

AMENDMENTS TO LB1098

(Amendments to Standing Committee amendments, AM2594)

Introduced by Carlson

1           1. Strike sections 3 to 6 and insert the following new  
2       sections:

3           Sec. 3. (1) The goals of the Water Sustainability  
4       Fund are to: (a) Provide financial assistance to programs,  
5       projects, or activities that increase aquifer recharge, reduce  
6       aquifer depletion, and increase stream flow; (b) remediate or  
7       mitigate threats to drinking water; (c) promote the goals and  
8       objectives of approved integrated management plans or ground  
9       water management plans; (d) contribute to multiple water supply  
10      management goals including flood control, reducing threats to  
11      property damage, agricultural uses, municipal and industrial  
12      uses, recreational benefits, wildlife habitat, conservation, and  
13      preservation of water resources; (e) assist municipalities with the  
14      cost of constructing, upgrading, developing, and replacing sewer  
15      infrastructure facilities as part of a combined sewer overflow  
16      project; (f) provide increased water productivity and enhance water  
17      quality; (g) use the most cost-effective solutions available; and  
18      (h) comply with interstate compacts, decrees, other state contracts  
19      and agreements and federal law.

20           (2) The Legislature finds that the goals of the Water  
21      Sustainability Fund can be met by equally considering programs,  
22      projects, or activities in the following categories: (a) Research,

1       data, and modeling; (b) rehabilitation or restoration of water  
2       supply infrastructure, new water supply infrastructure, or  
3       water supply infrastructure maintenance or flood prevention for  
4       protection of critical infrastructure; (c) conjunctive management,  
5       storage, and integrated management of ground water and surface  
6       water; and (d) compliance with interstate compacts or agreements or  
7       other formal state contracts or agreements or federal law.

8               Sec. 4. (1) It is the intent of the Legislature that  
9       the Water Sustainability Fund be equitably distributed statewide  
10      to the greatest extent possible for the long term and give  
11      priority funding status to projects which are the result of federal  
12      mandates.

13               (2) Distributions to assist municipalities with the  
14      cost of constructing, upgrading, developing, and replacing sewer  
15      infrastructure facilities as part of a combined sewer overflow  
16      project shall be based on a demonstration of need and shall  
17      equal ten percent of the total annual appropriation to the  
18      Water Sustainability Fund if (a) applicants have applied for  
19      such funding as required under section 6 of this act and (b) any  
20      such application has been recommended for further consideration by  
21      the director and is subsequently approved for allocation by the  
22      commission pursuant to subsection (1) of section 8 of this act. If  
23      more than one municipality demonstrates a need for funds pursuant  
24      to this subsection, funds shall be distributed proportionally based  
25      on population.

26               (3) Any money in the Water Sustainability Fund may  
27      be allocated by the commission to applicants in accordance with

1       sections 3 to 10 of this act. Such money may be allocated in  
2       the form of grants or loans for water sustainability programs,  
3       projects, or activities undertaken within the state. The allocation  
4       of funds to a program, project, or activity in one form shall not  
5       of itself preclude additional allocations in the same or any other  
6       form to the same program, project, or activity.

7               (4) A natural resources district is eligible for funding  
8       from the Water Sustainability Fund only if the district has adopted  
9       or is currently participating in the development of an integrated  
10      management plan pursuant to subdivision (1)(a) or (b) or section  
11      46-715.

12               (5) The commission shall utilize the resources and  
13       expertise of, and collaborate with the Department of Natural  
14       Resources, the University of Nebraska, the Department of  
15       Environmental Quality, the Nebraska Environmental Trust Board, and  
16       the Game and Parks Commission on funding and planning for water  
17       programs, projects, or activities.

18               (6) A biennial report shall be made to the Clerk of  
19       the Legislature describing the work accomplished by the use of  
20       funds towards the goals of the Water Sustainability Fund beginning  
21       on December 31, 2015. The report submitted to the Clerk of the  
22       Legislature shall be submitted electronically.

23               Sec. 5. The commission shall rank and score applications  
24       for funding based on criteria that demonstrates the extent to which  
25       a program, project, or activity:

26               (1) Remediates or mitigates threats to drinking water;  
27               (2) Meets the goals and objectives of an approved

- 1        integrated management plan or ground water management plan;
- 2                (3) Contributes to water sustainability goals by
- 3        increasing aquifer recharge, reducing aquifer depletion, or
- 4        increasing streamflow;
- 5                (4) Contributes to multiple water supply management
- 6        goals, including, but not limited to, flood control, agricultural
- 7        use, municipal and industrial uses, recreational benefits, wildlife
- 8        habitat, conservation of water resources, and preservation of water
- 9        resources;
- 10              (5) Maximizes the beneficial use of Nebraska's water
- 11        resources for the benefit of the state's residents;
- 12              (6) Is cost-effective;
- 13              (7) Helps the state meet its obligations under interstate
- 14        compacts, decrees, or other state contracts or agreements or
- 15        federal law;
- 16              (8) Reduces threats to property damage or protects
- 17        critical infrastructure that consists of the physical assets,
- 18        systems, and networks vital to the state or the United States
- 19        such that their incapacitation would have a debilitating effect on
- 20        public security or public health and safety;
- 21              (9) Improves water quality;
- 22              (10) Has utilized all available funding resources of the
- 23        local jurisdiction to support the program, project, or activity;
- 24              (11) Has a local jurisdiction with plans in place that
- 25        support sustainable water use;
- 26              (12) Addresses a statewide problem or issue;
- 27              (13) Contributes to the state's ability to leverage state

1       dollars with local or federal government partners or other partners

2       to maximize the use of its resources;

3               (14) Contributes to watershed health and function; and

4               (15) Uses objectives described in the annual report and  
5       plan of work for the state water planning and review process issued  
6       by the department.

7               Sec. 6. (1) Applicants for funds may file an application  
8       with the department for a grant or loan from the Water  
9       Sustainability Fund. Applications for grants to the department  
10      itself shall be filed by the department. Each application  
11      shall be filed in such manner and form and be accompanied by  
12      such information as may be prescribed by the director and the  
13      commission.

14               (2) Any such application shall:

15               (a) Describe the nature and purpose of the proposed  
16      program, project, or activity;

17               (b) Set forth or be accompanied by a plan for  
18      development of the proposed program, project, or activity,  
19      together with engineering, economic, and financial feasibility  
20      data and information, and such estimated costs of construction  
21      or implementation as may be required by the director and the  
22      commission;

23               (c) State whether money other than that for which the  
24      application is made will be used to help in meeting program,  
25      project, or activity costs and whether such money is available or  
26      has been sought for this purpose;

27               (d) When appropriate, state that the applicant holds or

1       can acquire title to all lands or has the necessary easements and  
2       rights-of-way for the program, project, or activity and related  
3       lands and has or may acquire all water rights necessary for the  
4       proposed program, project, or activity;

5               (e) Show that the applicant possesses all necessary  
6       authority to undertake or participate in the proposed program,  
7       project, or activity; and

8               (f) Demonstrate the probable environmental and ecological  
9       consequences that may result from such proposed program, project,  
10      or activity.

11               (3) Upon receipt of an application, the director shall  
12       evaluate and investigate all aspects of the proposed program,  
13       project, or activity and the proposed schedule for development  
14       and completion of such program, project, or activity, determine  
15       eligibility for funding, and make appropriate recommendations to  
16       the commission pursuant to sections 3 to 10 of this act. As a part  
17       of his or her investigation, the director shall consider whether  
18       the plan for development of the program, project, or activity  
19       is satisfactory. If the director determines that the plan is  
20       unsatisfactory or that the application does not contain adequate  
21       information upon which to make determinations, the director shall  
22       return the application to the applicant and may make such  
23       recommendations to the applicant as are considered necessary to  
24       make the plan or the application satisfactory.

25               (4) Requests for utilization of the Water Sustainability  
26       Fund for state participation in any water and related land-water  
27       resources projects shall also be filed with the department for

1       the director's evaluation, investigation, and recommendations. Such  
2       requests shall be filed in the manner and form and be accompanied  
3       by such information as shall be prescribed by the department and  
4       the commission.

5               Sec. 7. (1) Each program, project, or activity for which  
6       funding is requested, whether such request has as its origin  
7       an application or the action of the department itself, shall be  
8       reviewed as provided in sections 3 to 10 of this act by the  
9       director prior to the approval of any allocation for such program,  
10      project, or activity by the commission.

11               (2) The director may recommend approval of and the  
12      commission may approve grants or loans, including the appropriate  
13      repayment period and the rate of interest, for program, project, or  
14      activity costs or acquisition of interests in programs, projects,  
15      or activities if after investigation and evaluation the director  
16      finds that:

17                (a) The plan does not conflict with any existing Nebraska  
18      state land plan;

19                (b) The proposed program, project, or activity is  
20      economically and financially feasible based upon standards adopted  
21      by the commission pursuant to sections 3 to 10 of this act;

22                (c) The plan for development of the proposed program,  
23      project, or activity is satisfactory;

24                (d) The plan of development minimizes any adverse impacts  
25      on the natural environment;

26                (e) The applicant is qualified, responsible, and legally  
27      capable of carrying out the program, project, or activity;

1                 (f) In the case of a loan, the borrower has demonstrated  
2                 the ability to repay the loan and there is assurance of adequate  
3                 operation, maintenance, and replacement during the repayment life  
4                 of the program, project, or activity;

5                 (g) The plan considers other plans and programs of the  
6                 state and resources development plans of the political subdivisions  
7                 of the state; and

8                 (h) The money required from the Water Sustainability Fund  
9                 is available.

10                 (3) The director and staff of the department shall carry  
11                 out their powers and duties under sections 3 to 10 of this act  
12                 independently of and without prejudice to their powers and duties  
13                 under other provisions of law.

14                 (4) No member of the commission shall be eligible  
15                 to participate in the action of the commission concerning an  
16                 application for funding to any entity in which such commission  
17                 member has any interest. The director may be delegated additional  
18                 responsibilities consistent with the purposes of sections 3 to 10.  
19                 It shall be the sole responsibility of the commission to determine  
20                 the priority in which funds are allocated for eligible programs,  
21                 projects, or activities under section 5 of this act.

22                 Sec. 8. (1) The director shall make recommendations based  
23                 upon his or her review of the criteria set forth in section 7 of  
24                 this act of whether an application should be considered further or  
25                 rejected and the form of allocation he or she deems appropriate.  
26                 The commission shall act in accordance with such recommendations  
27                 according to the application procedures adopted and promulgated in

1       rules and regulations.

2               (2) If, after review of the recommendation by the  
3       director, the commission determines that an application for a  
4       grant, loan, acquisition of an interest, or combination thereof  
5       pursuant to sections 3 to 10 of this act is satisfactory and  
6       qualified to be approved, before the final approval of such  
7       application may be given and the funds allocated, the department  
8       shall enter into an agreement in the name of the state with the  
9       applicant agency or organization and with any other organizations  
10      it deems to be involved in the program, project, or activity to  
11      which funds shall be applied. The department shall also enter into  
12      such agreements as are appropriate before allocation of any funds  
13      for the acquisition of interest in any qualified program, project,  
14      or activity when such acquisition is initiated by the department  
15      itself pursuant to section 9 of this act. All agreements entered  
16      into pursuant to this section shall include, but not be limited  
17      to, a specification of the amount of funds involved, whether the  
18      funds are considered as a grant, loan, or for the acquisition of  
19      an interest in the name of the state, and, if a combination of  
20      these is involved, the amount of funds allocated to each category,  
21      the specific purpose for which the allocation is made, the terms  
22      of administration of the allocated funds, and any penalties to be  
23      imposed upon the applicant organization should it fail to apply or  
24      repay the funds in accordance with the agreement.

25               (3) If the allocation to be approved is a loan, the  
26       department and the applicant or applicants shall include in the  
27       agreement provisions for repayment to the Water Sustainability Fund

1   of money loaned together with any interest at reasonable rates as  
2   established by the commission. The agreement shall further provide  
3   that repayment of the loan together with any interest thereon  
4   shall commence no later than one full year after construction  
5   of the project or implementation of the program or activity is  
6   completed and that repayment shall be completed within the time  
7   period specified by the commission. The repayment period shall  
8   not exceed fifty years, except that the commission may extend the  
9   time for making repayment in the event of extreme emergency or  
10   hardship. Such agreement shall also provide for such assurances  
11   of and security for repayment of the loan as shall be considered  
12   necessary by the department.

13                 (4) With the express approval of the commission, an  
14   applicant may convey its interest in a program, project, or  
15   activity to a successor. The department shall contract with  
16   the qualified successor in interest of the original obligor for  
17   repayment of the loan together with any interest thereon and for  
18   succession to its rights and obligations in any contract with the  
19   department.

20                 (5) The state shall have a lien upon a program,  
21   project, or activity constructed, improved, or renovated with  
22   money from the Water Sustainability Fund for the amount of the  
23   loan together with any interest thereon. This lien shall attach to  
24   all program, project, or activity facilities, equipment, easements,  
25   real property, and property of any kind or nature in which the loan  
26   recipient has an interest and which is associated with the program,  
27   project, or activity. The department shall file a statement of the

1   lien, its amount, terms, and a description of the program, project,  
2   or activity with the county register of deeds of each county in  
3   which the program, project, or activity or any part thereof is  
4   located. The county register of deeds shall record the lien and it  
5   shall be indexed as other liens are required by law to be indexed.  
6   The lien shall be valid until paid in full or otherwise discharged.  
7   The lien shall be foreclosed in accordance with applicable state  
8   law governing foreclosure of mortgages and liens. Any lien provided  
9   for by this section may be subordinate to that which secures  
10   federal assistance or other secured assistance received on the same  
11   program, project, or activity.

12                 Sec. 9. In order to develop Nebraska's water resources,  
13   the department, using the process provided for in subsection (4) of  
14   section 6 of this act, and with the approval of the commission, may  
15   acquire interests in water and related land resources projects in  
16   the name of the state utilizing the Water Sustainability Fund. Such  
17   use of the fund shall be made when the public benefits obtained  
18   from the projects or a part thereof are statewide in nature and  
19   when associated costs are determined to be more appropriately  
20   financed by other than a local organization. Such use of the  
21   fund may be made upon the determination by the department and  
22   the commission that such acquisition is appropriate under sections  
23   3 to 10 of this act. The department, with the approval of the  
24   commission, may also acquire interests in water resource projects  
25   in the name of the state to meet future demands for usable water.  
26   Such water resource projects may include, but not be limited to,  
27   the construction of dams and reservoirs to provide surplus water

1       storage capacity for municipal and industrial water demands and for  
2       other projects to assure an adequate quantity of usable water. In  
3       furtherance of these goals the department may contract with the  
4       federal government or any of its agencies or departments for the  
5       inclusion of additional water supply storage space behind existing  
6       or proposed structures.

7               Sec. 10. The Appropriations Committee of the Legislature  
8       shall, beginning with the FY2019-21 biennial budget review process,  
9       conduct a biennial analysis of the financial status of the Water  
10      Sustainability Fund, including a review of the committed and  
11      uncommitted balance of the fund and the financial impact of pending  
12      programs, projects, or activities. The committee shall base its  
13      recommendation for transfers to the Water Sustainability Fund upon  
14      information provided in the review process.

15               Sec. 11. Section 46-701, Reissue Revised Statutes of  
16      Nebraska, is amended to read:

17               46-701 Sections 46-701 to 46-754 and section 13 of this  
18      act shall be known and may be cited as the Nebraska Ground Water  
19      Management and Protection Act.

20               Sec. 12. Section 46-715, Reissue Revised Statutes of  
21      Nebraska, is amended to read:

22               46-715 (1)(a) Whenever the Department of Natural  
23      Resources has designated a river basin, subbasin, or reach as  
24      overappropriated or has made a final determination that a river  
25      basin, subbasin, or reach is fully appropriated, the natural  
26      resources districts encompassing such river basin, subbasin, or  
27      reach and the department shall jointly develop an integrated

1 management plan for such river basin, subbasin, or reach. The plan  
2 shall be completed, adopted, and take effect within three years  
3 after such designation or final determination unless the department  
4 and the natural resources districts jointly agree to an extension  
5 of not more than two additional years.

6 (b) A natural resources district encompassing a river  
7 basin, subbasin, or reach that has not been designated as  
8 overappropriated or has not been finally determined to be  
9 fully appropriated may, jointly with the department, develop an  
10 integrated management plan for such river basin, subbasin, or  
11 reach located within the district. The district shall notify the  
12 department of its intention to develop an integrated management  
13 plan which shall be developed and adopted according to sections  
14 46-715 to 46-717 and subsections (1) and (2) of section 46-718. The  
15 objective of an integrated management plan under this subdivision  
16 is to manage such river basin, subbasin, or reach to achieve  
17 and sustain a balance between water uses and water supplies for  
18 the long term. If a district develops an integrated management  
19 plan under this subdivision and the department subsequently  
20 determines the affected river basin, subbasin, or reach to be fully  
21 appropriated, the department and the affected natural resources  
22 district may amend the integrated management plan.

23 (2) In developing an integrated management plan, the  
24 effects of existing and potential new water uses on existing  
25 surface water appropriators and ground water users shall be  
26 considered. An integrated management plan shall include the  
27 following: (a) Clear goals and objectives with a purpose of

1 sustaining a balance between water uses and water supplies so that  
2 the economic viability, social and environmental health, safety,  
3 and welfare of the river basin, subbasin, or reach can be achieved  
4 and maintained for both the near term and the long term; (b)  
5 a map clearly delineating the geographic area subject to the  
6 integrated management plan; (c) one or more of the ground water  
7 controls authorized for adoption by natural resources districts  
8 pursuant to section 46-739; (d) one or more of the surface water  
9 controls authorized for adoption by the department pursuant to  
10 section 46-716; and (e) a plan to gather and evaluate data,  
11 information, and methodologies that could be used to implement  
12 sections 46-715 to 46-717, increase understanding of the surface  
13 water and hydrologically connected ground water system, and test  
14 the validity of the conclusions and information upon which the  
15 integrated management plan is based. The plan may also provide for  
16 utilization of any applicable incentive programs authorized by law.  
17 Nothing in the integrated management plan for a fully appropriated  
18 river basin, subbasin, or reach shall require a natural resources  
19 district to regulate ground water uses in place at the time of  
20 the department's preliminary determination that the river basin,  
21 subbasin, or reach is fully appropriated, unless such regulation is  
necessary to carry out the goals and objectives of a basin-wide  
23 plan pursuant to section 13 of this act, but a natural resources  
24 district may voluntarily adopt such regulations. The applicable  
25 natural resources district may decide to include all water users  
26 within the district boundary in an integrated management plan.

27 (3) In order to provide a process for economic

1 development opportunities and economic sustainability within a  
2 river basin, subbasin, or reach, the integrated management plan  
3 shall include clear and transparent procedures to track depletions  
4 and gains to streamflows resulting from new, retired, or other  
5 changes to uses within the river basin, subbasin, or reach. The  
6 procedures shall:

7                 (a) Utilize generally accepted methodologies based on the  
8 best available information, data, and science;

9                 (b) Include a generally accepted methodology to be  
10 utilized to estimate depletions and gains to streamflows, which  
11 methodology includes location, amount, and time regarding gains to  
12 streamflows as offsets to new uses;

13                 (c) Identify means to be utilized so that new uses will  
14 not have more than a de minimis effect upon existing surface water  
15 users or ground water users;

16                 (d) Identify procedures the natural resources district  
17 and the department will use to report, consult, and otherwise  
18 share information on new uses, changes in uses, or other activities  
19 affecting water use in the river basin, subbasin, or reach;

20                 (e) Identify, to the extent feasible, potential water  
21 available to mitigate new uses, including, but not limited  
22 to, water rights leases, interference agreements, augmentation  
23 projects, conjunctive use management, and use retirement;

24                 (f) Develop, to the extent feasible, an outline of  
25 plans after consultation with and an opportunity to provide  
26 input from irrigation districts, public power and irrigation  
27 districts, reclamation districts, municipalities, other political

1 subdivisions, and other water users to make water available for  
2 offset to enhance and encourage economic development opportunities  
3 and economic sustainability in the river basin, subbasin, or reach;  
4 and

5 (g) Clearly identify procedures that applicants for new  
6 uses shall take to apply for approval of a new water use and  
7 corresponding offset.

8 Nothing in this subsection shall require revision or  
9 amendment of an integrated management plan approved on or before  
10 August 30, 2009.

11 (4) The ground water and surface water controls proposed  
12 for adoption in the integrated management plan pursuant to  
13 subsection (1) of this section shall, when considered together  
14 and with any applicable incentive programs, (a) be consistent  
15 with the goals and objectives of the plan, (b) be sufficient to  
16 ensure that the state will remain in compliance with applicable  
17 state and federal laws and with any applicable interstate water  
18 compact or decree or other formal state contract or agreement  
19 pertaining to surface water or ground water use or supplies,  
20 and (c) protect the ground water users whose water wells are  
21 dependent on recharge from the river or stream involved and  
22 the surface water appropriators on such river or stream from  
23 streamflow depletion caused by surface water uses and ground water  
24 uses begun, in the case of a river basin, subbasin, or reach  
25 designated as overappropriated or preliminarily determined to be  
26 fully appropriated in accordance with section 46-713, after the  
27 date of such designation or preliminary determination.

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

15                         (b) In any river basin, subbasin, or reach designated  
16 as overappropriated and subject to this subsection, the department  
17 and each natural resources district encompassing such river basin,  
18 subbasin, or reach shall jointly develop an integrated management  
19 plan for such river basin, subbasin, or reach pursuant to  
20 subsections (1) through (4) of this section. Each integrated  
21 management plan for a river basin, subbasin, or reach subject  
22 to this subsection shall be consistent with any basin-wide plan  
23 developed pursuant to subdivision (a) of this subsection. Such  
24 integrated management plan shall be developed after consultation  
25 and collaboration with irrigation districts, reclamation districts,  
26 public power and irrigation districts, mutual irrigation companies,  
27 canal companies, and municipalities that rely on water from

1       within the affected area and that, after being notified of the  
2       commencement of the plan development process, indicate in writing  
3       their desire to participate in such process. In addition, the  
4       department or the affected natural resources districts may include  
5       designated representatives of other stakeholders. If agreement  
6       is reached by all parties involved in such consultation and  
7       collaboration process, the department and each natural resources  
8       district shall adopt the agreed-upon integrated management plan. If  
9       agreement cannot be reached by all parties involved, the integrated  
10      management plan shall be developed and adopted by the department  
11      and the affected natural resources district pursuant to sections  
12      46-715 to 46-718 or by the Interrelated Water Review Board pursuant  
13      to section 46-719.

14                     (c) Any integrated management plan developed under  
15      this subsection shall identify the overall difference between  
16      the current and fully appropriated levels of development. Such  
17      determination shall take into account cyclical supply, including  
18      drought, identify the portion of the overall difference between the  
19      current and fully appropriated levels of development that is due  
20      to conservation measures, and identify the portions of the overall  
21      difference between the current and fully appropriated levels of  
22      development that are due to water use initiated prior to July 1,  
23      1997, and to water use initiated on or after such date.

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

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

17                         (ii) The department and the affected natural resources  
18 districts may amend an integrated management plan subject to this  
19 subsection (5) as necessary based on an annual review of the  
20 progress being made toward achieving the goals for that increment;

21                         (iii) During the ten years following adoption of an  
22 integrated management plan developed under this subsection (5)  
23 or during the ten years after the adoption of any subsequent  
24 increment of the integrated management plan pursuant to subdivision

25 (d) (iv) of this subsection, the department and the affected natural  
26 resources district shall conduct a technical analysis of the  
27 actions taken in such increment to determine the progress towards

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

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

22 (v) If necessary, the steps described in subdivisions  
23 (d)(ii) through (iv) of this subsection shall be repeated until  
24 the department and the affected natural resources districts agree  
25 that the goals and objectives identified pursuant to subsection  
26 (2) of this section have been met and the overall difference  
27 between the current and fully appropriated levels of development

1 identified in subdivision (5)(c) of this section has been addressed  
2 so that the river basin, subbasin, or reach has returned to a fully  
3 appropriated condition.

4 (6) In any river basin, subbasin, or reach that is  
5 designated as fully appropriated or overappropriated and whenever  
6 necessary to ensure that the state is in compliance with an  
7 interstate compact or decree or a formal state contract or  
8 agreement, the department, in consultation with the affected  
9 districts, shall forecast on an annual basis the maximum amount  
10 of water that may be available from streamflow for beneficial use  
11 in the short term and long term in order to comply with the  
12 requirement of subdivision (4)(b) of this section. This forecast  
13 shall be made by January 1, 2008, and each January 1 thereafter.

14 Sec. 13. This section shall apply notwithstanding any  
15 other provision of the Nebraska Ground Water Management and  
16 Protection Act.

17 (1) If a river basin as described in subdivision  
18 (2)(a) of section 2-1504 includes three or more natural resources  
19 districts that, pursuant to subdivision (1)(a) of section 46-715,  
20 have been or are required to develop an integrated management plan  
21 for all or substantially all (eighty-five percent) of the district,  
22 such natural resources districts shall, jointly with the department  
23 and the natural resources districts within the same basin, develop  
24 and adopt a basin-wide plan for the areas of a basin, subbasin, or  
25 reach determined by the department to have hydrologically connected  
26 water supplies, except that any natural resources district that has  
27 developed and implemented a basin-wide plan pursuant to subsection

1       (5) of section 46-715 shall not be affected by this section.  
2       If deemed appropriate by the department and the affected natural  
3       resources districts, the basin-wide plan may combine two or more  
4       river basins.

5               (2) An integrated management plan developed under  
6       subdivision (1)(a) or (b) of section 46-715 shall ensure such  
7       integrated management plan is consistent with any basin-wide  
8       plan developed pursuant to this section. However, an integrated  
9       management plan may implement additional incentive programs or  
10      controls pursuant to section 46-739, if the programs and controls  
11      are consistent with the basin-wide plan.

12       (3) A basin-wide plan shall be completed, adopted, and  
13      take effect within three years after the effective date of this  
14      act, unless the department and the natural resources districts  
15      jointly agree to an extension of not more than an additional two  
16      years.

17       (4) A basin-wide plan shall (a) have clear goals and  
18      objectives with a purpose of sustaining a balance between water  
19      uses and water supplies so that the economic viability, social  
20      and environmental health, safety, and welfare of the river basin,  
21      subbasin, or reach can be achieved and maintained for both the  
22      near term and the long term, (b) ensure that compliance with any  
23      interstate compact or decree, or other formal state contract or  
24      agreement or applicable state or federal law is maintained, and (c)  
25      set forth a timeline to meet the goals and objectives as required  
26      under this subsection, but in no case shall a timeline exceed  
27      thirty years after the effective date of this act.

1                 (5) (a) A basin-wide plan developed under this section  
2         shall utilize the best generally-accepted methodologies and  
3         available information, data, and science to evaluate the effect  
4         of existing uses of hydrologically connected water on existing  
5         surface water and ground water users. The plan shall include a  
6         process to gather and evaluate data, information, and methodologies  
7         to increase understanding of the surface water and hydrologically  
8         connected ground water system within the basin, subbasin, or  
9         reach and test the validity of the conclusions, information, and  
10         assumptions upon which the plan is based.

11                 (b) A basin-wide plan developed under this section shall  
12         include a schedule indicating the end date by which the stated  
13         goals and objectives are to be achieved and the management actions  
14         to be taken to achieve the goals and objectives. To ensure that  
15         reasonable progress is being made toward achieving the final  
16         goals and objectives of the plan, the schedule shall also include  
17         measurable hydrologic objectives and intermediate dates by which  
18         the objectives are expected to be met and monitoring plans to  
19         measure the extent to which the objectives are being achieved. Such  
20         intermediate objectives shall be established in a manner that, if  
21         achieved on schedule, will provide a reasonable expectation that  
22         the goals of the plan will be achieved by the established end date.

23                 (c) A basin-wide plan shall be developed using a  
24         consultation and collaboration process involving representatives  
25         from irrigation districts, reclamation districts, public power and  
26         irrigation districts, mutual irrigation companies, canal companies,  
27         ground water users, range livestock owners, the Game and Parks

1   Commission, and municipalities that rely on water from within the  
2   affected area and that, after being notified of the commencement  
3   of the plan development process, indicate in writing their desire  
4   to become an official participant in such process. The department  
5   and affected natural resources districts shall involve official  
6   participants in formulating, evaluating, and recommending plans  
7   and management actions and work to reach an agreement among all  
8   official participants involved in a basin-wide plan. In addition,  
9   the department or the affected natural resources districts may  
10   include designated representatives of other stakeholders. If  
11   agreement is reached by all parties involved in such consultation  
12   and collaboration process, the department and the affected natural  
13   resources districts shall adopt the agreed-upon basin-wide plan. If  
14   agreement cannot be reached by all parties involved, the basin-wide  
15   plan shall be developed and adopted by the department and the  
16   affected natural resources districts or by the Interrelated Water  
17   Review Board pursuant to section 46-719.

18       (d) Within five years after the adoption of the  
19   basin-wide plan, and every five years thereafter, the department  
20   and affected natural resources districts shall conduct a technical  
21   analysis of the actions taken in a river basin to determine the  
22   progress towards meeting the goals and objectives of the plan. The  
23   analysis shall include an examination of (i) available supplies,  
24   current uses, and changes in long-term water availability, (ii) the  
25   effects of conservation practices and natural causes, including,  
26   but not limited to, drought, and (iii) the effects of the plan  
27   in meeting the goal of sustaining a balance between water uses

1       and water supplies. The analysis shall determine if changes or  
2       modifications to the basin-wide plan are needed to meet the goals  
3       and objectives pursuant to subdivision (a) of this subsection. The  
4       department and affected natural resources districts shall present  
5       the results of the analysis and any recommended modifications to  
6       the plan at a public meeting and shall provide for at least a  
7       thirty-day public comment period before holding a public hearing on  
8       the recommended modifications. The department shall submit a report  
9       to the Legislature of the results of this analysis and the progress  
10      made under the basin-wide plan. The report shall be submitted  
11      electronically. Any official participant or stakeholder may submit  
12      comments to the department and affected natural resources districts  
13      on the final basin-wide plan adopted by the department and affected  
14      natural resources districts, which shall be made a part of the  
15      report to the Legislature.

16            (e) Before adoption of a basin-wide plan, the department  
17      and affected natural resources districts shall schedule at least  
18      one public hearing to take testimony on the proposed plan. Any such  
19      hearings shall be held in reasonable proximity to the area affected  
20      by the plan. Notice of hearings shall be published as provided in  
21      section 46-743. All interested persons may appear at any hearings  
22      and present testimony or provide other evidence relevant to the  
23      issues under consideration. Within sixty days after the final  
24      hearing, the department and affected natural resources districts  
25      shall jointly determine whether to adopt the plan.

26            (f) The department and the affected natural resources  
27      districts may utilize, when necessary, the Interrelated Water

1     Review Board process provided in section 46-719 for disputes  
2     arising from developing, implementing, and enforcing a basin-wide  
3     plan developed under this section.

4                 2. On page 1, line 6, strike "6" and insert "10".

5                 3. On page 2, line 20, strike "and" and show as stricken;  
6     and in line 22 after "Resources" insert "; and

7                 (13) Combined sewer overflow project means a municipal  
8     project to reduce overflows from a combined sewer system pursuant  
9     to a long-term control plan approved by the Department of  
10    Environmental Quality".

11                4. On page 6, line 15, after "areas" insert ", and  
12    represent, to the extent possible, the racial and ethnic diversity  
13    of the state"; and strike lines 16 through 23 and insert

14                "(6) After the members have been appointed as required  
15    under this section, the commission shall revise or adopt and  
16    promulgate rules and regulations as necessary to administer the  
17    Water Sustainability Fund pursuant to sections 3 to 10 of this  
18    act.".

19                5. Rerumber the remaining sections and correct internal  
20    references and the repealer accordingly.