critical to rare or endangered species;

27 (b) Surface water quality, including actions to preserve
28 lakes and streams from degradation;

1 (c) Ground water quality, including fostering best
2 management practices as defined in section ~~46-656.07~~ 46 of this
3 act, actions to preserve ground water from degradation, and
4 remediation of soils or ground water; and

5 (d) Development of recycling markets and reduction of
6 solid waste volume and toxicity.

7 (4) The board may refine and clarify these initial
8 priorities.

9 Sec. 114. Sections 3, 4, 93, 110, and 117 of this act
10 become operative on July 1, 2004. This section and sections 111,
11 112, 115, 116, and 120 of this act become operative on their
12 effective date. The other sections of this act become operative
13 three calendar months after the adjournment of this legislative
14 session.

15 Sec. 115. If any section in this act or any part of any
16 section is declared invalid or unconstitutional, the declaration
17 shall not affect the validity or constitutionality of the remaining
18 portions.

19 Sec. 116. Original section 81-15,174, Revised Statutes
20 Supplement, 2003, is repealed.

21 Sec. 117. Original sections 2-3225 and 77-3442, Reissue
22 Revised Statutes of Nebraska, and section 13-520, Revised Statutes
23 Supplement, 2002, are repealed.

24 Sec. 118. Original sections 2-1586, 46-229.02,
25 46-229.03, 46-2,127, 46-609, 46-651, 46-656.03, 46-656.04,
26 46-656.08, 46-656.11, 46-656.13, 46-656.21, 46-656.32, 46-656.35 to
27 46-656.37, 46-656.39, 46-656.41 to 46-656.48, 46-656.64, 46-680,
28 46-1207.01, 46-1207.02, 46-1212, 46-1228, 61-206, 66-1501, 66-1519,

1 66-1523, 66-1525, 66-1529.02, and 77-27,137.02, Reissue Revised
2 Statutes of Nebraska, sections 2-1588, 46-226.03, 46-229,
3 46-229.04, 46-230, 46-235.04, 46-237, 46-261, 46-290 to 46-296,
4 46-2,112, 46-2,119, 46-2,132, 46-2,135, 46-601.01, 46-613.02,
5 46-653, 46-656.05, 46-656.14, 46-656.19, 46-656.25 to 46-656.27,
6 46-656.31, 46-656.33, 46-656.38, 46-656.40, 46-656.62, 46-656.63,
7 46-656.65 to 46-656.67, 46-676, 46-678.01, and 81-15,176, Revised
8 Statutes Supplement, 2002, and sections 46-241, 46-602, 46-656.01,
9 46-656.02, 46-656.07, 46-656.10, 46-656.12, 46-656.24, 46-656.29,
10 and 46-656.30, Revised Statutes Supplement, 2003, are repealed.

11 Sec. 119. The following sections are outright repealed:
12 Sections 46-656.06, 46-656.09, 46-656.17, 46-656.18, 46-656.20,
13 46-656.22, 46-656.23, and 46-656.49, Reissue Revised Statutes of
14 Nebraska, and sections 46-656.15, 46-656.16, 46-656.28, and
15 46-656.50 to 46-656.61, Revised Statutes Supplement, 2002.

16 Sec. 120. Since an emergency exists, this act takes
17 effect when passed and approved according to law.