

AMENDMENTS TO LB317

Introduced by Natural Resources.

1 1. Strike original sections 1 to 6, 11, 26, 38, 46, 56, 61 to 229,
2 234, 248 to 260, 317, 324, 330, and 345 and insert the following new
3 sections:

4 **Section 1.** (1) On and after July 1, 2025, the Department of Natural
5 Resources shall be merged into the Department of Environment and Energy,
6 which shall be renamed as the Department of Water, Energy, and
7 Environment, and the Director of Environment and Energy shall be renamed
8 as the Director of Water, Energy, and Environment. The Director of
9 Natural Resources shall be renamed the Chief Water Officer and retain
10 authorities previously prescribed for the administration of duties of the
11 Department of Natural Resources, except as otherwise provided by law.

12 (2) On and after July 1, 2025, positions of employment in the
13 Department of Natural Resources related to the powers, duties, and
14 functions transferred to the Department of Water, Energy, and Environment
15 pursuant to this legislative bill are transferred to the Department of
16 Water, Energy, and Environment. For purposes of the transition, employees
17 of the Department of Natural Resources shall be considered employees of
18 the Department of Water, Energy, and Environment and shall retain their
19 rights under the state personnel system or pertinent bargaining
20 agreement, and their service shall be deemed continuous. This section
21 does not grant employees any new rights or benefits not otherwise
22 provided by law or bargaining agreement or preclude the department or the
23 director from exercising any of the prerogatives of management set forth
24 in section 81-1311 or as otherwise provided by law. This section is not
25 an amendment to or substitute for the provisions of any existing
26 bargaining agreements.

27 **Sec. 2.** Any appropriation and salary limit provided in any

1 legislative bill enacted by the One Hundred Ninth Legislature, First
2 Session, to Agency No. 29, Department of Natural Resources, shall be null
3 and void, and any such amounts are hereby appropriated to Agency No. 84,
4 Department of Water, Energy, and Environment. Any financial obligations
5 of the Department of Natural Resources that remain unpaid as of June 30,
6 2025, and that are subsequently certified as valid encumbrances to the
7 accounting division of the Department of Administrative Services pursuant
8 to sections 81-138.01 to 81-138.04, shall be paid by the Department of
9 Water, Energy, and Environment from the unexpended balance of
10 appropriations existing in such program classifications on June 30, 2025.

11 **Sec. 3.** On and after July 1, 2025, whenever the Department of
12 Natural Resources or the Department of Environment and Energy is referred
13 to or designated by any contract or other document in connection with the
14 duties and functions of the Department of Natural Resources or the
15 Department of Environment and Energy as such departments existed prior to
16 July 1, 2025, such reference or designation shall apply to the Department
17 of Water, Energy, and Environment or the Chief Water Officer, as
18 determined by the duties and functions assigned to each in statute. All
19 contracts entered into by the Department of Natural Resources or the
20 Department of Environment and Energy prior to July 1, 2025, in connection
21 with the duties and functions of the Department of Natural Resources or
22 the Department of Environment and Energy as such departments existed
23 prior to July 1, 2025, are hereby recognized, with the Department of
24 Water, Energy, and Environment or the Chief Water Officer, as determined
25 by the duties and functions assigned to each in statute, succeeding to
26 all rights and obligations under such contracts. Any cash funds,
27 custodial funds, gifts, trusts, grants, and appropriations of funds from
28 prior fiscal years available to satisfy obligations incurred under such
29 contracts shall be transferred and appropriated to such department or the
30 Chief Water Officer for the payment of such obligations. All documents
31 and records transferred, or copies of the same, may be authenticated or

1 certified by such department or the Chief Water Officer for all legal
2 purposes.

3 **Sec. 4.** No suit, action, or other proceeding, judicial or
4 administrative, lawfully commenced prior to July 1, 2025, or which could
5 have been commenced prior to that date, by or against the Department of
6 Natural Resources or the Department of Environment and Energy, or any
7 director or any employee thereof in such director's or employee's
8 official capacity or in relation to the discharge of his or her official
9 duties, shall abate by reason of the transfer of duties and functions
10 from the Department of Natural Resources to the Department of Water,
11 Energy, and Environment or the Chief Water Officer or the renaming of the
12 Department of Environment and Energy as the Department of Water, Energy,
13 and Environment.

14 **Sec. 5.** On and after July 1, 2025, unless otherwise specified,
15 whenever any provision of law refers to the Department of Natural
16 Resources or the Department of Environment and Energy in connection with
17 duties and functions of the Department of Water, Energy, and Environment,
18 such law shall be construed as referring to the Department of Water,
19 Energy, and Environment or the Chief Water Officer, as determined by the
20 duties and functions assigned to each in statute.

21 **Sec. 6.** On July 1, 2025, all items of property, real and personal,
22 including office furniture and fixtures, books, documents, and records of
23 the Department of Natural Resources pertaining to the duties and
24 functions transferred to the Department of Water, Energy, and Environment
25 pursuant to this legislative bill shall become the property of such
26 department.

27 **Sec. 11.** Section 2-969, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 2-969 The Riparian Vegetation Management Task Force is created. The
30 Governor shall appoint the members of the task force. The members shall
31 include one surface water project representative from each river basin

1 that has ever been determined to be fully appropriated pursuant to
2 section 46-714 or 46-720 or is designated as overappropriated pursuant to
3 section 46-713 by the Chief Water Officer ~~Department of Natural~~
4 ~~Resources~~; one surface water project representative from a river basin
5 that has not been determined to be fully appropriated pursuant to section
6 46-714 or 46-720 or is not designated as overappropriated pursuant to
7 section 46-713 by the Chief Water Officer ~~Department of Natural~~
8 ~~Resources~~; one representative from the Department of Agriculture, the
9 Department of Water, Energy, and Environment ~~Environment and Energy~~, the
10 ~~Department of Natural Resources~~, the office of the State Forester, the
11 Game and Parks Commission, and the University of Nebraska; three
12 representatives selected from a list of at least ten individuals
13 nominated by the Nebraska Association of Resources Districts; two
14 representatives selected from a list of at least five individuals
15 nominated by the Nebraska Weed Control Association; one riparian
16 landowner from each of the state's congressional districts; and one
17 representative from the Nebraska Environmental Trust. In addition to such
18 members, any member of the Legislature may serve as a nonvoting, ex
19 officio member of the task force at his or her option. For administrative
20 and budgetary purposes only, the task force shall be housed within the
21 Department of Agriculture.

22 **Sec. 26.** Section 2-3225, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 2-3225 (1)(a) Each district shall have the power and authority to
25 levy a tax of not to exceed four and one-half cents on each one hundred
26 dollars of taxable valuation annually on all of the taxable property
27 within such district unless a higher levy is authorized pursuant to
28 section 77-3444.

29 (b) Each district shall also have the power and authority to levy a
30 tax equal to the dollar amount by which its restricted funds budgeted to
31 administer and implement ground water management activities and

1 integrated management activities under the Nebraska Ground Water
2 Management and Protection Act exceed its restricted funds budgeted to
3 administer and implement ground water management activities and
4 integrated management activities for FY2003-04, not to exceed one cent on
5 each one hundred dollars of taxable valuation annually on all of the
6 taxable property within the district.

7 (c) In addition to the power and authority granted in subdivisions
8 (1)(a) and (b) of this section, each district located in a river basin,
9 subbasin, or reach that has been determined to be fully appropriated
10 pursuant to section 46-714 or designated overappropriated pursuant to
11 section 46-713 by the Chief Water Officer ~~Department of Natural Resources~~
12 shall also have the power and authority to levy a tax equal to the dollar
13 amount by which its restricted funds budgeted to administer and implement
14 ground water management activities and integrated management activities
15 under the Nebraska Ground Water Management and Protection Act exceed its
16 restricted funds budgeted to administer and implement ground water
17 management activities and integrated management activities for FY2005-06,
18 not to exceed three cents on each one hundred dollars of taxable
19 valuation on all of the taxable property within the district for fiscal
20 year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

21 (d) In addition to the power and authority granted in subdivisions
22 (a) through (c) of this subsection, a district with jurisdiction that
23 includes a river subject to an interstate compact among three or more
24 states and that also includes one or more irrigation districts within the
25 compact river basin may annually levy a tax not to exceed ten cents per
26 one hundred dollars of taxable valuation of all taxable property in the
27 district. The proceeds of such tax may be used for the payment of
28 principal and interest on bonds and refunding bonds issued pursuant to
29 section 2-3226.01. Such levy is not includable in the computation of
30 other limitations upon the district's tax levy.

31 (2) The proceeds of the tax levies authorized in subdivisions (1)(a)

1 through (c) of this section shall be used, together with any other funds
2 which the district may receive from any source, for the operation of the
3 district. When adopted by the board, the tax levies authorized in
4 subdivisions (1)(a) through (d) of this section shall be certified by the
5 secretary to the county clerk of each county which in whole or in part is
6 included within the district. Such levy shall be handled by the counties
7 in the same manner as other levies, and proceeds shall be remitted to the
8 district treasurer. Such levy shall not be considered a part of the
9 general county levy and shall not be considered in connection with any
10 limitation on levies of such counties.

11 **Sec. 38.** Section 13-2042.01, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 13-2042.01 (1) The department ~~Department of Environment and Energy~~
14 shall rebate to the municipality or county of origin ten cents of the
15 disposal fee required by section 13-2042 for solid waste disposed of at
16 landfills regulated by the department or transported for disposal out of
17 state from a solid waste processing facility holding a permit under the
18 Integrated Solid Waste Management Act and when such solid waste
19 originated in a municipality or county with a purchasing policy approved
20 by the department. The fee shall be rebated on a schedule agreed upon
21 between the municipality or county and the department. The schedule shall
22 be no more often than quarterly and no less often than annually.

23 (2) Any municipality or county may apply to the department for the
24 rebate authorized in subsection (1) of this section if the municipality
25 or county has a written purchasing policy in effect requiring a
26 preference for purchasing products, materials, or supplies which are
27 manufactured or produced from recycled material. The policy shall provide
28 that the preference shall not operate when it would result in the
29 purchase of products, materials, or supplies which are of inadequate
30 quality as determined by the municipality or county. Upon receipt of an
31 application, the department ~~Department of Environment and Energy~~ shall

1 submit the application to the materiel division of the Department of
2 Administrative Services for review. The materiel division shall review
3 the application for compliance with this section and any rules and
4 regulations adopted pursuant to this section and to determine the
5 probable effectiveness in assuring that a preference is given to
6 products, materials, or supplies which are manufactured or produced from
7 recycled material. The materiel division shall provide a report of its
8 findings to the Department of Water, Energy, and Environment ~~Department~~
9 ~~of Environment and Energy~~ within thirty days after receiving the review
10 request. The department ~~Department of Environment and Energy~~ shall
11 approve the application or suggest modifications to the application
12 within sixty days after receiving the application based on the materiel
13 division's report, any analysis by the department ~~Department of~~
14 ~~Environment and Energy~~, and any factors affecting compliance with this
15 section or the rules and regulations adopted pursuant to this section.

16 (3) A municipality or county shall file a report complying with the
17 rules and regulations adopted pursuant to this section with the
18 Department of Water, Energy, and Environment ~~Department of Environment~~
19 ~~and Energy~~ before April 1 of each year documenting purchasing practices
20 for the past calendar year in order to continue receiving the rebate. The
21 report shall include, but not be limited to, quantities of products,
22 materials, or supplies purchased which were manufactured or produced from
23 recycled material. The department shall provide copies of each report to
24 the materiel division in a timely manner. If the department determines
25 that a municipality or county is not following the purchasing policy
26 presented in the approved application or that the purchasing policy
27 presented in the approved application is not effective in assuring that a
28 preference is given to products, materials, or supplies which are
29 manufactured or produced from recycled material, the department shall
30 suspend the rebate until it determines that the municipality or county is
31 giving a preference to products, materials, or supplies which are

1 manufactured or produced from recycled material pursuant to a written
2 purchasing policy approved by the department subsequent to the
3 suspension. The materiel division may make recommendations to the
4 department regarding suspensions and reinstatements of rebates. The
5 Department of Administrative Services may adopt and promulgate rules and
6 regulations establishing procedures for reviewing applications and for
7 annual reports.

8 (4) Any suspension of the rebate or denial of an application made
9 under this section may be appealed. The appeal shall be in accordance
10 with the Administrative Procedure Act.

11 (5) The council shall adopt and promulgate rules and regulations
12 establishing criteria for application procedures, for accepting and
13 denying applications, for required reports, and for suspending and
14 reinstating the rebate. The materiel division shall recommend to the
15 council criteria for accepting and denying applications and for
16 suspending and reinstating the rebate. The materiel division may make
17 other recommendations to the council regarding rules and regulations
18 authorized under this section.

19 **Sec. 46.** Section 25-1064, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 25-1064 (1) The injunction may be granted at the time of commencing
22 the action or at any time afterward before judgment by the Court of
23 Appeals or the Supreme Court or any judge thereof. No restraining order
24 or temporary injunction should be granted at the time of the commencement
25 of the action if the relief demanded involves the delivery of irrigation
26 water and the Chief Water Officer ~~Director of Natural Resources~~, as
27 defined in section 25-1062.01, is a party except in accordance with the
28 procedure prescribed in subsection (5) of this section.

29 (2) No temporary injunction may be granted without notice to the
30 adverse party.

31 (3) Any judge of the district court, except when the relief demanded

1 involves the delivery of irrigation water and the Chief Water Officer
2 ~~director~~ is a party, may grant a temporary restraining order without
3 notice to the adverse party or his or her attorney only if (a) it clearly
4 appears from specific facts shown by affidavit that immediate and
5 irreparable injury, loss, or damage will result to the applicant before
6 the adverse party or his or her attorney can be heard in opposition and
7 (b) the applicant or his or her attorney certifies to the court in
8 writing the efforts, if any, which have been made to give such notice and
9 the reasons supporting the applicant's claim that such notice shall not
10 be required.

11 Every temporary restraining order granted without notice shall: (i)
12 Be endorsed with the date and hour of issuance; (ii) be filed immediately
13 in the office of the clerk of the district court and entered of record;
14 (iii) define the injury and state why the injury is irreparable and why
15 the order was granted without notice; and (iv) expire by its terms within
16 such time after entry, not to exceed ten days, as the court fixes unless
17 within such fixed time period the order, for good cause shown, is
18 extended for a like period or unless the party against whom the order is
19 directed consents to an extension for a longer period. The reasons for
20 the extension shall be entered of record. If a temporary restraining
21 order is granted without notice, the motion for a temporary injunction
22 shall be heard at the earliest possible time in the district court and
23 shall take precedence over all matters except older matters of the same
24 character. When the motion for a temporary injunction comes up for
25 hearing, the party who obtained the temporary restraining order shall
26 proceed with the application for a temporary injunction, and if he or she
27 does not do so, the district court shall dissolve the temporary
28 restraining order. On two days' notice to the party who obtained the
29 temporary restraining order without notice or on such shorter notice to
30 such party as the district court may prescribe, the adverse party may
31 appear and move for the dissolution or modification of the order, and in

1 that event, the court shall proceed to hear and determine such motion as
2 expeditiously as the ends of justice require.

3 (4) In the absence from the county of the district judges, any judge
4 of the county court, except when the relief demanded involves the
5 delivery of irrigation water and the Chief Water Officer ~~director~~ is a
6 party, may grant a temporary restraining order without notice to the
7 adverse party or his or her attorney only if (a) it clearly appears from
8 specific facts shown by affidavit that immediate and irreparable injury,
9 loss, or damage will result to the applicant before the adverse party or
10 his or her attorney can be heard in opposition and (b) the applicant or
11 his or her attorney certifies to the court in writing the efforts, if
12 any, which have been made to give such notice and the reasons supporting
13 the applicant's claim that such notice shall not be required. The judge
14 of the county court shall direct that reasonable notice be given to the
15 party against whom the temporary restraining order is issued to attend at
16 a specified time or place before the district court or any judge thereof
17 to show cause why a temporary injunction should not be issued.

18 Every temporary restraining order granted without notice shall: (i)
19 Be endorsed with the date and hour of issuance; (ii) be filed immediately
20 in the office of the clerk of the district court and entered of record;
21 (iii) define the injury and state why the injury is irreparable and why
22 the order was granted without notice; and (iv) expire by its terms within
23 such time after entry, not to exceed ten days, as the judge of the county
24 court fixes unless within such fixed time period the order, for good
25 cause shown, is extended by the district court for a like period or
26 unless the party against whom the order is directed consents to an
27 extension for a longer period. The reasons for the extension shall be
28 entered of record.

29 (5) The Supreme Court or any judge thereof, the Court of Appeals or
30 any judge thereof, the district court or any judge thereof, or a judge of
31 the county court, if and when he or she has jurisdiction, shall have no

1 power, when the relief demanded involves the delivery of irrigation water
2 and the Chief Water Officer ~~director~~ is a party, to grant a restraining
3 order or temporary injunction at the time of the commencement of the
4 action, except when notice by either registered or certified letter has
5 been mailed seventy-two hours prior to the time of hearing to the Chief
6 Water Officer ~~director~~ and the division supervisor in the water division
7 created by section 61-212 in which the action is brought and, in the
8 manner provided in section 25-1062.01, to all appropriators whose rights
9 to the delivery of irrigation water might in any manner be affected, of
10 the time and place of the hearing. At the hearing on the restraining
11 order or temporary injunction, the Chief Water Officer ~~director~~,
12 appropriators, or riparian owners shall be entitled to be heard, in
13 person or by their attorney or attorneys, on the question of whether the
14 restraining order should be granted and, if so, in what amount the bond
15 or undertaking is to be fixed.

16 (6) Any person, natural or artificial, injured or likely to be
17 injured by the granting of a restraining order may intervene in the
18 action at any stage of the proceedings and become a party to the
19 litigation if it involves the delivery of irrigation water and the Chief
20 Water Officer ~~director~~ is a party.

21 **Sec. 56.** Section 31-1015, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 31-1015 Obstruction shall mean any wall, wharf, embankment, levee,
24 dike, pile, abutment, projection, excavation, channel rectification,
25 bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse,
26 fill, or other analogous structure or matter which may impede, retard, or
27 change the direction of the flow of water, either in itself or by
28 catching or collecting debris carried by such water, or that is placed
29 where the natural flow of the water would carry such structure or matter
30 downstream to the damage or detriment of either life or property.
31 Obstruction shall not include a dam designed to store or divert water for

1 which permission for construction has been obtained from the Chief Water
2 Officer ~~Department of Natural Resources~~ pursuant to the Safety of Dams
3 and Reservoirs Act.

4 **Sec. 61.** Section 46-106, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-106 The petition for the proposed district shall be published for
7 at least two weeks before the time at which the same is to be presented,
8 in some newspaper printed and published in the county where the petition
9 is presented, together with a notice stating the time of the meeting at
10 which the petition will be presented. A copy of such petition and all
11 maps and other papers filed with the petition shall be filed with ~~in~~ the
12 Chief Water Officer ~~office~~ of the Department of Water, Energy, and
13 Environment ~~Natural Resources~~ for at least four weeks before the date set
14 for such hearing. The Chief Water Officer ~~Director of Natural Resources~~
15 shall examine such petition, maps, and other papers and, if he or she
16 deems it necessary, shall further examine the proposed district, the
17 works proposed to be purchased, or the location of the works to be
18 constructed. The Chief Water Officer ~~director~~ shall prepare a report upon
19 the matter in such form as he or she deems advisable and submit the
20 report to the county board at the meeting set for the hearing of the
21 petition.

22 **Sec. 62.** Section 46-122, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-122 (1) It is hereby expressly provided that all water
25 distributed for irrigation purposes shall attach to and follow the tract
26 of land to which it is applied unless a change of location has been
27 approved by the board of directors pursuant to sections 46-2,127 to
28 46-2,129 or by the Chief Water Officer ~~Department of Natural Resources~~
29 pursuant to section 46-294 or sections 46-2,122 to 46-2,126.

30 (2) The board of directors may by the adoption of appropriate bylaws
31 provide for the suspension of water delivery to any land in such district

1 upon which the irrigation taxes levied and assessed thereon shall remain
2 due and unpaid for two years. It shall be the duty of the directors to
3 make all necessary arrangements for right-of-way for laterals from the
4 main canal to each tract of land subject to assessment, and when
5 necessary the board shall exercise its right of eminent domain to procure
6 right-of-way for the laterals and shall make such rules in regard to the
7 payment for such right-of-way as may be just and equitable.

8 (3) In times of reduced water supply, when the volume of water is
9 not adequate to be beneficially used when equitably apportioned to all
10 landowners in the district, the board may, after providing notice to
11 landowners in a portion of the district and upon receiving no objections
12 from the majority of such landowners, elect not to deliver water to that
13 portion of the district. Such election shall not subject the district to
14 liability under section 46-160 and shall not affect the rights of
15 landowners in that portion of the district to water deliveries in the
16 future. Any election to not deliver water to a portion of the district
17 shall be made on a year-to-year basis, not to exceed ten years, and such
18 election shall not subject any landowner to adjudication of his or her
19 water right under section 46-229. The board may adjust the tolls or
20 charges made to landowners within the district to reflect the decrease in
21 supply to those landowners in the portion of the district not receiving
22 water pursuant to such election by the board.

23 **Sec. 63.** Section 46-190, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-190 After a sale of the property and franchises of the district,
26 the board of directors shall, with the amount realized from such sale,
27 together with such other funds as such district may have, make
28 settlement, payment, and redemption, if possible, of all outstanding
29 bonded and other indebtedness of the district, but shall in no case pay
30 more than the market value of such outstanding bonds with interest up to
31 the time of payment. In cases when bonds not yet due cannot be redeemed

1 by reason of the refusal of the owner thereof to surrender them before
2 due, the board may invest the surplus money of the district, after paying
3 all debts that can be paid, in state, county, or other safe bonds,
4 bearing the same or greater rate of interest, if possible, than the
5 district bonds thus outstanding, for the purpose of paying such
6 outstanding bonds of the district when due. In case the amount realized
7 from the sale of such district property, together with other money of the
8 district, is insufficient for the payment of all the indebtedness of the
9 district, assessments shall continue to be made against the lands
10 included in the district in the manner provided by law for assessments to
11 pay bonds and other indebtedness of irrigation districts until a
12 sufficient amount is raised to fully pay all obligations of such
13 district.

14 Any balance of funds remaining after the sale or disposition of all
15 property belonging to the district and after all obligations and
16 indebtedness of the district have been paid or discharged shall be
17 distributed by the county treasurer to all assessment payers of the
18 district of record as of the date of the filing with ~~in~~ the Chief Water
19 Officer ~~office~~ of the Department of Water, Energy, and Environment
20 Natural Resources of the report referred to in section 46-192. Such
21 distribution shall be made pro rata in accordance with the number of
22 acres of irrigable land owned within the district as of the date of the
23 last assessment against such land for the district prior to the date of
24 the filing of such report.

25 **Sec. 64.** Section 46-192, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-192 After all the property of the district is disposed of as
28 provided in sections 46-186 to 46-188, except for any balance of funds
29 remaining after all of the obligations of such district have been paid,
30 the directors of such district shall file in the office of the county
31 clerk of each county in which such district is located, and with ~~in~~ the

1 Chief Water Officer office of the Department of Water, Energy, and
2 Environment Natural Resources, a report attested by the secretary of the
3 board, stating that the district has disposed of its property and
4 franchises, except for any balance of funds remaining, and has
5 discontinued operation, which report shall be recorded in the
6 miscellaneous record of such counties. Each easement and right-of-way,
7 whether owned by the district in fee or otherwise, shall automatically be
8 terminated and extinguished and such interest together with any canal or
9 other structure shall become the property of the owner of the land upon
10 which such easement, right-of-way, canal, or other structure is located
11 or, if owned in fee by the district, shall become the property of the
12 owner of the land adjacent thereto, upon the filing of the report with
13 the Chief Water Officer department. If any person has any claim against
14 such district which is not settled or disposed of at the time of the
15 filing of such report and such person fails or neglects to bring suit
16 upon such claim within one year after the time of the filing of such
17 report, such claim or claims shall be forever barred as against such
18 district as well as against all persons and property therein.

19 **Sec. 65.** Section 46-193, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-193 As soon as practicable after the organization of any such
22 district, the board of directors shall, by a resolution entered on its
23 record, formulate a general plan of its proposed operation in which it
24 shall state (1) what constructed works or other property it proposes to
25 purchase and the cost of purchasing the same and (2) what construction
26 work it proposes to do and how it proposes to raise the funds for
27 carrying out such plan. For the purpose of ascertaining the cost of any
28 such construction work, the board shall cause such surveys, examinations,
29 and plans to be made as will demonstrate the practicability of such plan
30 and furnish the proper basis for an estimate of the costs of carrying out
31 the same. All such surveys, examinations, maps, plans, and estimates

1 shall be made under the direction of a competent irrigation engineer and
2 certified by the engineer. The board shall then submit a copy of the same
3 to the Chief Water Officer of the Department of Water, Energy, and
4 Environment ~~Director of Natural Resources~~ within ninety days thereafter,
5 who shall file a report upon the same with the board, which report shall
6 contain such matters as in the judgment of the Chief Water Officer
7 ~~director~~ may be desirable.

8 **Sec. 66.** Section 46-1,155, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-1,155 Any two or more irrigation districts may merge into one
11 district if a petition for merger signed by a majority of the board of
12 directors of each district or signed by a majority of the electors of
13 each district is filed with the boards of directors of the districts to
14 be merged. Such petition shall include a plan for the merger, which plan
15 shall contain:

16 (1) A description of the proposed boundaries of the merged district
17 and a list of lands;

18 (2) A summary of the reasons for the proposed merger;

19 (3) A summary of the terms on which the merger is to be made between
20 the merged districts and such terms shall include a provision for three
21 divisions as nearly equal in size as may be practicable, which shall be
22 numbered first, second, and third, and two directors shall be elected
23 from each division;

24 (4) The amount of outstanding indebtedness of each district and
25 proposed disposition thereof;

26 (5) The equitable adjustment of all property, debts, and liabilities
27 among the districts involved;

28 (6) The name of the proposed district; and

29 (7) Such other matters as the petitioners determine proper to be
30 included.

31 A certified copy of the petition for merger shall be filed with the

1 Chief Water Officer of the Department of Water, Energy, and Environment
2 ~~Natural Resources~~ and the Chief Water Officer department shall either
3 approve or disapprove such petition within twenty days. The boards of
4 directors of the districts shall not take further action without such
5 approval.

6 **Sec. 67.** Section 46-1,157, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1,157 When such plan has been approved by the Chief Water Officer
9 ~~Department of Natural Resources~~, it shall be designated as the final
10 approved plan and shall be submitted to a vote as provided in section
11 46-1,158.

12 **Sec. 68.** Section 46-1,164, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 46-1,164 There is hereby created the Surface Water Irrigation
15 Infrastructure Fund to be administered by the Department of Water,
16 Energy, and Environment ~~Natural Resources~~. The fund shall be used to
17 provide grants in accordance with section 46-1,165 to irrigation
18 districts. There shall be a one-time transfer of fifty million dollars
19 from the Cash Reserve Fund to the Surface Water Irrigation Infrastructure
20 Fund to carry out the purposes of section 46-1,165. Any money in the
21 Surface Water Irrigation Infrastructure Fund available for investment
22 shall be invested by the state investment officer pursuant to the
23 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
24 Act. Investment earnings from investment of money in the fund shall be
25 credited to the fund.

26 **Sec. 69.** Section 46-1,165, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 46-1,165 The Chief Water Officer ~~Department of Natural Resources~~
29 shall establish procedures and criteria for awarding grants to irrigation
30 districts from the Surface Water Irrigation Infrastructure Fund to be
31 used for repair or construction of any headgate, flume, diversion

1 structure, check valve, or any other physical structure used for
2 irrigation projects. The Chief Water Officer ~~department~~ may award grants,
3 not to exceed five million dollars per applicant, to an irrigation
4 district that applies to the Chief Water Officer ~~department~~ based on
5 criteria and procedures established by the Chief Water Officer
6 ~~department~~. In order to receive a grant under this section, a grant
7 applicant shall provide matching funds equal to ten percent of the grant
8 amount awarded for such project.

9 **Sec. 70.** Section 46-205, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-205 The priority of an appropriation shall date from the filing
12 of the application with ~~in~~ the Chief Water Officer ~~office~~ of the
13 Department of Water, Energy, and Environment ~~Natural Resources~~.

14 **Sec. 71.** Section 46-226, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-226 (1) The Chief Water Officer ~~department~~ shall make proper
17 arrangements for the determination of priorities of right to use the
18 public waters of the state and determine the same. The method of
19 determining the priority and amount of appropriation shall be fixed by
20 the Chief Water Officer ~~department~~.

21 (2)(a) The Chief Water Officer ~~department~~ is authorized to
22 administer any riparian water right that has been validated and
23 recognized in a court order from a court of lawful jurisdiction in the
24 state.

25 (b) The only surface water appropriations that may be closed for a
26 riparian water right are appropriations held by persons who were parties
27 to the lawsuit validating the riparian water right or appropriations with
28 a priority date subsequent to the date of the court order.

29 **Sec. 72.** Section 46-226.01, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-226.01 Any person having an approved perfected appropriation may

1 file with the Chief Water Officer ~~department~~ an application for
2 recognition of incidental underground water storage associated with such
3 appropriation on a form prescribed and furnished by the Chief Water
4 Officer ~~department~~ without cost. Upon receipt of an application, the
5 Chief Water Officer ~~department~~ shall proceed in accordance with rules and
6 regulations adopted and promulgated by the Chief Water Officer
7 ~~department~~.

8 **Sec. 73.** Section 46-226.02, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-226.02 (1) The Chief Water Officer ~~director~~ may approve an
11 application filed pursuant to section 46-226.01 or 46-297 subject to the
12 following conditions:

13 (a) The rate, quantity, or time of surface water diversion shall not
14 be increased from that approved for the appropriation at the time the
15 application is filed;

16 (b) If the water stored or to be stored underground will be used for
17 irrigation purposes, the Chief Water Officer ~~director~~ may approve the
18 service of additional amounts of land or different lands not identified
19 to be served with facilities included under the original appropriation,
20 if the Chief Water Officer ~~director~~ determines that the change is in the
21 public interest, and that any interference with the rights of senior
22 appropriators as a result of such change is unavoidable and not material;

23 (c) The priority date shall remain the same as that of the original
24 appropriation; and

25 (d) When the application is for recognition of incidental
26 underground water storage, such stored water is being withdrawn or is
27 otherwise being used for beneficial purposes.

28 (2) For an application filed pursuant to section 46-226.01, the
29 burden shall be on the applicant to prove that underground water storage
30 has occurred.

31 (3) The Chief Water Officer ~~director~~ may grant the application in a

1 modified or reduced form, if required by the public interest, and may
2 impose such other reasonable conditions as deemed appropriate to protect
3 the public interest.

4 (4) The Chief Water Officer's ~~director's~~ order of approval shall
5 specify:

6 (a) The source of the water stored or to be stored underground;

7 (b) The underground water storage method; and

8 (c) A description of the area served or to be served by the water
9 stored underground.

10 **Sec. 74.** Section 46-226.03, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-226.03 For purposes of sections 46-226 to 46-243:

13 (1) Chief Water Officer means the Chief Water Officer of the
14 Department of Water, Energy, and Environment;

15 (2) ~~(1)~~ Department means the Department of Water, Energy, and
16 Environment Natural Resources;

17 ~~(2) Director means the Director of Natural Resources;~~

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

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

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

25 (6) Public water supplier means a city, village, municipal
26 corporation, metropolitan utilities district, rural water district,
27 natural resources district, irrigation district, reclamation district, or
28 sanitary and improvement district which supplies or intends to supply
29 water to inhabitants of cities, villages, or rural areas for domestic or
30 municipal purposes;

31 (7) Underground water storage has the same meaning as in section

1 46-296; and

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

5 **Sec. 75.** Section 46-227, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-227 The Chief Water Officer ~~department~~ shall measure or cause to
8 be measured the quantity of water flowing in the several streams of the
9 state, shall make a record thereof in the office of the department, and
10 shall from time to time make such additional measurements as may be
11 necessary, in considering applications for water appropriations and such
12 controversies as may arise regarding the distribution of water.

13 **Sec. 76.** Section 46-229, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-229 All appropriations for water must be for a beneficial or
16 useful purpose and, except as provided in sections 46-290 to 46-294 and
17 46-2,122 to 46-2,125, when the owner of an appropriation or his or her
18 successor in interest ceases to use it for such purpose for more than
19 five consecutive years, the right may be terminated only by the Chief
20 Water Officer ~~director~~ pursuant to sections 46-229.02 to 46-229.05.

21 **Sec. 77.** Section 46-229.01, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-229.01 The Chief Water Officer ~~department~~ shall, as often as
24 necessary, examine into the condition of all ditches constructed or
25 partially constructed within the state and shall compile information
26 concerning the condition of every water appropriation and all ditches and
27 canals and other works constructed or partially constructed thereunder.

28 **Sec. 78.** Section 46-229.02, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-229.02 (1) If, based upon the results of a field investigation or
31 upon information, however obtained, the Chief Water Officer ~~department~~

1 makes preliminary determinations (a) that an appropriation has not been
2 used, in whole or in part, for a beneficial or useful purpose or having
3 been so used at one time has ceased to be used, in whole or in part, for
4 such purpose for more than five consecutive years and (b) that the Chief
5 Water Officer ~~department~~ knows of no reason that constitutes sufficient
6 cause, as provided in section 46-229.04, for such nonuse or that such
7 nonuse has continued beyond the additional time permitted because of the
8 existence of any applicable sufficient cause, the Chief Water Officer
9 ~~department~~ shall serve notice of such preliminary determinations upon the
10 owner or owners of such appropriation and upon any other person who is an
11 owner of the land under such appropriation. Such notice shall contain the
12 information required by section 46-229.03, shall be provided in the
13 manner required by such section, and shall be posted on the department's
14 website. Each owner of the appropriation and any owner of the land under
15 such appropriation shall have thirty days after the mailing or last
16 publication, as applicable, of such notice to notify the Chief Water
17 Officer ~~department~~, on a form provided by the department, that such owner
18 ~~he or she~~ contests the Chief Water Officer's ~~department's~~ preliminary
19 determination of nonuse or the department's preliminary determination of
20 the absence of sufficient cause for such nonuse. Such notification shall
21 indicate the reason or reasons the owner is contesting the Chief Water
22 Officer's ~~department's~~ preliminary determination and include any
23 information the owner believes is relevant to the issues of nonuse or
24 sufficient cause for such nonuse.

25 (2) If no owner of the appropriation or of the land under the
26 appropriation provides notification to the Chief Water Officer ~~department~~
27 in accordance with subsection (1) of this section, the Chief Water
28 Officer ~~director~~ may issue an order canceling the appropriation in whole
29 or in part. The extent of such cancellation shall not exceed the extent
30 described in the Chief Water Officer's ~~department's~~ notice to the owner
31 or owners in accordance with subsection (1) of this section. A copy of

1 the order canceling the appropriation, or part thereof, shall be posted
2 on the department's website and shall be provided to the owner or owners
3 of the appropriation and to any other owner of the land under the
4 appropriation in the same manner that notices are to be given in
5 accordance with subsection (2), (3), or (4) of section 46-229.03, as
6 applicable. No cancellation under this subsection shall prohibit an
7 irrigation district, a reclamation district, a public power and
8 irrigation district, or a mutual irrigation company or canal company from
9 asserting the rights provided by subsections (5) and (6) of section
10 46-229.04.

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

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

31 (5) If the Chief Water Officer ~~department~~ determines that

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

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

24 (7) A water appropriation that has not been perfected pursuant to
25 the terms of the permit may be canceled by the Chief Water Officer
26 ~~department~~ without complying with sections 46-229.01 to 46-229.04 if the
27 owner of such appropriation fails to comply with any of the conditions of
28 approval in the permit, except that this subsection does not apply to
29 appropriations to which subsection (2) of section 46-237 applies.

30 **Sec. 79.** Section 46-229.03, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-229.03 (1) The notice provided by the Chief Water Officer
2 ~~department~~ in accordance with subsection (1) or (5) of section 46-229.02
3 shall contain: (a) A description of the appropriation; (b) the number
4 assigned to the appropriation by the Department of Natural Resources as
5 it existed prior to July 1, 2025, or the Chief Water Officer ~~department~~;
6 (c) the date of priority; (d) the point of diversion; (e) if the notice
7 is published, the section or sections of land which contain the lands
8 located under such appropriation; (f) if the notice is served by personal
9 service or by registered or certified mail, a description of the lands
10 which are located under such appropriation, a description of the
11 information used by the Chief Water Officer ~~department~~ to reach the
12 preliminary determinations of nonuse, and a copy of section 46-229.04;
13 (g) a description of the owner's options in response to the notice; (h) a
14 ~~department~~ telephone number which any person may use to call the Chief
15 Water Officer or the department during normal business hours for more
16 information regarding the owner's rights and options, including what
17 constitutes sufficient cause for nonuse; (i) a copy of the form that such
18 owner may file to contest such determination, if notice is provided in
19 accordance with subsection (1) of section 46-229.02 and is mailed; (j)
20 the location where the owner may obtain a form to file to contest such
21 determination, if notice is provided in accordance with subsection (1) of
22 section 46-229.02 and is published; and (k) if the notice is provided in
23 accordance with subsection (5) of section 46-229.02, the date, time, and
24 location of the hearing.

25 (2) For any owner whose name and address are known to the Chief
26 Water Officer ~~department~~ or can be reasonably obtained by the Chief Water
27 Officer ~~department~~, the notice shall be served by personal service or by
28 registered mail or certified mail. Any landowner's name or address shall
29 be considered reasonably obtainable if that person is listed as an owner
30 of the land involved, on the records of the county clerk or register of
31 deeds for the county in which the land is located.

1 (3) For any owner whose name and address are not known to the Chief
2 Water Officer ~~department~~ and cannot reasonably be obtained by the Chief
3 Water Officer ~~department~~, such notice shall be served by publication in a
4 legal newspaper published or of general circulation in any county in
5 which the place of diversion is located and in a legal newspaper
6 published or of general circulation in each county containing land for
7 which the right to use water under the appropriation is subject to
8 cancellation. Each such publication shall be once each week for three
9 consecutive weeks.

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

15 **Sec. 80.** Section 46-229.04, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-229.04 (1) At a hearing held pursuant to section 46-229.03, the
18 verified field investigation report of an employee of the department, or
19 such other report or information that is relied upon by the Chief Water
20 Officer ~~department~~ to reach the preliminary determination of nonuse,
21 shall be prima facie evidence for the forfeiture and annulment of such
22 water appropriation. If no person appears at the hearing, such water
23 appropriation or unused part thereof shall be declared forfeited and
24 annulled. If an interested person appears and contests the same, the
25 Chief Water Officer ~~department~~ shall hear evidence, and if it appears
26 that such water has not been put to a beneficial use or has ceased to be
27 used for such purpose for more than five consecutive years, the same
28 shall be declared canceled and annulled unless the Chief Water Officer
29 ~~department~~ finds that (a) there has been sufficient cause for such nonuse
30 as provided for in subsection (2), (3), or (4) of this section or (b)
31 subsection (5) or (6) of this section applies.

1 (2) Sufficient cause for nonuse shall be deemed to exist for up to
2 thirty consecutive years if:

3 (a) Such nonuse was caused by the unavailability of water for that
4 use. For a river basin, subbasin, or reach that has been designated as
5 overappropriated pursuant to section 46-713 or determined by the Chief
6 Water Officer ~~department~~ to be fully appropriated pursuant to section
7 46-714, the period of time within which sufficient cause for nonuse
8 because of the unavailability of water may be deemed to exist may be
9 extended beyond thirty years by the Chief Water Officer ~~department~~ upon
10 petition therefor by the owner of the appropriation if the Chief Water
11 Officer ~~department~~ determines that an integrated management plan being
12 implemented in the river basin, subbasin, or reach involved is likely to
13 result in restoration of a usable water supply for the appropriation; or

14 (b) The land subject to the appropriation is under an acreage
15 reserve program or production quota or is otherwise withdrawn from use as
16 required for participation in any federal, state, or natural resources
17 district program, or such land was previously under such a program but
18 currently is not under such a program and there have been not more than
19 five consecutive years of nonuse on such land subsequent to when that
20 land was last under such program.

21 (3) Sufficient cause for nonuse shall be deemed to exist
22 indefinitely if such nonuse was the result of one or more of the
23 following:

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

27 (b) The appropriation is a storage appropriation and there was an
28 inadequate water supply to provide the water for the storage
29 appropriation or less than the full amount of the storage appropriation
30 was needed to keep the reservoir full; or

31 (c) The appropriation is a storage-use appropriation and there was

1 an inadequate water supply to provide the water for the appropriation or
2 use of the storage water was unnecessary because of climatic conditions.

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

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

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

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

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

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

19 (f) Legal proceedings prevented or restricted use of the water.

20 The Chief Water Officer ~~department~~ may specify by rule and
21 regulation other circumstances that shall be deemed to constitute
22 sufficient cause for nonuse for up to fifteen years.

23 (5) When an appropriation is held in the name of an irrigation
24 district, a reclamation district, a public power and irrigation district,
25 a mutual irrigation company or canal company, or the United States Bureau
26 of Reclamation and the Chief Water Officer ~~director~~ determines that water
27 under that appropriation has not been used on a specific parcel of land
28 for more than five years and that no sufficient cause for such nonuse
29 exists, the right to use water under that appropriation on that parcel
30 shall be terminated and notice of the termination shall be posted on the
31 department's website and shall be given in the manner provided in

1 subsection (2), (3), or (4) of section 46-229.03. The district or company
2 holding such right shall have five years after the determination, or five
3 years after an order of cancellation issued by the Chief Water Officer
4 ~~department~~ following the filing of a voluntary relinquishment of the
5 water appropriation that has been signed by the landowner and the
6 appropriator of record, to assign the right to use that portion of the
7 appropriation to other land within the district or the area served by the
8 company, to file an application for a transfer in accordance with section
9 46-290, or to transfer the right in accordance with sections 46-2,127 to
10 46-2,129. The Chief Water Officer ~~department~~ shall issue the ~~its~~ order of
11 cancellation within sixty days after receipt of the voluntary
12 relinquishment unless the relinquishment is conditioned by the landowner
13 upon an action of a governmental agency. If the relinquishment contains
14 such a provision, the Chief Water Officer ~~department~~ shall issue the ~~its~~
15 order of cancellation within sixty days after receipt of notification
16 that such action has been completed. The Chief Water Officer ~~department~~
17 shall be notified of any such assignment within thirty days after such
18 assignment. If the district or company does not assign the right to use
19 that portion of the appropriation to other land, does not file an
20 application for a transfer within the five-year period, or does not
21 notify the Chief Water Officer ~~department~~ within thirty days after any
22 such assignment, that portion of the appropriation shall be canceled
23 without further proceedings by the Chief Water Officer ~~department~~ and the
24 district or company involved shall be so notified by the Chief Water
25 Officer ~~department~~. During the time within which assignment of a portion
26 of an appropriation is pending, the allowable diversion rate for the
27 appropriation involved shall be reduced, as necessary, to avoid
28 inconsistency with the rate allowed by section 46-231 or with any greater
29 rate previously approved for such appropriation by the Chief Water
30 Officer ~~director~~ in accordance with section 46-229.06.

31 (6) When it is determined by the Chief Water Officer ~~director~~ that

1 an appropriation, for which the location of use has been temporarily
2 transferred in accordance with sections 46-290 to 46-294, has not been
3 used at the new location for more than five years and that no sufficient
4 cause for such nonuse exists, the right to use that appropriation at the
5 temporary location of use shall be terminated. Notice of that termination
6 shall be posted on the department's website and shall be given in the
7 manner provided in subsection (2), (3), or (4) of section 46-229.03. The
8 right to reinitiate use of that appropriation at the location of use
9 prior to the temporary transfer shall continue to exist for five years
10 after the Chief Water Officer's ~~director's~~ determination, but if such use
11 is not reinitiated at that location within such five-year period, the
12 appropriation shall be subject to cancellation in accordance with
13 sections 46-229 to 46-229.04.

14 (7) If at the time of a hearing conducted in accordance with
15 subsection (1) of this section there is an application for incidental or
16 intentional underground water storage pending before the Chief Water
17 Officer ~~department~~ and filed by the owner of the appropriation, the
18 proceedings shall be consolidated.

19 **Sec. 81.** Section 46-229.05, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-229.05 An appeal may be taken from the decision of the Chief
22 Water Officer ~~department~~ upon such hearing as provided by section 61-207.

23 **Sec. 82.** Section 46-229.06, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-229.06 When a ~~departmental~~ proceeding that is conducted pursuant
26 to sections 46-229 to 46-229.04 concerns the partial cancellation of an
27 appropriation, the Chief Water Officer ~~department~~ may receive evidence on
28 the question of whether, following such partial cancellation, a reduction
29 in the rate of diversion to the maximum rate prescribed in section 46-231
30 would result in an authorized diversion rate less than the rate
31 necessary, in the interests of good husbandry, for the production of

1 crops on the lands that remain subject to the appropriation. If the Chief
2 Water Officer ~~director~~ determines, based on a preponderance of the
3 evidence, that such rate would be less than the rate necessary, in the
4 interests of good husbandry, for the production of crops, he or she may
5 approve a diversion rate for the remaining portion of the appropriation
6 greater than the maximum rate authorized by section 46-231. Such
7 increased rate can be no greater than the rate authorized for the
8 appropriation prior to the partial cancellation and no greater than the
9 rate determined by the Chief Water Officer ~~director~~ to be necessary, in
10 the interests of good husbandry, for the production of crops on the lands
11 that remain subject to the appropriation.

12 **Sec. 83.** Section 46-230, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-230 (1) As the adjudication of a stream progresses and as each
15 claim is finally adjudicated, the Chief Water Officer ~~director~~ shall make
16 and cause to be entered of record ~~in his or her office~~ an order
17 determining and establishing the priorities of right to use the water of
18 such stream, the amount of the appropriation of the persons claiming
19 water from such stream and the character of use for which each
20 appropriation is found to have been made, and the address of the owner of
21 each water appropriation.

22 (2) Whenever requested by the Chief Water Officer ~~department~~, the
23 owner of any appropriation not held by an irrigation district,
24 reclamation district, public power and irrigation district, or mutual
25 irrigation or canal company shall provide the Chief Water Officer
26 ~~department~~ with the name, address, and telephone number of each then-
27 current owner of the appropriation and with the name, address, and
28 telephone number of any tenant or other person who is authorized by the
29 owner to receive opening and closing notices and other departmental
30 communications relating to the appropriation. Each appropriation owner
31 shall also notify the Chief Water Officer ~~department~~ any time there is a

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

13 **Sec. 84.** Section 46-231, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-231 Each appropriation shall be determined in its priority and
16 amount by the time at which it is made and the amount of water which the
17 works are constructed to carry. An appropriator shall at no time be
18 entitled to the use of more than he or she can beneficially use for the
19 purposes for which the appropriation has been made, and the amount of any
20 appropriation made by means of enlargement of the distributing works
21 shall be determined in like manner.

22 An allotment from the natural flow of streams for irrigation shall
23 not exceed one cubic foot per second of time for each seventy acres of
24 land and shall not exceed three acre-feet in the aggregate during one
25 calendar year for each acre of land for which such appropriation has been
26 made, and an allotment shall not exceed the least amount of water that
27 experience may indicate is necessary, in the exercise of good husbandry,
28 for the production of crops. Such limitations do not apply to storage
29 waters or to water appropriations transferred pursuant to sections
30 46-2,122 to 46-2,125 and 46-2,127 to 46-2,129.

31 When storage water is being used in addition to the natural flow,

1 the person in charge of the ditch or canal shall, upon his or her request
2 and within twenty-four hours thereof, be notified in writing by the user
3 of such storage waters of the time of withdrawal from natural streams to
4 be distributed according to law.

5 When an appropriation is for irrigation purposes and the amount is
6 so small that a proper distribution and application is impractical, as
7 much water as the applicant can use without waste may be allotted for a
8 limited time so fixed by the Chief Water Officer ~~department~~ as to give
9 each appropriator his or her just share without violating other rights,
10 so long as (1) the volume of water used in a twenty-four-hour period does
11 not exceed the amount of water that would otherwise have been allowed at
12 the approved fixed continuous rate for a twenty-four-hour period or (2)
13 the volume of water used in a seven-day, Monday-through-Sunday period
14 does not exceed the amount of water that would otherwise have been
15 allowed at the approved fixed continuous rate for a seven-day period. The
16 Chief Water Officer ~~department~~ shall determine schedules among
17 appropriators to assure that other rights are not violated.

18 **Sec. 85.** Section 46-233, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-233 (1) The United States and every person intending to
21 appropriate any of the public waters of the State of Nebraska shall,
22 before (a) commencing the construction, enlargement, or extension of any
23 works for such purpose, (b) performing any work in connection with such
24 construction, enlargement, or extension, or (c) taking any water from any
25 constructed works, make an application to the Chief Water Officer
26 ~~department~~ for a permit to make such appropriation. A permit may be
27 obtained to appropriate public waters for intentional underground water
28 storage and recovery of such water. A public water supplier may make
29 application to appropriate public waters for induced ground water
30 recharge.

31 (2) The application shall be upon a form prescribed and furnished by

1 the Chief Water Officer ~~department~~ without cost to an applicant. Such
2 application shall set forth (a) the name and post office address of the
3 applicant, (b) the source from which such appropriation shall be made,
4 (c) the amount of the appropriation desired, as nearly as it may be
5 estimated, (d) the location of any proposed work in connection with the
6 appropriation, (e) the estimated time required for its completion, which
7 estimated time shall include the period required for the construction of
8 ditches, pumps, and other features or devices, (f) the time estimated at
9 which the application of the water for the beneficial purposes shall be
10 made, which time shall be limited to a reasonable time following the
11 estimated time of completion of the work when prosecuted with diligence,
12 (g) the purpose for which water is to be applied and (i) if for induced
13 ground water recharge by a public water supplier, a statement of the
14 times of the year when and location along a stream where flows for
15 induced ground water recharge are proposed and (ii) if for irrigation, a
16 description of the land to be irrigated by the water and the amount, and
17 (h) such facts and supporting documentation as are required by the Chief
18 Water Officer ~~department~~ which shall include, but not be limited to, the
19 depth of all wells, the extent of the underlying aquifer, the expected
20 rate of recharge, the minimum flow or flows necessary to sustain the well
21 field throughout the reach identified, and the period of time that a well
22 field would continue to meet minimal essential needs of the public water
23 supplier when there is no flow as those factors relate to and are part of
24 an evaluation of pertinent hydrologic relationships.

25 A public water supplier making application for induced ground water
26 recharge may submit with its application a statement of the amount of
27 induced ground water recharge water which the public water supplier
28 presently uses as well as the amount of induced ground water recharge
29 water it anticipates using in the next twenty-five-year period. Such
30 statement shall also quantify the total amount of water the public water
31 supplier presently uses from the well field as well as the total amount

1 of water it anticipates using from the well field in the next twenty-
2 five-year period.

3 (3) Upon receipt of an application containing the information set
4 forth in this section, the Chief Water Officer ~~department~~ shall (a) make
5 a record of the receipt of the application, (b) cause the application to
6 be recorded ~~in its office~~, and (c) make a careful examination of the
7 application to ascertain whether it sets forth all the facts necessary to
8 enable the Chief Water Officer ~~department~~ to determine the nature and
9 amount of the proposed appropriation. If such an examination shows the
10 application in any way defective, it shall be returned to the applicant
11 for correction, with a statement of the correction required, within
12 ninety days after its receipt. Ninety days shall be allowed for the
13 refiling of the application, and in default of such refiling, the
14 application shall stand dismissed. Except as provided in subsection (4)
15 of this section, if so filed and corrected as required within such time,
16 the application shall, upon being accepted and allowed, take priority as
17 of the date of the original filing, subject to compliance with the future
18 provisions of the law and the rules and regulations thereunder. During
19 the pendency of any application or upon its approval, the Chief Water
20 Officer ~~department~~, upon proper authorization and request of the
21 applicant, may assign the application a later priority date.

22 (4) For public water supplier wells in existence on September 9,
23 1993, the priority date assigned to an application for induced ground
24 water recharge made by a public water supplier shall be:

25 (a) June 27, 1963, for water supply wells and facilities constructed
26 and placed in service on or before June 27, 1963;

27 (b) January 1, 1970, for water supply wells and facilities
28 constructed and placed in service on or after June 28, 1963, and on or
29 before December 31, 1969;

30 (c) January 1, 1980, for water supply wells and facilities
31 constructed and placed in service on or after January 1, 1970, and on or

1 before December 31, 1979;

2 (d) January 1, 1990, for water supply wells and facilities
3 constructed and placed in service on or after January 1, 1980, and on or
4 before December 31, 1989; and

5 (e) January 1, 1993, for water supply wells and facilities
6 constructed and placed in service on or after January 1, 1990, and on or
7 before September 9, 1993.

8 (5) Prior to taking action on an application for induced ground
9 water recharge, the Chief Water Officer ~~director~~ shall publish notice of
10 such application at the applicant's expense at least once each week for
11 three consecutive weeks in a newspaper of general circulation in the area
12 of the stream segment and also in a newspaper of statewide circulation.
13 The notice shall state that any person having an interest may, in
14 writing, object to the application. Any such objection shall be filed
15 with the Chief Water Officer ~~department~~ within two weeks after the final
16 publication of the notice.

17 (6) After the Chief Water Officer ~~director~~ has accepted the
18 application made under subsection (2) of this section as a completed
19 application and published notice as required under subsection (5) of this
20 section, the Chief Water Officer ~~director~~ shall, if he or she determines
21 that a hearing is necessary, set a time and place for a public hearing on
22 the application. The hearing shall be held within reasonable proximity to
23 the area in which the wells are or would be located. At the hearing the
24 applicant shall present all hydrological data and other evidence
25 supporting its application. All interested parties shall be allowed to
26 testify and present evidence relative to the application.

27 (7) An unapproved application pending on August 26, 1983, may be
28 amended to include appropriation for intentional underground water
29 storage and recovery of such water.

30 (8) Application may be made to the Chief Water Officer ~~department~~
31 for a temporary permit to appropriate water. The same standards for

1 granting a permanent appropriation shall apply for granting such
2 temporary permit except when the temporary permit is for road
3 construction or other public use construction and the amount of water
4 requested is less than ten acre-feet in total volume. For temporary
5 permits for public-use construction, the applicant shall include on the
6 application the location of the diversion, the location of use, a
7 description of the project, the amount of water requested, and the person
8 to contact. Temporary permits for public-use construction and for less
9 than ten acre-feet in total volume may be granted without any
10 determination of unappropriated water and shall be considered to be in
11 the public interest. The requirement of filing a map or plans with the
12 application for a temporary permit may be waived at the discretion of the
13 Chief Water Officer ~~director~~. In granting a temporary permit, the Chief
14 Water Officer ~~director~~ shall specify a date on which the right to
15 appropriate water under the permit shall expire. Under no circumstances
16 shall such date be longer than one calendar year after the date the
17 temporary permit was granted. Temporary permits shall be administered
18 during times of shortage based on priority. The right to appropriate
19 water shall automatically terminate on the date specified by the Chief
20 Water Officer ~~director~~ on the temporary permit without further action by
21 the Chief Water Officer ~~department~~.

22 (9) Water may be diverted from any stream, reservoir, or canal by
23 any fire department or emergency response services for the purpose of
24 extinguishing a fire in progress in an emergency without obtaining a
25 permit from the Chief Water Officer ~~department~~. The installation of a dry
26 well for this purpose is allowed without the prior permission of the
27 Chief Water Officer ~~department~~, but the Chief Water Officer ~~depart~~
28 shall be informed of any such installation, its location, and the party
29 responsible for its installation and maintenance within thirty days after
30 the installation.

31 **Sec. 86.** Section 46-233.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-233.01 (1) Application may be made to the Chief Water Officer
3 ~~department~~ for a permit to appropriate any of the public surface waters
4 of the State of Nebraska to be diverted or stored in Nebraska for use in
5 any other state.

6 (2) In determining whether to grant such application, the Chief
7 Water Officer ~~director~~ shall consider the following factors:

8 (a) Whether unappropriated water exists in the source of supply
9 named in the application;

10 (b) Whether such application and appropriation when perfected are
11 not otherwise detrimental to the public welfare;

12 (c) Whether denial of the application is demanded by the public
13 interest; and

14 (d) Whether the proposed use is a beneficial use of water.

15 (3) When determining whether denial of such application is demanded
16 by the public interest, the Chief Water Officer ~~director~~ shall consider
17 the following factors:

18 (a) The economic, environmental, and other benefits of the proposed
19 use;

20 (b) Any adverse economic, environmental, and other impacts of the
21 proposed use;

22 (c) Any current beneficial uses being made of the unappropriated
23 water;

24 (d) The economic, environmental, and other benefits of not allowing
25 the appropriation and preserving the water supply for beneficial uses
26 within the state;

27 (e) Alternative sources of water supply available to the applicant;
28 and

29 (f) Any other factors consistent with the purposes of this section
30 that the Chief Water Officer ~~director~~ deems relevant to protecting the
31 interests of the state and its citizens.

1 The application shall be deemed in the public interest if the
2 overall benefits to Nebraska are greater than the adverse impacts to
3 Nebraska. The Chief Water Officer's ~~director's~~ order granting or denying
4 an application shall specify the reasons for such action, including a
5 discussion of the required factors for consideration, and shall document
6 such decision by reference to the hearing record, if any, and to any
7 other sources used by the Chief Water Officer ~~director~~ in making the
8 decision.

9 **Sec. 87.** Section 46-234, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-234 If there is no unappropriated water in the source of supply
12 or if a prior appropriation has been perfected to water the same land to
13 be watered by the applicant, the Chief Water Officer ~~department~~ may
14 refuse such application. An application may also be refused (1) if
15 existing facilities other than those owned or operated by the applicant
16 are to be utilized and the applicant fails to show, by documentary
17 evidence, agreements with the owner and operator of the facilities to
18 allow the applicant to use such facilities or (2) when denial is demanded
19 by the public interest. The party making such application shall not
20 prosecute such work so long as such refusal continues in force. An
21 application for appropriation shall not be exclusive of any of the lands
22 included therein until the owner or owners of such land give consent to
23 the same in proper form duly acknowledged. No application made or canal
24 constructed, prior to the application of the water and the perfection of
25 an appropriation therefor or the filing of the consent, shall prevent
26 other applications from being allowed and other canals from being
27 constructed to irrigate the same lands or any of them. In case of an
28 application for an appropriation of water for the development of water
29 power, the Chief Water Officer ~~department~~ shall promptly act upon such
30 application and limit the time within which such appropriation shall be
31 perfected to the period within which the proposed power project can be

1 completed by uninterrupted and expeditious construction.

2 **Sec. 88.** Section 46-235, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-235 (1) For applications other than those to appropriate public
5 waters for induced ground water recharge, if there is unappropriated
6 water in the source of supply named in the application, if such
7 application and appropriation when perfected are not otherwise
8 detrimental to the public welfare, and if denial of the application is
9 not demanded by the public interest, the Chief Water Officer ~~department~~
10 shall approve the application and shall make a record ~~in its office~~ and
11 return the application to the applicant, who shall on receipt thereof be
12 authorized to proceed with the work and to take such measures as may be
13 necessary to perfect such application into an appropriation. The priority
14 of such application and appropriation when perfected shall date from the
15 filing of the application ~~with in~~ the Chief Water Officer ~~office of the~~
16 ~~department~~, and the date of filing shall be regarded as the priority
17 number thereof. The Chief Water Officer ~~department~~ may, upon examination
18 of such application, approve it for a shorter period of time for
19 perfecting the proposed appropriation or for a smaller amount of water or
20 of land than applied for. The Chief Water Officer ~~department~~ may also
21 impose such other reasonable conditions as the Chief Water Officer ~~it~~
22 deems appropriate to protect the public interest. An applicant aggrieved
23 by the action of the Chief Water Officer ~~department~~ shall, upon proper
24 showing, be granted a hearing before the Chief Water Officer ~~department~~,
25 which hearing shall be conducted in accordance with the rules of
26 procedure adopted by the Chief Water Officer ~~department~~, and a full and
27 complete record shall be kept of all such proceedings. When a complete
28 record of the case has been made up, the Chief Water Officer ~~department~~
29 shall render an opinion of facts and of law based upon the evidence
30 before the Chief Water Officer ~~it~~.

31 (2)(a) An application for an induced ground water recharge

1 appropriation for public water supplier wells constructed and placed in
2 service before September 9, 1993, shall be approved by the Chief Water
3 Officer ~~director~~ if he or she finds that:

4 (i) The appropriation is necessary to maintain the well or wells for
5 the use or uses for which the appropriation has been requested;

6 (ii) The rate and timing of the flow is the amount reasonably
7 necessary to maintain the well or wells for the uses for which the
8 appropriation has been requested; and

9 (iii) The application is in the public interest and is not
10 detrimental to the public welfare. There shall be a rebuttable
11 presumption that wells which are the subject of an application pursuant
12 to subdivision (2)(a) of this section are in the public interest and are
13 not detrimental to the public welfare.

14 (b) The Chief Water Officer ~~director~~ may approve the application for
15 a well or wells constructed before September 9, 1993, but may
16 specifically deny the applicant the right to request regulation of junior
17 appropriators if the Chief Water Officer ~~director~~, at the time of
18 approval, finds that the well or wells, at the time of their
19 construction, were not located, designed, or constructed so as to take
20 reasonable advantage of aquifer conditions in the area to minimize the
21 frequency and amount of the demand for flows for induced ground water
22 recharge. Thereafter a public water supplier holding an approved
23 application which has been denied the right to request regulation of
24 junior appropriators may petition the Chief Water Officer ~~director~~ for a
25 hearing to present evidence showing the Chief Water Officer ~~director~~ that
26 the well or wells have been modified, relocated, or reconstructed to take
27 reasonable advantage of the aquifer conditions in the area. If the Chief
28 Water Officer ~~director~~ determines that the well or wells have been so
29 modified, relocated, or reconstructed, the Chief Water Officer ~~director~~
30 shall cause to be modified the approval of the application to allow for
31 the regulation of junior appropriators, subject to the restrictions or

1 conditions applicable to public water suppliers.

2 (c) An application for an induced ground water recharge
3 appropriation for public water supplier wells constructed and placed in
4 service before September 9, 1993, shall not be subject to the
5 requirements of sections 46-288 and 46-289.

6 (3) An application for an induced ground water recharge
7 appropriation for public water supplier wells constructed or to be
8 constructed on or after September 9, 1993, shall be approved by the Chief
9 Water Officer ~~director~~ if he or she makes the findings required by
10 subdivision (2)(a) of this section and further finds that:

11 (a) There is unappropriated water available for the appropriation;
12 and

13 (b) The well or wells involved have been or will be located and
14 constructed to take reasonable advantage of aquifer conditions in the
15 area to minimize the frequency and amount of the demand for flows for
16 induced ground water recharge.

17 (4)(a) The Chief Water Officer ~~director~~ may approve the application
18 filed under subsection (2) or (3) of this section for a smaller amount of
19 water than requested by the applicant. The Chief Water Officer ~~director~~
20 may also impose reasonable conditions on the manner and timing of the
21 appropriation which the Chief Water Officer ~~director~~ deems necessary to
22 protect the public interest. The Chief Water Officer ~~director~~ may grant
23 an appropriation for specific months of the year if so demanded by the
24 public interest. If the Chief Water Officer ~~director~~ approves the
25 application, he or she shall issue a written order, which written order
26 shall include the findings required by this section, the amount of the
27 appropriation, and any conditions or limitations imposed under this
28 section.

29 (b) In determining whether an application for an appropriation for
30 induced ground water recharge is in the public interest, the Chief Water
31 Officer's ~~director's~~ considerations shall include, but not be limited to,

1 the possible adverse effects on existing surface water or ground water
2 users and the economic, social, and environmental value of such uses,
3 including, but not limited to, irrigation, recreation, fish and wildlife,
4 public water supply, induced ground water recharge for public water
5 supply systems, and water quality maintenance.

6 (c) The stream segment and the determination of a reasonable and
7 necessary amount of water required for induced ground water recharge
8 purposes throughout the reach shall be defined specifically by the Chief
9 Water Officer ~~director~~ in the order issued under this section.

10 **Sec. 89.** Section 46-235.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-235.01 A public water supplier which has received an
13 appropriation for induced ground water recharge pursuant to section
14 46-235 may, from time to time and within twenty-five years after the
15 priority assigned pursuant to section 46-233, petition the Chief Water
16 Officer ~~department~~ for a hearing to present evidence showing that all or
17 part of the original projection for additional water needs specified
18 pursuant to subsection (2) of section 46-233 corresponds with the actual
19 use. To the extent the public water supplier is making beneficial use of
20 all or a portion of the water projected in the original application, the
21 right to use such additional water shall vest and the priority date of
22 such anticipated water use shall date back to the priority date assigned
23 pursuant to section 46-233. A public water supplier may not request such
24 a hearing at intervals of less than five years for each approved
25 application.

26 **Sec. 90.** Section 46-235.02, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-235.02 (1) Just compensation shall be required if a public water
29 supplier exercises a preference to the injury of a senior appropriator.

30 (2) Just compensation shall be provided by a public water supplier
31 to any injured junior appropriator whose appropriation was perfected

1 prior to September 9, 1993, if and to the extent such injury resulted
2 from regulation of junior appropriators requested by the public water
3 supplier to provide water for any purpose other than domestic. Such
4 compensation shall not be required to a junior appropriator if the
5 regulation requested is to provide water for domestic purposes only. At
6 the time any junior appropriator whose appropriation was perfected prior
7 to September 9, 1993, is regulated at the request of a public water
8 supplier, the Chief Water Officer ~~department~~ shall determine for each
9 such appropriator the extent to which the regulation is for domestic
10 purposes and the extent to which it is for other purposes.

11 (3) A cause of action for just compensation shall accrue at the time
12 a junior appropriator is regulated by the Chief Water Officer ~~department~~.

13 **Sec. 91.** Section 46-235.03, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-235.03 Natural resources districts shall have the authority to
16 impose restrictions or controls on public water suppliers as specified in
17 the Nebraska Ground Water Management and Protection Act. Such
18 restrictions or controls may limit the withdrawal of ground water to a
19 greater degree or extent than is otherwise permitted or allowed by a
20 permit issued by the Chief Water Officer ~~department~~.

21 **Sec. 92.** Section 46-235.04, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-235.04 (1) Induced ground water recharge appropriations shall be
24 administered in the same manner as prescribed by Chapter 46, article 2,
25 for other appropriations. Appropriations for induced ground water
26 recharge may be canceled and annulled as provided in sections 46-229.02
27 to 46-229.05.

28 (2) The Chief Water Officer ~~department~~ may approve the transfer of
29 priority dates among water wells, including replacement water wells,
30 located within a single well field that are subject to an induced
31 recharge appropriation, or are part of an application for such an

1 appropriation, to improve the well field's efficiency of operation with
2 respect to river flow. The transfers shall be approved if the Chief Water
3 Officer ~~department~~ finds that (a) the transfers would not increase the
4 quantity of induced ground water recharge under the original priority
5 date or application, (b) the amount of water withdrawn from water wells
6 under the original priority date or application would not increase, (c)
7 the quantity of streamflow needed to sustain well field operation under
8 the original priority date would decrease, (d) the transfer would not
9 impair the rights of other appropriators, and (e) the transfer is in the
10 public interest in the same manner as provided in section 46-235. The
11 Chief Water Officer ~~department~~ may assign multiple priority dates to a
12 single water well that replaces two or more water wells which are
13 abandoned. Replacement water wells installed pursuant to this subsection
14 must be installed within the same well field as the abandoned water well.
15 Notice shall be furnished and any hearing held as provided in sections
16 46-291 and 46-292. For purposes of this subsection, single well field
17 means those contiguous tracts of land owned or leased by the applicant
18 containing two or more water wells subject to induced recharge.

19 **Sec. 93.** Section 46-236, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-236 An application for appropriation of water for water power
22 shall meet the requirements of section 46-234 and subsection (1) of
23 section 46-235 to be approved. Within six months after the approval of an
24 application for water power and before placing water to any beneficial
25 use, the applicant shall enter into a contract with the State of
26 Nebraska, through the Chief Water Officer ~~department~~, for leasing the use
27 of all water so appropriated. Such lease shall be upon forms prepared by
28 the Chief Water Officer ~~department~~, and the time of such lease shall not
29 run for a greater period than fifty years; and for the use of water for
30 power purposes the applicant shall pay into the state treasury on or
31 before January 1 each year fifteen dollars for each one hundred

1 horsepower for all water so appropriated. Upon application of the lessee
2 or its assigns, the Chief Water Officer ~~department~~ shall renew the lease
3 so as to continue it and the water appropriation in full force and effect
4 for an additional period of fifty years.

5 Upon the failure of the applicant to comply with any of the
6 provisions of such lease and the failure to pay any of such fees, the
7 Chief Water Officer ~~department~~ shall notify the lessee that the required
8 fees have not been paid to the Chief Water Officer ~~department~~ or that the
9 lessee is not otherwise in compliance with the provisions of the lease.
10 If the lessee has not come into compliance with all provisions of the
11 lease or has not paid to the Chief Water Officer ~~department~~ all required
12 fees within fifteen calendar days after the date of such notice, the
13 Chief Water Officer ~~department~~ shall issue an order denying the applicant
14 the right to divert or otherwise use the water appropriation for power
15 production. The Chief Water Officer ~~department~~ shall rescind the order
16 denying use of the water appropriation at such time as the lessee has
17 come into compliance with all provisions of the lease and has paid all
18 required fees to the Chief Water Officer ~~department~~. If after forty-five
19 calendar days from the date of issuance of the order the lessee is not in
20 compliance with all provisions of the lease or required fees have not
21 been paid to the Chief Water Officer ~~department~~, such lease and water
22 appropriation shall be canceled by the Chief Water Officer ~~department~~.

23 **Sec. 94.** Section 46-237, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-237 (1) Within six months after approval and allowance of an
26 application other than an application to appropriate public waters for
27 induced ground water recharge, the applicant shall file with ~~in~~ the Chief
28 Water Officer ~~office of the department~~ a map or plat which shall conform
29 to the rules and regulations of the department as to material, size,
30 coloring, and scale. Such map or plat shall show the source from which
31 the proposed appropriation is to be taken and all proposed dams, dikes,

1 reservoirs, canals, powerhouses, and other structures for the purpose of
2 storing, conveying, or using water for any purpose whatsoever and their
3 true courses or positions in connection with the boundary lines and
4 corners of lands which they occupy. The lands to be irrigated shall be
5 identified in the manner prescribed by the department. No rights shall be
6 deemed to have been acquired until the provisions of this section have
7 been complied with. Except as provided in subsection (2) of this section,
8 failure to so comply shall work a forfeiture of the appropriation and all
9 rights thereunder.

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

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

28 **Sec. 95.** Section 46-238, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-238 (1) Within twelve months after the approval of any
31 application for water for irrigation, power, or other useful purpose by

1 the Chief Water Officer department, the person making such application
2 shall commence the excavation or construction of the works in which it is
3 intended to divert the water and the actual construction of any water
4 power plant and reservoir or reservoirs for storage in connection
5 therewith and shall vigorously, diligently, and uninterruptedly prosecute
6 such work to completion unless temporarily interrupted by some
7 unavoidable and natural cause. A failure to comply with this section
8 shall work a forfeiture of the appropriation and all rights under the
9 appropriation. The cost of promotion and engineering work shall not be
10 considered a part of the cost of construction, and the progress of the
11 construction work shall be such that one-tenth of the total work shall be
12 completed within one year from the date of approval of the application.
13 The construction of all work required in connection with the proposed
14 project shall be prosecuted in the manner described in this section and
15 with such a force as shall assure the average rate of constructional
16 progress necessary to complete such work or works within the time
17 stipulated in the approval of such application, notwithstanding the
18 ordinary delays and casualties that must be expected and provided
19 against. A failure to carry on the construction of either an irrigation
20 project or a water power project as outlined in this section shall work a
21 forfeiture of the appropriation and all rights under the appropriation,
22 and the Chief Water Officer department shall cancel such appropriation.
23 The Chief Water Officer department shall have free access to all records,
24 books, and papers of any irrigation or water power company, shall have
25 the right to go upon the right-of-way and land of any such company, shall
26 inspect the work to see that it is being done according to plans and
27 specifications approved by the Chief Water Officer department, and shall
28 also keep a record of the cost of construction work when deemed advisable
29 for physical valuation purposes.

30 (2) The Chief Water Officer department may extend, for reasonable
31 lengths of time, the time for commencing excavation or construction,

1 completion of works, the application of water to a beneficial use, or any
2 of the other requirements for completing or perfecting an application for
3 flow or storage rights as fixed in the approval of an application or
4 otherwise for the appropriation of water. Such extension may be granted
5 upon a petition to the Chief Water Officer ~~department~~ and the showing of
6 reasonable cause. The Chief Water Officer ~~department~~ shall cause a notice
7 of each petition received to be published at the petitioner's expense in
8 at least one newspaper of general circulation in the county or counties
9 of the appropriation once a week for three consecutive weeks. The Chief
10 Water Officer ~~department~~ shall hold a hearing on the issue of extension
11 on the Chief Water Officer's ~~its~~ own motion or if requested by any
12 interested person. If a hearing is held, notice shall be given by
13 certified mail to the applicant, to any person who requested a hearing,
14 and to any person who requests notification of the hearing. The Chief
15 Water Officer ~~department~~ may grant the extension in the absence of a
16 hearing if no requests for a hearing are received. Any interested person
17 may be made a party to such action. Any party affected by the decision on
18 the petition may appeal directly to the Court of Appeals. Subsequent
19 extensions may be made in the same manner.

20 **Sec. 96.** Section 46-240.01, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-240.01 All appropriators of water for agricultural purposes of
23 less than the statutory limit of direct flow from the public waters of
24 this state within the drainage basin of the stream from which such waters
25 originate shall be entitled to such additional appropriation or
26 appropriations from the direct flow of such stream, within the statutory
27 limits provided by law, as may be necessary and required for the
28 production of crops in the practice of good husbandry. Applications for
29 such supplemental additional appropriations from the direct flow, upon
30 the approval or granting thereof, shall have priority within the drainage
31 basin as of the date such applications are filed with ~~in~~ the Chief Water

1 ~~Officer office of the department.~~

2 **Sec. 97.** Section 46-241, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-241 (1) Every person intending to construct and operate a storage
5 reservoir for irrigation or any other beneficial purpose or intending to
6 construct and operate a facility for intentional underground water
7 storage and recovery shall, except as provided in subsections (2) and (3)
8 of this section and section 46-243, make an application to the Chief
9 Water Officer ~~department~~ upon the prescribed form and provide such plans,
10 drawings, and specifications as are necessary to comply with the Safety
11 of Dams and Reservoirs Act. Such application shall be filed and
12 proceedings had thereunder in the same manner and under the same rules
13 and regulations as other applications. Upon the approval of such
14 application under this section and any approval required by the act, the
15 applicant shall have the right to construct and impound in such
16 reservoir, or store in and recover from such underground water storage
17 facility, all water not otherwise appropriated and any appropriated water
18 not needed for immediate use, to construct and operate necessary ditches
19 for the purpose of conducting water to such storage reservoir or
20 facility, and to condemn land for such reservoir, ditches, or other
21 facility. The procedure to condemn property shall be exercised in the
22 manner set forth in sections 76-704 to 76-724.

23 (2) Any person intending to construct an on-channel reservoir with a
24 water storage impounding capacity of less than fifteen acre-feet measured
25 below the crest of the lowest open outlet or overflow shall be exempt
26 from subsection (1) of this section as long as there will be (a) no
27 diversion or withdrawal of water from the reservoir for any purpose other
28 than for watering range livestock and (b) no release from the reservoir
29 to provide water for a downstream diversion or withdrawal for any purpose
30 other than for watering range livestock. This subsection does not exempt
31 any person from the requirements of the Safety of Dams and Reservoirs Act

1 or section 54-2425.

2 (3) Any person intending to construct a reservoir, holding pond, or
3 lagoon for the sole purpose of holding, managing, or disposing of animal
4 or human waste shall be exempt from subsection (1) of this section. This
5 subsection does not exempt any person from any requirements of the Safety
6 of Dams and Reservoirs Act or section 46-233 or 54-2425.

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

10 (5) The owner of a storage reservoir or facility shall be liable for
11 all damages arising from leakage or overflow of the water therefrom or
12 from the breaking of the embankment of such reservoir. The owner or
13 possessor of a reservoir or intentional underground water storage
14 facility does not have the right to store water in such reservoir or
15 facility during the time that such water is required downstream in
16 ditches for direct irrigation or for any reservoir or facility holding a
17 senior right. Every person who owns, controls, or operates a reservoir or
18 intentional underground water storage facility, except political
19 subdivisions of this state, shall be required to pass through the outlets
20 of such reservoir or facility, whether presently existing or hereafter
21 constructed, a portion of the measured inflows to furnish water for
22 livestock in such amounts and at such times as directed by the Chief
23 Water Officer ~~department~~ to meet the requirements for such purposes as
24 determined by the Chief Water Officer ~~department~~, except that a reservoir
25 or facility owner shall not be required to release water for this purpose
26 which has been legally stored. Any dam shall be constructed in accordance
27 with the Safety of Dams and Reservoirs Act, and the outlet works shall be
28 installed so that water may be released in compliance with this section.
29 The requirement for outlet works may be waived by the Chief Water Officer
30 ~~department~~ upon a showing of good cause. Whenever any person diverts
31 water from a public stream and returns it into the same stream, he or she

1 may take out the same amount of water, less a reasonable deduction for
2 losses in transit, to be determined by the Chief Water Officer
3 ~~department~~, if no prior appropriator for beneficial use is prejudiced by
4 such diversion.

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

9 **Sec. 98.** Section 46-242, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-242 (1) After the completion to the satisfaction of the Chief
12 Water Officer ~~department~~ of a storage reservoir for which a permit has
13 been obtained pursuant to section 46-241, any person proposing to apply
14 to beneficial use the water stored shall file with the Chief Water
15 Officer ~~department~~ an application for a permit particularly describing
16 the use to which the water is to be applied and, if for irrigation,
17 describing the land to be irrigated.

18 (2) Application may be made for a permit to appropriate water for
19 the irrigation of land lying both upstream and downstream from a storage
20 reservoir or intentional underground water storage facility. Under an
21 approved application for a permit to appropriate water stored in a
22 reservoir or facility for use on land upstream from such reservoir or
23 facility, water may be diverted from the stream by the applicant and a
24 compensating amount of water shall be released from the reservoir or
25 facility for the use of downstream appropriators, but the rights of prior
26 appropriators shall not be adversely affected by such exchange of water.

27 (3) The owner of a storage reservoir shall have a preferred right to
28 make such application for a period of six months from the time limited
29 for the completion of such reservoir. The date of the expiration of such
30 period shall be endorsed upon the application when allowed. If an
31 application is made by a person other than the owner of a reservoir at

1 any time, the application shall not be approved by the Chief Water
2 Officer ~~department~~ until the applicant shows, by documentary evidence,
3 sufficient interest in such storage reservoir to entitle the applicant to
4 enough water for the purpose set forth in the application.

5 (4) Application may be made for a permit to appropriate water from a
6 storage reservoir, subject to subsection (3) of this section, or an
7 intentional underground water storage facility, subject to subsection (6)
8 of section 46-241, for instream use of water for recreation or fish and
9 wildlife if the appropriation will not prejudice the rights of any prior
10 appropriator for a beneficial use.

11 (5) An unapproved application for a permit pursuant to this section
12 which is pending on August 26, 1983, may be amended to include use of
13 stored water for intentional underground water storage.

14 **Sec. 99.** Section 46-250, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-250 The owner of any ditch, storage reservoir, storage capacity,
17 or other device for appropriating water may, upon petition to the Chief
18 Water Officer ~~Department of Natural Resources~~, and upon its approval,
19 change the point at which the water under any water appropriation of
20 record is diverted from a natural stream or reservoir, change the line of
21 any flume, ditch, or aqueduct, or change a storage site. No reclamation
22 district or power appropriator may change the established return flow
23 point without the approval of the Chief Water Officer ~~department~~.

24 **Sec. 100.** Section 46-252, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-252 (1) Any person may conduct, either from outside the state or
27 from sources located in the state, quantities of water over and above
28 those already present into or along any of the natural streams or
29 channels of this state, for purposes of instream beneficial uses or
30 withdrawal of some or all of such water for out-of-stream beneficial
31 uses, at any point without regard to any prior appropriation of water

1 from such stream, due allowance being made for losses in transit to be
2 determined by the Chief Water Officer ~~Department of Natural Resources~~.
3 The Chief Water Officer ~~department~~ shall monitor movement of the water by
4 measurements or other means and shall be responsible for assuring that
5 such quantities are not subsequently diverted or withdrawn by others
6 unless they are authorized to do so by the person conducting the water.

7 (2) Except as provided in subsections (3) and (4) of this section,
8 before any person may conduct water into or along any of the natural
9 streams or channels of the state, he or she shall first obtain a permit
10 from the Chief Water Officer ~~department~~. Application for the permit shall
11 be made on forms provided by the Chief Water Officer ~~department~~.
12 Applications shall include plans and specifications detailing the
13 intended times, amounts, and streamreach locations and such other
14 information as required by the Chief Water Officer ~~department~~. The water
15 subject to such a permit shall be deemed appropriated for the use
16 specified in the permit. Permitholders shall be liable for any damages
17 resulting from the overflow of such stream or channel when water so
18 conducted contributed to such overflow.

19 (3) Any person actually engaged in the construction or operation of
20 any water power plant may, without filing with the Chief Water Officer
21 ~~department~~ and upon payment of all damages, use any such stream or
22 channel for a tailrace or canal and may, whenever necessary, widen,
23 deepen, or straighten the bed of any such stream. All damages resulting
24 therefrom shall be determined in the manner set forth in sections 76-704
25 to 76-724.

26 (4) Any person holding a storage use permit pursuant to section
27 46-242 shall not be required to obtain the permit required by this
28 section.

29 (5) Nothing in this section shall be construed to exempt a person
30 from obtaining any other permits required by law.

31 **Sec. 101.** Section 46-254, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-254 Any person owning or in control of any ditch, reservoir, or
3 other device for appropriating or using water who willfully opens,
4 closes, changes, or interferes with any headgate or controlling gate, or
5 by any method or means takes any water from any natural stream,
6 reservoir, or other source, through any ditch or canal to any land or
7 lands, or allows the same to be done, or uses or allows to be used any
8 water upon any land or lands, or for any other purpose whatsoever,
9 without authority from the Chief Water Officer ~~Department of Natural~~
10 ~~Resources~~, or who stores water in or releases water from a reservoir
11 other than in compliance with orders of the Chief Water Officer ~~Director~~
12 ~~of Natural Resources~~ or his or her representative, shall be guilty of a
13 Class II misdemeanor. Each day that the water is allowed to run without
14 authority from the Chief Water Officer ~~department~~ shall constitute a
15 separate offense.

16 **Sec. 102.** Section 46-256, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-256 Persons owning or controlling any ditch, canal, or reservoir
19 for the purpose of storing or using water for any purpose shall, upon
20 thirty days' notice by the Chief Water Officer ~~Department of Natural~~
21 ~~Resources~~, construct and maintain at the point of diversion a substantial
22 headgate, of a design approved by the Chief Water Officer ~~department~~, so
23 built that it may be closed, or partially closed and fastened at any
24 stage with lock or seal. They shall also construct a device for measuring
25 and apportioning the water appropriated, which device shall be of a
26 design approved by the Chief Water Officer ~~department~~ and built at the
27 most practical point to be selected and fixed by the Chief Water Officer
28 ~~it~~. If they neglect or refuse, for a period of ten days, to construct
29 such headgate and measuring device, the Chief Water Officer ~~department~~
30 shall refuse to allow any water to be delivered to or used by or through
31 any such ditch, canal, or reservoir or any other contrivance or device

1 for appropriating, using, or storing water, and the Chief Water Officer
2 ~~department~~ may construct bars, dams, or other obstructions to prevent
3 such delivery or use.

4 **Sec. 103.** Section 46-258, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-258 Any owner or person in control of any ditch for irrigation
7 purposes shall have the ditch in order to receive water from the source
8 of supply on or before April 15 of each year, shall construct necessary
9 outlets in the banks for the delivery of water to all persons who are
10 entitled to the same, and shall maintain a substantial headgate and
11 measuring box or weir at the head of each lateral, which shall be
12 constructed in accordance with plans and specifications approved by the
13 Chief Water Officer ~~Department of Natural Resources~~. A multiplicity of
14 outlets shall be avoided. The outlet shall be at the most convenient and
15 practicable point consistent with the protection and safety of the ditch
16 and the efficient distribution of water among the various claimants
17 thereof.

18 **Sec. 104.** Section 46-261, Reissue Revised Statutes of Nebraska, is
19 amended to read:

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

30 (2) By April 1, any district or company which has transferred an
31 appropriation pursuant to sections 46-2,127 to 46-2,129 in the previous

1 calendar year shall provide the Chief Water Officer ~~department~~:

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

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

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

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

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

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

15 (4) For any appropriation not held by an irrigation district, a
16 reclamation district, a public power and irrigation district, or a mutual
17 irrigation or canal company, the Chief Water Officer ~~department~~ may
18 require the owner of an appropriation for irrigation purposes to provide
19 the Chief Water Officer ~~department~~ with any or all of the following
20 information relative to the use of water under the appropriation during
21 the previous irrigation season: (a) A list or map of all lands irrigated;
22 (b) the acreage of each tract irrigated; (c) the rate at which water was
23 diverted; (d) the amount diverted; (e) for any lands under the
24 appropriation that were not irrigated, any sufficient cause, as described
25 in section 46-229.04, which the appropriator claims was the reason for
26 such nonuse; and (f) any other information needed by the Chief Water
27 Officer ~~department~~ to properly monitor and administer use of water under
28 the appropriation. If the appropriator claims sufficient cause for
29 nonuse, he or she shall also provide the Chief Water Officer ~~department~~
30 with any evidence the Chief Water Officer ~~department~~ requires as a
31 condition for accepting such claimed cause as sufficient cause to excuse

1 nonuse.

2 (5) The Chief Water Officer ~~department~~ may deny an appropriator the
3 right to any water to be delivered to or used by or through any ditch,
4 reservoir, or other contrivance for the appropriation, use, or storage of
5 water if the appropriator is not in compliance with this section, with
6 subsection (2) of section 46-230, or with any conditions of any permit,
7 notice, or order of the Chief Water Officer ~~department~~ concerning the
8 appropriation. The Chief Water Officer ~~department~~ may construct bars or
9 dams or may install such other devices as are necessary to prevent such
10 delivery or use.

11 **Sec. 105.** Section 46-263.02, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 46-263.02 The Chief Water Officer ~~Department of Natural Resources~~ is
14 hereby authorized and empowered to offer and pay out of the fees
15 collected by the Chief Water Officer ~~department~~ rewards of not to exceed
16 twenty-five dollars in any case for the apprehension and conviction of
17 any person or persons violating the provisions of section 46-263.01.

18 **Sec. 106.** Section 46-273, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-273 The United States of America is hereby authorized, in
21 conformity to the laws of the State of Nebraska, to appropriate, develop,
22 and store any unappropriated flood or unused waters, in connection with
23 any project constructed by the United States pursuant to the provisions
24 of an Act of Congress approved June 17, 1902, being An Act providing for
25 the reclamation of arid lands (32 Stat. L. 388), and all acts amendatory
26 thereof and supplemental thereto. When the officers of the United States
27 Bureau of Reclamation determine that any water so developed or stored is
28 in excess of the needs of the project as then completed or is flood or
29 unused water, the United States may contract to furnish such developed,
30 stored, flood, or unused water, under the terms and conditions imposed by
31 Act of Congress and the rules and regulations of the United States, to

1 any person who may have theretofore been granted a permit to appropriate
2 a portion of the normal flow of any stream, if the water so appropriated
3 shall, during some portion of the year, be found insufficient for the
4 needs of the land to which it is appurtenant. The United States and every
5 person entering into a contract as herein provided shall have the right
6 to conduct such water into and along any of the natural streams of the
7 state, but not so as to raise the waters thereof above the ordinary high
8 water mark, and may take out the same again at any point desired, without
9 regard to the prior rights of others to water from the same stream; but
10 due allowance shall be made for losses in transit, the amount of such
11 allowance to be determined by the Chief Water Officer ~~Department of~~
12 ~~Natural Resources~~. The Chief Water Officer ~~department~~ shall supervise and
13 enforce the distribution of such water so delivered with like authority
14 and under the same provisions as in the case of general appropriators.

15 **Sec. 107.** Section 46-286, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-286 An ephemeral natural stream shall mean that portion of a
18 natural stream in which water flows only after a precipitation event or
19 when augmented by surface water runoff caused by the pumping of ground
20 water for irrigation. The portion of a natural stream that is shown as an
21 intermittent stream on the most recent United States Geological Survey
22 topographic quadrangle map published prior to July 18, 2008, shall be
23 considered an ephemeral natural stream unless the Chief Water Officer
24 ~~Department of Natural Resources~~ has investigated the stream and
25 determined that the stream or a reach of the stream is perennial or
26 intermittent and subject to Chapter 46, article 2. The Chief Water
27 Officer's ~~department's~~ determination for the purposes of this section
28 shall be adopted and promulgated in rule or regulation.

29 **Sec. 108.** Section 46-288, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-288 For purposes of this section and section 46-289, unless the

1 context otherwise requires:

2 (1) Basin of origin shall mean the river basin in which the point or
3 proposed point of diversion of water is located;

4 (2) Beneficial use shall include, but not be limited to, reasonable
5 and efficient use of water for domestic, municipal, agricultural,
6 industrial, commercial, power production, subirrigation, fish and
7 wildlife, ground water recharge, interstate compact, water quality
8 maintenance, or recreational purposes. Nothing in this subdivision shall
9 be construed to affect the preferences for use of surface water as
10 provided in section 46-204;

11 (3) Interbasin transfer shall mean the diversion of water in one
12 river basin and the transportation of such water to another river basin
13 for storage or utilization for a beneficial use; and

14 (4) River basin shall mean any of the following natural hydrologic
15 basins of the state as shown on maps located in the Department of Water,
16 Energy, and Environment ~~Natural Resources~~: (a) The White River and Hat
17 Creek basin; (b) the Niobrara River basin; (c) the Platte River basin,
18 including the North Platte and South Platte River basins, except that for
19 purposes of transfer between the North and South Platte River basins each
20 shall be considered a separate river basin; (d) the Loup River basin; (e)
21 the Elkhorn River basin; (f) the Republican River basin; (g) the Little
22 Blue River basin; (h) the Big Blue River basin; (i) the Nemaha River
23 basin; and (j) the Missouri tributaries basin.

24 **Sec. 109.** Section 46-289, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-289 The Legislature finds, recognizes, and declares that the
27 transfer of water to outside the boundaries of a river basin may have
28 impacts on the water and other resources in the basin and that such
29 impacts differ from those caused by uses of water within the same basin
30 in part because any unused water will not be returned to the stream from
31 which it is taken for further use in that river basin. The Legislature

1 therefor recognizes the need to delineate factors for consideration by
2 the Chief Water Officer of the Department of Water, Energy, and
3 Environment ~~Director of Natural Resources~~ when evaluating an application
4 made pursuant to section 46-233 which involves an interbasin transfer of
5 water in order to determine whether denial of such application is
6 demanded by the public interest. Those considerations shall include, but
7 not be limited to, the following factors:

8 (1) The economic, environmental, and other benefits of the proposed
9 interbasin transfer and use;

10 (2) Any adverse impacts of the proposed interbasin transfer and use;

11 (3) Any current beneficial uses being made of the unappropriated
12 water in the basin of origin;

13 (4) Any reasonably foreseeable future beneficial uses of the water
14 in the basin of origin;

15 (5) The economic, environmental, and other benefits of leaving the
16 water in the basin of origin for current or future beneficial uses;

17 (6) Alternative sources of water supply available to the applicant;
18 and

19 (7) Alternative sources of water available to the basin of origin
20 for future beneficial uses.

21 The application shall be deemed in the public interest if the
22 overall benefits to the state and the applicant's basin are greater than
23 or equal to the adverse impacts to the state and the basin of origin. The
24 Chief Water Officer's ~~director's~~ order granting or denying an application
25 shall specify the reasons for such action, including a discussion of the
26 required factors for consideration, and shall document such decision by
27 reference to the hearing record, if any, and to any other sources used by
28 the Chief Water Officer ~~director~~ in making the decision.

29 **Sec. 110.** Section 46-290, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-290 (1)(a) Except as provided in this section and sections

1 46-2,120 to 46-2,130, any person having a permit to appropriate water for
2 beneficial purposes issued pursuant to sections 46-233 to 46-235,
3 46-240.01, 46-241, 46-242, or 46-637 and who desires (i) to transfer the
4 use of such appropriation to a location other than the location specified
5 in the permit, (ii) to change that appropriation to a different type of
6 appropriation as provided in subsection (3) of this section, or (iii) to
7 change the purpose for which the water is to be used under a natural-
8 flow, storage, or storage-use appropriation to a purpose not at that time
9 permitted under the appropriation shall apply for approval of such
10 transfer or change to the Chief Water Officer ~~Department of Natural~~
11 ~~Resources~~.

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

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

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

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

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

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

26 (c) A natural-flow appropriation for direct out-of-stream use, for
27 aboveground reservoir storage, or for intentional underground water
28 storage may be changed to an instream appropriation subject to sections
29 46-2,107 to 46-2,119 if the Chief Water Officer ~~director~~ determines that
30 the resulting instream appropriation would be consistent with
31 subdivisions (2), (3), and (4) of section 46-2,115;

1 (d) A natural-flow appropriation for direct out-of-stream use, for
2 aboveground reservoir storage, or for intentional underground water
3 storage may be changed to an appropriation for induced ground water
4 recharge if the Chief Water Officer ~~director~~ determines that the
5 resulting appropriation for induced ground water recharge would be
6 consistent with subdivisions (2)(a)(i) and (ii) of section 46-235;

7 (e) An appropriation for the manufacturing of hydropower at a
8 facility located on a natural stream channel may be permanently changed
9 in full to an instream basin-management appropriation to be held jointly
10 by the Game and Parks Commission and any natural resources district or
11 combination of natural resources districts. The beneficial use of such
12 change is to maintain the streamflow for fish, wildlife, and recreation
13 that was available from the manufacturing of hydropower prior to the
14 change. Such changed appropriation may also be utilized by the owners of
15 the appropriation to assist in the implementation of an approved
16 integrated management plan or plans developed pursuant to sections 46-714
17 to 46-718 for each natural resources district within the river basin. Any
18 such change under this section shall be subject to review under sections
19 46-229 to 46-229.06 to ensure that the beneficial uses of the change of
20 use are still being achieved; and

21 (f) The incidental underground water storage portion, whether or not
22 previously quantified, of a natural-flow or storage-use appropriation may
23 be separated from the direct-use portion of the appropriation and may be
24 changed to a natural-flow or storage-use appropriation for intentional
25 underground water storage at the same location if the historic
26 consumptive use of the direct-use portion of the appropriation is
27 transferred to another location or is terminated, but such a separation
28 and change may be approved only if, after the separation and change, (i)
29 the total permissible diversion under the appropriation will not
30 increase, (ii) the projected consequences of the separation and change
31 are consistent with the provisions of any integrated management plan

1 adopted in accordance with section 46-718 or 46-719 for the geographic
2 area involved, and (iii) if the location of the proposed intentional
3 underground water storage is in a river basin, subbasin, or reach
4 designated as overappropriated in accordance with section 46-713, the
5 integrated management plan for that river basin, subbasin, or reach has
6 gone into effect, and that plan requires that the amount of the
7 intentionally stored water that is consumed after the change will be no
8 greater than the amount of the incidentally stored water that was
9 consumed prior to the change. Approval of a separation and change
10 pursuant to this subdivision (f) shall not exempt any consumptive use
11 associated with the incidental recharge right from any reduction in water
12 use required by an integrated management plan for a river basin,
13 subbasin, or reach designated as overappropriated in accordance with
14 section 46-713.

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

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

26 (5) In addition to any other purposes for which transfers and
27 changes may be approved, such transfers and changes may be approved if
28 the purpose is (a) to maintain or augment the flow in a specific stream
29 reach for any instream use that the Chief Water Officer ~~department~~ has
30 determined, through rules and regulations, to be a beneficial use or (b)
31 to increase the frequency that a diversion rate or rate of flow specified

1 in another valid appropriation is achieved.

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

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

25 (7) Unless an incidental underground water storage appropriation is
26 changed as authorized by subdivision (3)(f) of this section or is
27 transferred as authorized by subsection (6) of this section or subsection
28 (1) of section 46-291, such appropriation shall be canceled or modified,
29 as appropriate, by the Chief Water Officer ~~director~~ to reflect any
30 reduction in water that will be stored underground as the result of a
31 transfer or change of the direct-use appropriation with which the

1 incidental underground water storage was recognized prior to the transfer
2 or change.

3 (8) Any appropriation for manufacturing of hydropower changed under
4 subdivision (3)(e) of this section shall maintain the priority date and
5 preference category of the original manufacturing appropriation and shall
6 be subject to condemnation and subordination pursuant to sections 70-668
7 and 70-669. Any person holding a subordination agreement that was
8 established prior to such change of appropriation shall be entitled to
9 enter into a new subordination agreement for terms consistent with the
10 original subordination agreement at no additional cost. Any person having
11 obtained a condemnation award that was established prior to such change
12 of appropriation shall be entitled to the same benefits created by such
13 award, and any obligations created by such award shall become the
14 obligations of the new owner of the appropriation changed under this
15 section.

16 **Sec. 111.** Section 46-291, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-291 (1) Upon receipt of an application filed under section 46-290
19 for a transfer in the location of use of an appropriation, the Chief
20 Water Officer ~~Department of Natural Resources~~ shall review it for
21 compliance with this subsection. The Chief Water Officer ~~Director of~~
22 ~~Natural Resources~~ may approve the application without notice or hearing
23 if he or she determines that: (a) The appropriation is used and will
24 continue to be used exclusively for irrigation purposes; (b) the only
25 lands involved in the proposed transfer are (i) lands within the quarter
26 section of land to which the appropriation is appurtenant, (ii) lands
27 within such quarter section of land and one or more quarter sections of
28 land each of which is contiguous to the quarter section of land to which
29 the appropriation is appurtenant, or (iii) lands within the boundaries or
30 service area of and capable of service by the same irrigation district,
31 reclamation district, public power and irrigation district, or mutual

1 irrigation or canal company; (c) after the transfer, the total number of
2 acres irrigated under the appropriation will be no greater than the
3 number of acres that could legally be irrigated under the appropriation
4 prior to the transfer; (d) all the land involved in the transfer is under
5 the same ownership or is within the same irrigation district, reclamation
6 district, public power and irrigation district, or mutual irrigation or
7 canal company; (e) the transfer will not result in a change in the point
8 of diversion or the point of diversion will be changed but the change
9 meets the following requirements: (i) The new point of diversion is on
10 the same named stream, the same tributary, or the same river or creek as
11 the approved point of diversion; (ii) the proposed point of diversion
12 will not move above or below an existing diversion point owned by another
13 appropriator; and (iii) the proposed point of diversion will not move
14 above or below a tributary stream or a constructed river return or a
15 constructed drain; and (f) the transfer will not diminish the water
16 supply available for or otherwise adversely affect any other surface
17 water appropriator. If transfer of an appropriation with associated
18 incidental underground water storage is approved in accordance with this
19 subsection, the associated incidental underground water storage also may
20 be transferred pursuant to this subsection as long as such transfer would
21 continue to be consistent with the requirements of this subsection. If
22 necessary, the boundaries of the incidental underground water storage
23 area may be modified to reflect any change in the location of that
24 storage consistent with such a transfer. Transfers shall not be approved
25 pursuant to this subsection until the Chief Water Officer ~~department~~ has
26 adopted and promulgated rules and regulations establishing the criteria
27 the Chief Water Officer ~~it~~ will use to determine whether proposed
28 transfers are consistent with subdivision (1)(f) of this section.

29 (2) If after reviewing an application filed under section 46-290 the
30 Chief Water Officer ~~director~~ determines that it cannot be approved
31 pursuant to subsection (1) of this section, he or she shall cause a

1 notice of such application to be posted on the ~~department's~~ website of
2 the Department of Water, Energy, and Environment, to be sent by certified
3 mail to each holder of a mortgage, trust deed, or other equivalent
4 consensual security interest that is identified by the applicant pursuant
5 to subdivision (1)(b)(v) of section 46-290 and to any entity owning
6 facilities currently used or proposed to be used for purposes of
7 diversion or delivery of water under the appropriation, and to be
8 published at the applicant's expense at least once each week for three
9 consecutive weeks in at least one newspaper of general circulation in
10 each county containing lands to which the appropriation is appurtenant
11 and, if applicable, in at least one newspaper of general circulation in
12 each county containing lands to which the appropriation is proposed to be
13 transferred.

14 (3) The notice shall contain: (a) A description of the
15 appropriation; (b) the number assigned to such appropriation in the
16 records of the department; (c) the date of priority; (d) if applicable, a
17 description of the land or stream reach to which such water appropriation
18 is proposed to be transferred; (e) if applicable, the type of
19 appropriation to which the appropriation is proposed to be changed; (f)
20 if applicable, the proposed change in the purpose of use; (g) whether the
21 proposed transfer or change is to be permanent or temporary and, if
22 temporary, the duration of the proposed transfer or change; and (h) any
23 other information the Chief Water Officer ~~director~~ deems relevant and
24 essential to provide the interested public with adequate notice of the
25 proposed transfer or change.

26 (4) The notice shall state (a) that any interested person may object
27 to and request a hearing on the application by filing such objections in
28 writing specifically stating the grounds for each objection and (b) that
29 any such objection and request shall be filed with ~~in~~ the Chief Water
30 Officer ~~office of the department~~ within two weeks after the date of final
31 publication of the notice.

1 (5) Within the time period allowed by this section for the filing of
2 objections and requests for hearings, the county board of any county
3 containing land to which the appropriation is appurtenant and, if
4 applicable, the county board of any county containing land to which the
5 appropriation is proposed to be transferred may provide the Chief Water
6 Officer ~~department~~ with comments about the potential economic impacts of
7 the proposed transfer or change in such county. The filing of any such
8 comments by a county board shall not make the county a party in the
9 application process, but such comments shall be considered by the Chief
10 Water Officer ~~director~~ in determining pursuant to section 46-294 whether
11 the proposed transfer or change is in the public interest.

12 **Sec. 112.** Section 46-292, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-292 The Chief Water Officer ~~Department of Natural Resources~~ may
15 hold a hearing on an application filed under section 46-290 on the Chief
16 Water Officer's ~~its~~ own motion and shall hold a hearing if a timely
17 request therefor is filed by any interested person in accordance with
18 section 46-291. Any such hearing shall be subject to section 61-206.

19 **Sec. 113.** Section 46-293, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-293 (1) The Chief Water Officer of the Department of Water,
22 Energy, and Environment ~~Director of Natural Resources~~ shall independently
23 review each application subject to subsection (2) of section 46-291 to
24 determine whether the requirements of section 46-294 will be met if the
25 transfer or change is approved. The requirement of this subsection is not
26 altered when there are objectors who have become parties to the proposed
27 transfer or change, but if a hearing is called by the Chief Water Officer
28 Department of Natural Resources on the Chief Water Officer's ~~its~~ own
29 motion or as the result of a request therefor filed in accordance with
30 subsection (4) of section 46-291, any evidence considered by the Chief
31 Water Officer ~~director~~ in making such determinations shall be made a part

1 of the record of the hearing as provided in section 84-914.

2 (2) Either on his or her own motion or in response to objections or
3 comments received pursuant to subsection (4) or (5) of section 46-291,
4 the Chief Water Officer ~~director~~ may require the applicant to provide
5 additional information before a hearing will be scheduled or, if no
6 hearing is to be held, before the application will receive further
7 consideration. The information requested may include economic, social, or
8 environmental impact analyses of the proposed transfer or change,
9 information about the amount of water historically consumed under the
10 appropriation, copies of any plans for mitigation of any anticipated
11 adverse impacts that would result from the proposed transfer or change,
12 and such other information as the Chief Water Officer ~~director~~ deems
13 necessary in order to determine whether the proposed transfer or change
14 is consistent with section 46-294.

15 **Sec. 114.** Section 46-294, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-294 (1) Except for applications approved in accordance with
18 subsection (1) of section 46-291, the Chief Water Officer of the
19 Department of Water, Energy, and Environment ~~Director of Natural~~
20 ~~Resources~~ shall approve an application filed pursuant to section 46-290
21 only if the application and the proposed transfer or change meet the
22 following requirements:

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

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

27 (c)(i) Any requested transfer in the location of use is within the
28 same river basin as defined in section 46-288 or (ii) the river basin
29 from which the appropriation is to be transferred is tributary to the
30 river basin to which the appropriation is to be transferred;

31 (d) Except as otherwise provided in subsection (4) of this section,

1 the proposed transfer or change, alone or when combined with any new or
2 increased use of any other source of water at the original location or
3 within the same irrigation district, reclamation district, public power
4 and irrigation district, or mutual irrigation or canal company for the
5 original or other purposes, will not diminish the supply of water
6 available for or otherwise adversely affect any other water appropriator
7 and will not significantly adversely affect any riparian water user who
8 files an objection in writing pursuant to section 46-291;

9 (e) The quantity of water that is transferred for diversion or other
10 use at the new location will not exceed the historic consumptive use
11 under the appropriation or portion thereof being transferred, except that
12 this subdivision does not apply to (i) a transfer in the location of use
13 if both the current use and the proposed use are for irrigation, the
14 number of acres to be irrigated will not increase after the transfer, and
15 the location of the diversion from the stream will not change or (ii) a
16 transfer or change in the purpose of use of a surface water irrigation
17 appropriation as provided for in subsection (3), (5), or (6) of section
18 46-290 if the transfer or change in purpose will not diminish the supply
19 of water available or otherwise adversely affect any other water
20 appropriator, adversely affect Nebraska's ability to meet its obligations
21 under a multistate agreement, or result in administration of the prior
22 appropriation system by the Chief Water Officer Department of Natural
23 Resources, which would not have otherwise occurred;

24 (f) The appropriation, prior to the transfer or change, is not
25 subject to termination or cancellation pursuant to sections 46-229 to
26 46-229.04;

27 (g) If a proposed transfer or change is of an appropriation that has
28 been used for irrigation and is in the name of an irrigation district,
29 reclamation district, public power and irrigation district, or mutual
30 irrigation or canal company or is dependent upon any such district's or
31 company's facilities for water delivery, such district or company has

1 approved the transfer or change;

2 (h) If the proposed transfer or change is of a storage-use
3 appropriation and if the owner of that appropriation is different from
4 the owner of the associated storage appropriation, the owner of the
5 storage appropriation has approved the transfer or change;

6 (i) If the proposed transfer or change is to be permanent, either
7 (i) the purpose for which the water is to be used before the transfer or
8 change is in the same preference category established by section 46-204
9 as the purpose for which the water is to be used after the transfer or
10 change or (ii) the purpose for which the water is to be used before the
11 transfer or change and the purpose for which the water is to be used
12 after the transfer or change are both purposes for which no preferences
13 are established by section 46-204;

14 (j) If the proposed transfer or change is to be temporary, it will
15 be for a duration of no less than one year and, except as provided in
16 section 46-294.02, no more than thirty years;

17 (k) The transfer or change will not be inconsistent with any
18 applicable state or federal law and will not jeopardize the state's
19 compliance with any applicable interstate water compact or decree or
20 cause difficulty in fulfilling the provisions of any other formal state
21 contract or agreement; and

22 (l) The proposed transfer or change is in the public interest. The
23 Chief Water Officer's ~~director's~~ considerations relative to the public
24 interest shall include, but not be limited to, (i) the economic, social,
25 and environmental impacts of the proposed transfer or change and (ii)
26 whether and under what conditions other sources of water are available
27 for the uses to be made of the appropriation after the proposed transfer
28 or change. The Chief Water Officer ~~Department of Natural Resources~~ shall
29 adopt and promulgate rules and regulations to govern the Chief Water
30 Officer's ~~director's~~ determination of whether a proposed transfer or
31 change is in the public interest.

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

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

29 (4) In approving an application for a transfer, the Chief Water
30 Officer ~~director~~ may also authorize the overlying of water appropriations
31 on the same lands, except that if any such overlying of appropriations

1 would result in either the authorized diversion rate or the authorized
2 aggregate annual quantity that could be diverted to be greater than is
3 otherwise permitted by section 46-231, the Chief Water Officer ~~director~~
4 shall limit the total diversion rate or aggregate annual quantity for the
5 appropriations overlain to the rate or quantity that he or she determines
6 is necessary, in the exercise of good husbandry, for the production of
7 crops on the land involved. The Chief Water Officer ~~director~~ may also
8 authorize a greater number of acres to be irrigated if the amount and
9 rate of water approved under the original appropriation is not increased
10 by the change of location. An increase in the number of acres to be
11 irrigated shall be approved only if (a) such an increase will not
12 diminish the supply of water available to or otherwise adversely affect
13 another water appropriator or (b) the transfer would not adversely affect
14 the water supply for any river basin, subbasin, or reach that has been
15 designated as overappropriated pursuant to section 46-713 or determined
16 to be fully appropriated pursuant to section 46-714 and (i) the number of
17 acres authorized under the appropriation when originally approved has not
18 been increased previously, (ii) the increase in the number of acres
19 irrigated will not exceed five percent of the number of acres being
20 irrigated under the permit before the proposed transfer or a total of ten
21 acres, whichever acreage is less, and (iii) all the use will be either on
22 the quarter section to which the appropriation was appurtenant before the
23 transfer or on an adjacent quarter section.

24 **Sec. 115.** Section 46-294.01, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 46-294.01 Whenever a temporary transfer is approved in accordance
27 with sections 46-290 to 46-294, the applicant shall, within sixty days
28 after the order of approval of the Chief Water Officer ~~Department of~~
29 ~~Natural Resources~~, cause copies of the following to be filed with the
30 county clerk or register of deeds of the county in which the land subject
31 to the appropriation prior to the transfer is located: (1) The permit by

1 which the appropriation was established; (2) the agreement by which the
2 temporary transfer is to be effected; and (3) the order of the Chief
3 Water Officer ~~Director of Natural Resources~~ approving the temporary
4 transfer. Whenever renewal of a temporary transfer is approved pursuant
5 to section 46-294.02, the applicant shall, within sixty days after such
6 approval, cause a copy of the order of the Chief Water Officer ~~director~~
7 approving such renewal to be filed with the county clerk or register of
8 deeds of such county. Such documents shall be indexed to the land subject
9 to the appropriation prior to the transfer. The applicant shall file with
10 the Chief Water Officer ~~department~~, within ninety days after the Chief
11 Water Officer's ~~department's~~ order of approval, proof of filing with the
12 county clerk or register of deeds. Failure to file such proof of filing
13 within such ninety-day time period shall be grounds for the Chief Water
14 Officer ~~director~~ to negate any prior approval of the transfer or renewal.

15 **Sec. 116.** Section 46-294.02, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 46-294.02 A temporary transfer or a change in the type or purpose of
18 use of an appropriation may be renewed or otherwise extended by the
19 parties thereto at any time following the midpoint of the transfer or
20 change term, but any such renewal or extension is subject to review and
21 approval pursuant to sections 46-290 to 46-294. No renewal or extension
22 shall cause the term of any such temporary transfer or change to exceed
23 thirty years in duration from the date the renewal or extension is
24 approved by the Chief Water Officer of the Department of Water, Energy,
25 and Environment ~~Director of Natural Resources~~.

26 **Sec. 117.** Section 46-294.05, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 46-294.05 The Chief Water Officer of the Department of Water,
29 Energy, and Environment ~~Director of Natural Resources~~ may adopt and
30 promulgate rules and regulations to carry out sections 46-290 to
31 46-294.04.

1 **Sec. 118.** Section 46-296, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 46-296 For purposes of sections 46-202 and 46-295 to 46-2,106,
4 unless the context otherwise requires:

5 (1) Chief Water Officer means the Chief Water Officer of the
6 Department of Water, Energy, and Environment;

7 (2) ~~(1)~~ Department means the Department of Water, Energy, and
8 Environment ~~Natural Resources~~;

9 ~~(2) Director means the Director of Natural Resources;~~

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

13 (4) Underground water storage means the act of storing or recharging
14 water in underground strata. Such water shall be known as water stored
15 underground but does not include ground water as defined in section
16 46-706 which occurs naturally;

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

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

27 **Sec. 119.** Section 46-297, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-297 Any person who has an approved, unperfected appropriation
30 pursuant to Chapter 46, article 2, may apply to the Chief Water Officer
31 ~~department~~ for a modification of such permit to include intentional

1 underground water storage associated with the appropriation. The
2 application shall be made on a form prescribed and furnished by the Chief
3 Water Officer ~~department~~ without cost to the applicant. Upon receipt of
4 such an application, the Chief Water Officer ~~department~~ shall proceed in
5 accordance with rules and regulations adopted and promulgated by the
6 Chief Water Officer ~~department~~, subject to section 46-226.02.

7 **Sec. 120.** Section 46-2,101, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-2,101 (1) Any person intending to levy fees or assessments in
10 accordance with section 46-299 or to modify such fees or assessments
11 shall, prior to levying such fees, assessments, modified fees, or
12 modified assessments, file with the Chief Water Officer ~~department~~ an
13 application for approval of authority to levy such fees on a form
14 prescribed and furnished by the Chief Water Officer ~~department~~.

15 (2) Such an application shall include a fee schedule and the
16 following information:

- 17 (a) The source of the water stored or to be stored underground;
18 (b) The underground water storage method;
19 (c) The relative amounts of water stored or to be stored underground
20 and naturally occurring ground water;
21 (d) The data or reference studies used by the applicant to determine
22 the underground water storage;
23 (e) A description of the areas served or to be served by the water
24 stored underground;
25 (f) The amount of surface water, if any, for which the applicant has
26 an appropriation; and
27 (g) The manner, use, and location of any such surface water
28 appropriation.

29 The application shall be processed under the applicable rules and
30 regulations of the Chief Water Officer ~~department~~ adopted and promulgated
31 pursuant to section 61-206.

1 (3) An application shall be approved if the fees, assessments,
2 modified fees, or modified assessments appear reasonable and comply with
3 the requirements of section 46-299.

4 (4) The Chief Water Officer ~~department~~ shall review approved fee
5 schedules every five years after approval to determine whether the fees
6 should be increased, decreased, or eliminated, except that if the adopted
7 schedules have been pledged to repayment of financing for the project,
8 the Chief Water Officer ~~department~~ shall only review after repayment is
9 completed.

10 **Sec. 121.** Section 46-2,104, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-2,104 If an action is commenced pursuant to section 46-2,102 or
13 46-2,103, an order of the Chief Water Officer ~~director~~ identifying water
14 stored or to be stored underground, or approving fees or assessments, may
15 not be collaterally attacked.

16 **Sec. 122.** Section 46-2,105, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-2,105 Any person aggrieved by a decision made or an order issued
19 by the Chief Water Officer ~~director~~ pursuant to section 46-226.02,
20 46-233, 46-240, 46-241, 46-242, 46-297, or 46-2,101 may appeal as
21 provided in section 61-207.

22 **Sec. 123.** Section 46-2,108, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-2,108 (1) For purposes of sections 46-2,107 to 46-2,119, unless
25 the context otherwise requires:

26 (a) Chief Water Officer means the Chief Water Officer of the
27 Department of Water, Energy, and Environment;

28 (b) ~~(a)~~ Department means the Department of Water, Energy, and
29 Environment ~~Natural Resources; and~~

30 ~~(b) Director means the Director of Natural Resources; and~~

31 (c) Instream appropriation means the undiverted application of the

1 waters of a natural stream within or bordering upon the state for
2 recreation or fish and wildlife purposes.

3 (2) An instream appropriation may be obtained only by the Game and
4 Parks Commission or a natural resources district and only for that amount
5 of water necessary for recreation or fish and wildlife. The instream use
6 of water for recreation or fish and wildlife shall be considered a
7 beneficial use of water.

8 **Sec. 124.** Section 46-2,109, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-2,109 Each natural resources district and the Game and Parks
11 Commission shall conduct studies to identify specific stream segments
12 which the district or commission considers to have a critical need for
13 instream flows. Such studies shall quantify the instream flow needs in
14 the identified stream segments. Any district or the Game and Parks
15 Commission may request the assistance of the Conservation and Survey
16 Division of the University of Nebraska, the Game and Parks Commission,
17 ~~the Department of Environment and Energy, the Department of Natural~~
18 ~~Resources,~~ or any other state agency or the Chief Water Officer in order
19 to comply with this section.

20 **Sec. 125.** Section 46-2,110, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-2,110 Following notice and a public hearing, any natural
23 resources district or the Game and Parks Commission may file with the
24 Chief Water Officer ~~director~~ an application for a permit to appropriate
25 water for instream flows in each stream segment identified pursuant to
26 section 46-2,109. The application shall include the locations on the
27 stream at which the need for instream flows begins and ends and the time
28 of year when instream flows are most critical. The application shall also
29 provide a detailed description of the amount of water necessary to
30 provide adequate instream flows.

31 **Sec. 126.** Section 46-2,111, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-2,111 (1) The Legislature finds that instream appropriations for
3 recreation, fish, and wildlife should consider preferences among
4 different uses and that all appropriations should consider the possible
5 legal relationship between surface water and ground water. ~~Thus the~~
6 ~~Legislature finds that, since such issues have not been fully considered,~~
7 ~~the director shall not grant any permit to appropriate water, except as~~
8 ~~specified in subsection (2) of this section, before January 1, 1997, for~~
9 ~~any application pending on or filed after June 2, 1995.~~

10 (2) The Chief Water Officer ~~director~~ may grant applications for (a)
11 appropriations for flood control or sediment control structures which
12 will not make or cause to be made any consumptive use of the impounded
13 water, (b) applications for temporary appropriations for public
14 construction that are five cubic feet per second or less, or (c)
15 applications by public water suppliers for induced ground water recharge
16 appropriations pursuant to sections 46-233 to 46-238.

17 **Sec. 127.** Section 46-2,112, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-2,112 A permit to appropriate water for instream flows shall be
20 subject to review every fifteen years after it is granted. Notice of a
21 pending review shall be published in a newspaper published or of general
22 circulation in the area involved at least once each week for three
23 consecutive weeks, the last publication to be not later than fourteen
24 years and ten months after the permit was granted or after the date of
25 the Chief Water Officer's ~~director's~~ action following the last such
26 review, whichever is later, and such notice shall be mailed to the
27 appropriator of record and posted on the department's website. The notice
28 shall state that any interested person may file comments relating to the
29 review of the instream appropriation or may request a hearing to present
30 evidence relevant to such review. Any such comments or request for
31 hearing shall be filed with in the Chief Water Officer headquarters

1 ~~office of the department~~ within six weeks after the date of final
2 publication of the notice. The appropriator of record shall, within the
3 six-week period, file written documentation of the continued use of the
4 appropriation. If no requests for hearing are received and if the Chief
5 Water Officer ~~director~~ is satisfied with the information provided by the
6 appropriator of record that the appropriation continues to be
7 beneficially used and is in the public interest, the Chief Water Officer
8 ~~director~~ shall issue an order stating such findings. If requested by any
9 interested person, or on his or her own motion based on the comments and
10 information filed, the Chief Water Officer ~~director~~ shall schedule a
11 hearing. If a hearing is held, the purpose of the hearing shall be to
12 receive evidence regarding whether the water appropriated under the
13 permit still provides the beneficial uses for which the permit was
14 granted and whether the permit is still in the public interest. The
15 hearing shall proceed under the rebuttable presumption that the
16 appropriation continues to provide the beneficial uses for which the
17 permit was granted and that the appropriation is in the public interest.
18 After the hearing, the Chief Water Officer ~~director~~ may by order modify
19 or cancel, in whole or in part, the instream appropriation.

20 **Sec. 128.** Section 46-2,113, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-2,113 It is in the state's and the public interest that the
23 filing of the following classes of applications before the Chief Water
24 Officer ~~department~~ demand that the Chief Water Officer ~~director~~ shall
25 appropriately modify any existing or pending instream appropriation or
26 application to not interfere with such application or the granting of
27 such appropriation:

- 28 (1) Applications for induced recharge to public water supply wells;
29 (2) Applications for storage rights necessary for flood and sediment
30 control projects which are dry or will not result in a net consumption of
31 water exceeding two hundred acre-feet on an average annual basis;

1 (3) Applications for transfer permits associated with natural flow,
2 storage use, power generation, or hydropower;

3 (4) Applications for de minimis uses; or

4 (5) Applications for industrial or manufacturing de minimis
5 consumptive uses.

6 **Sec. 129.** Section 46-2,114, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-2,114 Prior to taking action on an application for an instream
9 appropriation, the Chief Water Officer ~~director~~ shall conduct any studies
10 he or she deems necessary to evaluate the application and shall publish
11 notice of such application at the applicant's expense at least once a
12 week for three consecutive weeks in a newspaper of general circulation in
13 the area of the stream segment and also in a newspaper of statewide
14 circulation. The notice shall state that any person having an interest
15 may in writing object to and request a hearing on the application. Any
16 such objection and request for hearing shall be filed with the Chief
17 Water Officer ~~department~~ within two weeks of final publication of the
18 notice.

19 **Sec. 130.** Section 46-2,115, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-2,115 An application for an instream appropriation ~~which is~~
22 ~~pending on or filed after January 1, 1997,~~ shall be approved by the Chief
23 Water Officer ~~director~~ if he or she finds that:

24 (1) In order to allow for future beneficial uses, there is
25 unappropriated water available to provide the approved instream flow rate
26 at least twenty percent of the time during the period requested;

27 (2) The appropriation is necessary to maintain the existing
28 recreational uses or needs of existing fish and wildlife species;

29 (3) The appropriation will not interfere with any senior surface
30 water appropriation;

31 (4) The rate and timing of the flow is the minimum necessary to

1 maintain the existing recreational uses or needs of existing fish and
2 wildlife species; and

3 (5) The application is in the public interest.

4 The application may be granted for a rate of flow that is less than
5 that requested by the applicant or for a shorter period of time than
6 requested by the applicant.

7 **Sec. 131.** Section 46-2,116, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-2,116 In determining whether an application for an instream
10 appropriation is in the public interest, the Chief Water Officer ~~director~~
11 shall consider the following factors:

12 (1) The economic, social, and environmental value of the instream
13 use or uses including, but not limited to, recreation, fish and wildlife,
14 induced recharge for municipal water systems, and water quality
15 maintenance; and

16 (2) The economic, social, and environmental value of reasonably
17 foreseeable alternative out-of-stream uses of water that will be foregone
18 or accorded junior status if the appropriation is granted.

19 **Sec. 132.** Section 46-2,116.01, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 46-2,116.01 If the Chief Water Officer ~~director~~ determines that
22 there is insufficient unappropriated natural flow available for an
23 application for an instream appropriation and if the applicant consents,
24 the Chief Water Officer ~~department~~ may conduct a study to determine
25 whether the instream flow needs can be met through the use of stored
26 water in new storage facilities. The study shall address the availability
27 of storage sites, the estimated cost of providing any required storage,
28 and such other findings and conclusions as the Chief Water Officer
29 ~~department~~ deems appropriate.

30 **Sec. 133.** Section 46-2,116.02, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 46-2,116.02 If the Chief Water Officer ~~department~~ determines that
2 instream flow needs can be met through the use of stored water in new
3 storage facilities after a study conducted under section 46-2,116.01, the
4 applicant may request financial assistance for the construction of
5 necessary storage facilities from the Nebraska Resources Development
6 Fund. The cost of the project may be shared with any other users of the
7 stored water.

8 **Sec. 134.** Section 46-2,117, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-2,117 The Chief Water Officer ~~director~~ shall not conduct a
11 contested case hearing on an instream appropriation application filed
12 after January 1, 1997, other than a hearing to address procedural
13 matters, until such time as the parties have completed mediation or
14 nonbinding arbitration. Mediation or nonbinding arbitration shall be
15 deemed completed when the person retained to conduct the mediation or
16 nonbinding arbitration has concluded further efforts would probably not
17 result in resolution of major issues. The costs of mediation or
18 nonbinding arbitration shall be shared by the parties.

19 **Sec. 135.** Section 46-2,118, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-2,118 (1) All water used to provide instream flows shall be
22 applied only to that segment of the stream for which the appropriation is
23 granted. The stream segment and the determination of a reasonable and
24 necessary amount of water required for instream flow purposes shall be
25 defined specifically by the Chief Water Officer ~~director~~ in the permit.

26 (2) After the water allowed for instream flows has passed through
27 the defined stream segment, all rights to such water shall be deemed
28 relinquished and the water shall be available for appropriation.

29 **Sec. 136.** Section 46-2,119, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-2,119 Instream appropriations shall be administered in the same

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

14 **Sec. 137.** Section 46-2,120, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-2,120 (1) Any irrigation district, reclamation district, public
17 power and irrigation district, rural water district, or mutual irrigation
18 or canal company using the procedure described in sections 46-2,121 to
19 46-2,129 and which is exempt from the Open Meetings Act shall provide
20 notice by mail to each owner of land in the district or served by the
21 company not less than seven days before any meeting or hearing under
22 sections 46-2,121 to 46-2,129.

23 (2) For purposes of sections 46-2,120 to 46-2,130:

24 (a) Chief Water Officer means the Chief Water Officer of the
25 Department of Water, Energy, and Environment; and

26 (b) ~~(a)~~ Department means the Department of Water, Energy, and
27 Environment. ~~Natural Resources~~; and

28 ~~(b) Director means the Director of Natural Resources.~~

29 **Sec. 138.** Section 46-2,122, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-2,122 (1) Any irrigation district, reclamation district, public

1 power and irrigation district, rural water district, or mutual irrigation
2 or canal company may file an application for transfer and a map with the
3 Chief Water Officer department identifying all tracts of lands that have
4 received water delivered by the district or company and beneficially
5 applied to the tract in at least one of the preceding ten consecutive
6 years. The application for transfer and map shall be prepared and filed
7 in accordance with the rules and regulations of the Chief Water Officer
8 department.

9 (2) Any tract of land within the boundaries of the district or
10 served by the company may receive a water appropriation, or portion
11 thereof, transferred from a tract or tracts of land currently under the
12 appropriation on file with the Chief Water Officer department. The Chief
13 Water Officer director shall grant the transfer if:

14 (a) The owner of the land to which the water appropriation is
15 attached and the owner of the ditch, canal, or other diverting works
16 subject to transfer consent in writing to the Chief Water Officer
17 department to the transfer of the appropriation from the tract of land;

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

23 (c) The water will be applied on the receiving tract to a use in the
24 same preference category as the use on the transferring tract; and

25 (d) The aggregate water use within the district or company after
26 transfer will not exceed the aggregate water appropriation held by the
27 district or company for the benefit of the owners of land to which the
28 water appropriations are attached.

29 **Sec. 139.** Section 46-2,123, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-2,123 The Chief Water Officer department may hold a hearing on

1 the application for transfer and map under section 46-2,122 if the Chief
2 Water Officer ~~department~~ determines that a hearing is necessary to
3 determine whether the application for transfer and map are in compliance
4 with such section. The Chief Water Officer ~~department~~ shall hold a
5 hearing on the application if requested by any owner of land within the
6 district or served by the company. The hearing shall be conducted in
7 accordance with section 61-206 and the rules and regulations of the Chief
8 Water Officer ~~department~~.

9 **Sec. 140.** Section 46-2,124, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-2,124 Any irrigation district, reclamation district, public power
12 and irrigation district, rural water district, or mutual irrigation or
13 canal company intending to file an application for transfer and a map
14 with the Chief Water Officer ~~department~~ under section 46-2,122 shall give
15 notice prior to the meeting at which the application and map will be
16 approved for filing. Notice shall be given in the manner provided in
17 section 46-2,128.

18 **Sec. 141.** Section 46-2,125, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-2,125 After an investigation and hearing, if applicable, the
21 Chief Water Officer ~~director~~ shall issue an order granting or denying the
22 application for transfer and map under section 46-2,122. The Chief Water
23 Officer ~~director~~ shall deny the application if the conditions in
24 subsection (2) of such section are not met. An order granting or denying
25 an application for transfer and map shall be in writing and shall specify
26 the following:

- 27 (1) The tracts of land retaining an appropriation;
- 28 (2) The tracts of land receiving an appropriation; and
- 29 (3) The tracts of land transferring an appropriation.

30 An appeal may be taken from the decision of the Chief Water Officer
31 ~~department~~ on the application for transfer and map as provided in section

1 61-207.

2 **Sec. 142.** Section 46-2,128, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-2,128 Commencing at least six weeks but not more than twelve
5 weeks before transferring any water appropriations under section
6 46-2,127, the district or company shall cause notice of the proposed
7 transfer to be published at least once a week for three consecutive weeks
8 in at least one newspaper of general circulation in each county
9 containing lands on which the water appropriation is or is proposed to be
10 applied. The district or company shall also provide the notice to the
11 Chief Water Officer ~~department~~. The notice shall contain:

- 12 (1) A description of the water appropriation to be transferred;
13 (2) The number assigned the water appropriation permit in the
14 records of the department under sections 46-233 to 46-235;
15 (3) The priority date of the water appropriation;
16 (4) A description of the land to which the water appropriation is
17 proposed to be applied;
18 (5) A statement that any owner of land within the district or served
19 by the canal company may object to and request a hearing on the proposed
20 transfer within seven calendar days after final publication; and
21 (6) Any other relevant information.

22 **Sec. 143.** Section 46-2,130, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-2,130 Nothing in sections 46-2,120 to 46-2,129 shall be construed
25 to limit or restrict the powers of the Chief Water Officer ~~department~~
26 with respect to adjudication of water rights.

27 **Sec. 144.** Section 46-2,139, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-2,139 The Storm Water Management Plan Program is created. The
30 purpose of the program is to facilitate and fund the duties of cities and
31 counties under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as

1 such act existed on January 1, 2006, regarding storm water runoff under
2 the National Pollutant Discharge Elimination System requirements. The
3 Storm Water Management Plan Program shall function as a grant program
4 administered by the Department of Water, Energy, and Environment
5 ~~Environment and Energy~~, using funds appropriated for the program. The
6 department shall deduct from funds appropriated amounts sufficient to
7 reimburse itself for its costs of administration of the grant program.
8 Any city or county when applying for a grant under the program shall have
9 a storm water management plan approved by the department which meets the
10 requirements of the National Pollutant Discharge Elimination System.
11 Grant applications shall be made to the department on forms prescribed by
12 the department. Grant funds shall be distributed by the department as
13 follows:

14 (1) Not less than eighty percent of the funds available for grants
15 under this section shall be provided to cities and counties in urbanized
16 areas, as identified in 77 Federal Register 18652-18669, that apply for
17 grants and meet the requirements of this section. Grants made pursuant to
18 this subdivision shall be distributed proportionately based on the
19 population of applicants within such category, as determined by the most
20 recent federal census update or recount certified by the United States
21 Department of Commerce, Bureau of the Census. For the purpose of
22 distributing grant funds to a county pursuant to this subdivision, the
23 proportion shall be based on the county population, less the population
24 of city applicants within that county. Any funds available for grants
25 under this subdivision and not awarded by the end of a calendar year
26 shall be available for grants in the following year; and

27 (2) Not more than twenty percent of the funds available for grants
28 under this section shall be provided to cities and counties outside of
29 urbanized areas, as identified in 77 Federal Register 18652-18669, with
30 populations greater than ten thousand inhabitants as determined by the
31 most recent federal census update or recount certified by the United

1 States Department of Commerce, Bureau of the Census, that apply for
2 grants and meet the requirements of this section. Grants under this
3 subdivision shall be distributed proportionately based on the population
4 of applicants within this category as determined by the most recent
5 federal census update or recount certified by the United States
6 Department of Commerce, Bureau of the Census. For the purpose of
7 distributing grant funds to a county pursuant to this subdivision, the
8 proportion shall be based on the county population, less the population
9 of city applicants within that county. Any funds available for grants
10 pursuant to this subdivision which have not been awarded at the end of
11 each calendar year shall be available for awarding grants pursuant to
12 subdivision (1) of this section.

13 Any city or county receiving a grant under subdivision (1) or (2) of
14 this section shall contribute matching funds equal to twenty percent of
15 the grant amount.

16 **Sec. 145.** Section 46-302, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-302 Whenever the board of directors of any irrigation district
19 shall, by resolution, determine that it is to the interest, convenience,
20 and welfare of the district that the district, under sections 46-301 to
21 46-315, purchase, construct, or otherwise acquire, operate, and maintain
22 any electric light and power plant, lines, or systems, whether as an
23 addition, extension, enlargement, alteration, or reconstruction of any
24 site, irrigation works, or other property owned or controlled by the
25 district, or as a plant, lines, or system independent of works or
26 property already owned or controlled by the district, the board of
27 directors shall thereupon prepare comprehensive written plans,
28 statements, and reports setting out the nature, location, and description
29 of the proposed plant, lines, and system, including method or methods of
30 generation or acquisition, the location of transmission lines, the use of
31 other sites, properties, and works already owned or controlled by the

1 district, estimated costs of acquisition and construction, the method or
2 means of financing the proposed plan and project, the amount of bonds, if
3 any, proposed to be issued in connection therewith, and such other data
4 as the Chief Water Officer Department of Natural Resources shall
5 prescribe. The expense thereof may be authorized by any special meeting
6 or at the annual meeting of such district. Such plans, statements, and
7 reports, including a copy of such resolution, shall be duly certified by
8 the board of directors and shall be thereupon submitted to the Chief
9 Water Officer department for the Chief Water Officer's its examination as
10 set forth in section 46-304.

11 **Sec. 146.** Section 46-303, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-303 In lieu of the resolution of the board of directors and the
14 preparation and submission by the board of plans, reports, and statements
15 as provided in section 46-302, a petition containing and setting forth
16 the data and information required in such section concerning the proposed
17 electric light and power plant, lines, and systems may be presented to
18 the Chief Water Officer Department of Natural Resources, signed by not
19 less than twenty percent of all the qualified electors of the district.
20 Such petition shall declare that, in the opinion of the petitioners, it
21 is to the interest, convenience, and welfare of the district that the
22 district, under sections 46-301 to 46-315, adopt substantially the plan
23 or method set out in the petition for the establishment, acquisition, and
24 operation by the district of electric light and power plant, lines, and
25 systems. The petition shall contain the affidavit of the person or
26 persons who circulated the same, certifying that each name signed thereto
27 is the true signature of the person whose name it purports to be and that
28 the person is a qualified elector of the district.

29 **Sec. 147.** Section 46-304, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-304 Upon receipt by the Chief Water Officer Department of Natural

1 Resources of the plans, reports, and statements provided for in section
2 46-302 or of the petition provided for in section 46-303, the Chief Water
3 Officer department shall examine the proposed plan and project, make an
4 estimate of the probable cost thereof, and make such further examination
5 and investigation concerning the same as the Chief Water Officer
6 department shall deem necessary or advisable. If the Chief Water Officer
7 department deems the proposed plan and project feasible and practicable,
8 either as originally submitted or as changed and amended by the Chief
9 Water Officer department, the Chief Water Officer department shall then
10 file with the board of directors of the irrigation district concerned its
11 report in the matter, which report shall include a complete explanation
12 of the proposed project, the plans and maps showing location of the
13 project, the estimated cost of the project, and the probable receipts
14 from the sale of electric energy, and the certificate of the Chief Water
15 Officer department that the project has been examined and deemed feasible
16 and practicable by the Chief Water Officer department.

17 **Sec. 148.** Section 46-305, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-305 Upon the filing of the data and certificates with the board
20 of directors of the district, the board of directors and the other proper
21 officers of the district shall submit the proposed plan and project to
22 the qualified electors of the district for their approval or rejection,
23 at a general election or at a special election called for that purpose,
24 the submission of proposition and all matters pertaining to such election
25 to conform, including notice of election, as nearly as may be, and except
26 as otherwise expressly provided in sections 46-301 to 46-315, to the
27 provisions of law governing elections upon propositions for the issuance
28 of bonds of the district. The report of the Chief Water Officer
29 Department of Natural Resources and all other data and information on
30 file with the board of directors or the officers of the district shall be
31 subject to inspection at all reasonable business hours by any elector of

1 the district, or other interested persons, for the entire period during
2 which notice of the election shall be published. Such question and
3 proposition shall be thus submitted by ballots upon which shall appear,
4 in a clear, fair, and concise manner, a statement of the nature and
5 description of the proposed project, and, if such proposition includes
6 the issuance of bonds of the district, there shall also appear upon the
7 ballots a general description of such bonds, including principal amount,
8 rate of interest and when payable, date of issuance, and date of
9 maturity. At the bottom of the ballots substantially the following form
10 shall appear:

11 FOR the adoption of the foregoing plan and project (and issuance of
12 bonds of the district).

13 AGAINST the adoption of the foregoing plan and project (and the
14 issuance of bonds of the district).

15 If a majority of the ballots cast on such proposition are in favor
16 thereof, the board of directors shall declare the same adopted, and the
17 board of directors of the district shall proceed forthwith to put such
18 plan and project into effect, including the issuance of bonds of the
19 district if included in the proposition submitted at the election, the
20 levy and collection of taxes and assessments to pay such bonds and
21 interest thereon, and the execution of all contracts proper or incident
22 to the consummation of such plan and project.

23 **Sec. 149.** Section 46-312, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-312 If at any time after the initial acquisition or establishment
26 by any irrigation district of an electric light and power plant, lines,
27 or systems the Chief Water Officer ~~Department of Natural Resources~~ deems
28 it to be practicable and expedient that additional plants, lines, or
29 systems, or extensions or improvements of the existing electric light and
30 power plant, lines, or systems, should be made by the district, and if
31 the cost of such additions and extensions cannot be made or provided for

1 by the application of unused funds derived from the operation of the
2 existing electric light and power plant, lines, or systems or by the
3 pledge or assignment of future net revenue as in sections 46-301 to
4 46-315, then the board of directors may, and on the petition of not less
5 than twenty-five percent of the qualified electors of the district shall,
6 submit to the electors of the district at any general election or at any
7 special election called for the purpose, the question and proposition of
8 making such improvements, additions, or extensions and the issuance of
9 bonds of the district to pay the cost thereof. A statement of the Chief
10 Water Officer ~~department~~ with reference to the expediency and feasibility
11 of such proposed extension and addition shall be made by the Chief Water
12 Officer ~~such department~~ to the irrigation district whenever requested by
13 the board of directors of such district. Such election shall be held and
14 the result thereof determined and declared in conformity with the
15 provisions of law governing elections upon the proposition of the
16 issuance of bonds of the district. Complete plans and a description of
17 the proposed additions, improvements, changes, or extensions shall be
18 prepared and kept on file in the main office of the district or of the
19 board of the district, subject to inspection by any elector or other
20 interested person, at all reasonable business hours during the period of
21 publication of notice of such election. The ballots at such election
22 shall conform, as nearly as practicable, with the requirements of section
23 46-305.

24 **Sec. 150.** Section 46-315, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-315 Every irrigation district in this state shall have the
27 exclusive right to make application to the Chief Water Officer ~~Department~~
28 ~~of Natural Resources~~ for the use of all water used for irrigation
29 purposes and all return flow and seepage water from irrigated land in its
30 district for the purpose of operating hydroelectric plants under sections
31 46-301 to 46-315.

1 **Sec. 151.** Section 46-514, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-514 For purposes of the Reclamation Act, Chief Water Officer
4 means the Chief Water Officer of department—means the Department of
5 Water, Energy, and Environment ~~Natural Resources~~.

6 **Sec. 152.** Section 46-515, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-515 The Chief Water Officer ~~department~~ is hereby vested with
9 jurisdiction, power, and authority, when conditions stated in section
10 46-516 are found to exist, to establish reclamation districts for
11 conserving, developing, and stabilizing supplies of water for domestic,
12 irrigation, power, manufacturing, and other beneficial uses as herein
13 provided.

14 **Sec. 153.** Section 46-516, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-516 Before any reclamation district is established under the
17 Reclamation Act, a petition shall be filed with ~~in~~ the Chief Water
18 Officer ~~office of the department~~ signed by the owners of not less than
19 thirty percent of the acreage of lands to be included in the district,
20 exclusive of land in cities and villages, and each tract or tracts of
21 land and the total acreage shall be listed opposite the name of the
22 signer. A signing petitioner shall not be permitted after the filing of
23 the petition to withdraw his or her name therefrom. No district shall be
24 formed under the act unless the taxable valuation of land, together with
25 improvements thereon, within the proposed district, exclusive of land and
26 improvements thereon in cities and villages, is five million seven
27 hundred twenty thousand dollars or more. The petition shall set forth:

- 28 (1) The proposed name of the district;
29 (2) That property within the proposed district will be benefited by
30 the accomplishment of the purposes enumerated in section 46-515;
31 (3) A general description of the purpose of the contemplated

1 improvement and of the territory to be included in the proposed district.
2 The description need not be given by metes and bounds or by legal
3 subdivision, but it shall be sufficient to enable a property owner to
4 ascertain whether the property is within the territory proposed to be
5 organized as a district. The territory need not be contiguous if it is so
6 situated that the organization of a single district of the territory
7 described is calculated to promote one or more of the purposes enumerated
8 in section 46-515;

9 (4) The taxable value of all irrigable land within the boundaries of
10 the proposed district;

11 (5) A general description of the divisions of the district, the
12 number of directors of the district proposed for each subdivision, and
13 the names and addresses of the proposed members of the board of directors
14 of the district. There shall be not less than five nor more than twenty-
15 one directors named therein who shall serve until their successors are
16 elected and qualified. In the petition the directors named shall be
17 divided as nearly as possible into three equal groups, the members of the
18 first group to hold office until their successors have been elected at
19 the first general state election thereafter and have qualified, the
20 members of the second group to hold office until their successors have
21 been elected at the second general state election thereafter and have
22 qualified, and the members of the third group until the members elected
23 at the third general state election thereafter have qualified. After the
24 name of each director, it shall be stated to which of the three groups he
25 or she belongs; and

26 (6) A prayer for the organization of the district by the name
27 proposed.

28 No petition with the requisite signatures shall be declared null and
29 void on account of alleged defects, but the Chief Water Officer
30 ~~department~~ may at any time permit the petition to be amended to conform
31 to the facts, to correct any errors in the description of the territory,

1 or in any other particular. Similar petitions or duplicate copies of the
2 same petition for the organization of the same district may be filed and
3 shall together be regarded as one petition. All such petitions filed
4 prior to the hearing on the first petition filed shall be considered by
5 the Chief Water Officer ~~department~~ the same as though filed with the
6 first petition placed on file. In determining whether the requisite
7 number of landowners have signed the petition, the Chief Water Officer
8 ~~department~~ shall be governed by the names as they appear upon the tax
9 roll which shall be prima facie evidence of such ownership.

10 **Sec. 154.** Section 46-517, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-517 At the time of filing the petition or at any time subsequent
13 thereto, and prior to the time of hearing on the said petition, a bond
14 shall be filed in the amount of two thousand dollars, with security
15 approved by the Chief Water Officer ~~department~~ to pay all expenses
16 connected with the proceedings in case the organization of the district
17 be not effected. If at any time during the proceeding the Chief Water
18 Officer ~~department~~ shall be satisfied that the bond first executed is
19 insufficient in amount, the Chief Water Officer ~~it~~ may require the
20 execution of an additional bond within a time to be fixed at not less
21 than ten days distant. Upon a failure of the petitioner to execute the
22 same, the petition shall be dismissed.

23 **Sec. 155.** Section 46-518, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-518 Immediately after the filing of such petition, the Chief
26 Water Officer ~~department~~ shall (1) by order fix a place and time, not
27 less than ninety days nor more than one hundred and twenty days after the
28 petition is filed, for hearing thereon, (2) cause notice by publication
29 to be made of the pendency of the petition and of the time and place of
30 hearing thereon, and (3) forthwith cause a copy of such said notice to be
31 mailed by either registered or certified mail to the county boards of

1 each of the several counties having territory within the proposed
2 district.

3 **Sec. 156.** Section 46-519, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-519 At any time after the filing of a petition for the
6 organization of a reclamation district and not less than thirty days
7 prior to the time fixed by the order of the Chief Water Officer
8 ~~department~~ for the hearing upon the said petition, and not thereafter, a
9 petition may be filed with ~~in~~ the Chief Water Officer ~~office of the~~
10 ~~department~~ wherein the proceeding for the creation of the said district
11 is pending, signed by not fewer than the owners of thirty percent of the
12 acreage of lands in the district, exclusive of land in cities and
13 villages, who have not signed the petition for creating the district,
14 protesting the creation of the district. The protesting petition shall
15 list each tract or tracts of land and the total acreage of each signer
16 opposite his or her name.

17 **Sec. 157.** Section 46-521, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-521 Upon the day set for the hearing upon the original petition,
20 if it shall appear to the Chief Water Officer ~~department~~ from such
21 evidence as may be adduced by any party in interest, that the said
22 protesting petition is not signed by the requisite number of owners of
23 lands, the Chief Water Officer ~~department~~ shall thereupon dismiss the
24 ~~said~~ protesting petition and shall proceed with the original hearing as
25 provided in section 46-525.

26 **Sec. 158.** Section 46-522, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-522 If the Chief Water Officer ~~department~~ shall find from the
29 evidence that the said protesting petition is signed by the requisite
30 number of owners of lands, the Chief Water Officer ~~department~~ shall
31 forthwith dismiss the original petition praying for the creation of the

1 district. The finding of the Chief Water Officer ~~department~~ upon the said
2 question of the genuineness of the signatures, and all matters of law and
3 fact incident to such determination, shall be final and conclusive on all
4 parties in interest whether appearing or not.

5 **Sec. 159.** Section 46-524, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-524 Such objection shall be limited to a denial of the statements
8 in the petition. It shall be heard by the Chief Water Officer ~~department~~
9 without unnecessary delay.

10 **Sec. 160.** Section 46-525, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-525 Upon the ~~said~~ hearing, if it shall appear that a petition for
13 the organization of a reclamation district has been signed and presented,
14 as provided in section 46-516, in conformity with the Reclamation Act
15 ~~sections 46-501 to 46-573~~, and that the allegations of the petition are
16 true, and that no protesting petition has been filed, or if filed has
17 been dismissed as provided in section 46-521, the Chief Water Officer
18 ~~department~~ shall, by order duly entered of record, adjudicate all
19 questions of jurisdiction, declare the district organized, and give it a
20 corporate name, by which it shall thereafter be known in all proceedings.
21 Thereupon the district shall be a political subdivision of the State of
22 Nebraska and a body corporate with all the powers of a public or
23 municipal corporation.

24 **Sec. 161.** Section 46-526, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-526 In such decree the Chief Water Officer ~~department~~ shall
27 designate the place, prayed for in the petition, where the office or
28 principal place of business of the district shall be located, which shall
29 be within the corporate limits of the district. It may be changed by
30 order of the Chief Water Officer ~~department~~ from time to time, upon the
31 application of the board of directors of the said district. The regular

1 meetings of the board shall be held at such office or place of business,
2 but for cause may be adjourned to any convenient place. The official
3 records and files of the district shall be kept at the office so
4 established.

5 **Sec. 162.** Section 46-527, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-527 If the Chief Water Officer ~~department~~ finds that no petition
8 has been signed and presented in conformity with the Reclamation Act
9 ~~sections 46-501 to 46-573~~, or that the material facts are not as set
10 forth in the petition filed, it shall dismiss the said proceedings and
11 adjudge the costs against the signers of the petition in such proportion
12 as it shall deem just and equitable. No appeal or writ of error shall lie
13 from an order dismissing the said proceeding. Nothing herein shall be
14 construed to prevent the filing of a subsequent petition or petitions for
15 similar improvements or for a similar reclamation district, and the right
16 to so renew such proceeding is hereby expressly granted and authorized.

17 **Sec. 163.** Section 46-528, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-528 If an order is entered establishing the district, such order
20 shall be deemed final. Any person, firm, or corporation owning real
21 property within any reclamation district, created or established by
22 virtue of the Reclamation Act, feeling himself or herself aggrieved by
23 the establishment of such district, the determination of its boundaries,
24 or the enclosure therein of any of his or her property may appeal the
25 final order of the Chief Water Officer ~~department~~ adjudging such district
26 to be duly incorporated. The appeal shall be in accordance with the
27 Administrative Procedure Act, except that the appeal shall be to the
28 district court of the county wherein the principal office of the
29 reclamation district is located. If no appeal is taken within the time
30 prescribed in the Administrative Procedure Act, the entry of such final
31 order by the Chief Water Officer ~~department~~ shall finally and

1 conclusively establish the regular organization of the district against
2 all persons, except the State of Nebraska in an action in the nature of a
3 writ of quo warranto commenced by the Attorney General within three
4 months after the decree declaring such district organized as herein
5 provided and not otherwise. The organization of such districts shall not
6 be directly or collaterally questioned in any suit, action, or
7 proceeding, except as herein expressly authorized.

8 **Sec. 164.** Section 46-529, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-529 Within thirty days after the ~~said~~ district has been declared
11 a corporation by the Chief Water Officer ~~department~~, the Chief Water
12 Officer ~~such department~~ shall transmit to the Secretary of State and to
13 the county clerk in each of the counties having lands in the said
14 district copies of the findings and the decree of the Chief Water Officer
15 ~~department~~ incorporating the said district. The same shall be filed in
16 the office of the Secretary of State, in the same manner as articles of
17 incorporation are now required to be filed under the general laws
18 concerning corporations, and also be filed in the office of the county
19 clerk of each county in which a part of the district is located where
20 they shall become permanent records. The clerk in each county shall
21 receive a fee of one dollar for filing and preserving the same. The
22 Secretary of State shall receive for filing the said copies such fees as
23 now are or hereafter may be provided by law for like services in similar
24 cases.

25 **Sec. 165.** Section 46-530, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-530 Within thirty days after entering the final order
28 establishing the district, the Chief Water Officer ~~department~~ shall enter
29 an order appointing the board of directors named in the petition in
30 accordance with subsection (5) of section 46-516. After the selection of
31 the original board of directors of a district as provided for in

1 subsection (5) of section 46-516, their successors shall be elected as
2 provided in section 32-516. Elections shall be conducted as provided in
3 the Election Act and shall take office on the first Thursday after the
4 first Tuesday in January next succeeding their election. Qualified
5 electors of the municipality or municipalities within the territory which
6 composes the territory of a district shall be qualified electors of such
7 district. A qualified elector of a subdivision may only cast his or her
8 ballot for a director to be elected from such subdivision.

9 **Sec. 166.** Section 46-536, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-536 Each director before entering upon his or her official duties
12 shall take and subscribe to an oath before an officer authorized to
13 administer oaths, that he or she will support the Constitutions of the
14 United States and the State of Nebraska, will honestly, faithfully, and
15 impartially perform the duties of his or her office and will not be
16 interested directly or indirectly in any contract let by the said
17 district. The oath shall be filed with ~~in~~ the Chief Water Officer ~~office~~
18 ~~of the department~~ in the original case.

19 **Sec. 167.** Section 46-541, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-541 The board shall have power on behalf of the district:

22 (1) To have perpetual succession, except that all districts
23 organized prior to January 1, 1950, which have not entered into a bona
24 fide construction of their works shall, within fifteen years following
25 January 1, 1961, cause to be submitted to the qualified electors of the
26 district the following question:

27 Shall the district be continued for an additional fifteen years?

28 Yes

29 No

30 The election shall be held in the same manner set out in section
31 46-564 relating to submission to qualified electors for the approval of

1 bonded indebtedness.

2 In the event a majority of the qualified voters voting in such
3 election vote yes, then such district shall be continued for an
4 additional fifteen years. For all districts organized after January 1,
5 1950, and not having entered into a bona fide construction of their works
6 before January 1, 1961, the directors shall, within fifteen years
7 following January 1, 1961, cause to be submitted the same question to the
8 qualified electors of the district. All districts organized after
9 November 1, 1953, which have not entered into a bona fide construction of
10 their works within fifteen years after the first day of July of the year
11 of assessment of the taxable property of the district shall submit to the
12 qualified electors of the district the question of whether the district
13 shall be continued for an additional fifteen years. If a district has
14 pending before the Congress of the United States a bill for the
15 authorization or reauthorization of its project at the expiration of any
16 one of such fifteen-year periods, the district shall be continued until
17 such authorization or reauthorization is granted by the Congress of the
18 United States and appropriations made for the actual construction of its
19 work, which additional period shall not exceed ten years from the
20 expiration of the fifteen-year period.

21 If at the end of the fifteen-year period, plus the additional ten-
22 year period granted while its project is pending before the Congress of
23 the United States for authorization or reauthorization and an
24 appropriation for the actual construction of its works, no physical
25 construction of any of its works has been started, then the same question
26 shall again be submitted to the qualified electors. In the event a
27 majority of the qualified voters voting in such election vote yes, then
28 such district shall be continued for an additional fifteen years.

29 In the event of a failure to receive a majority affirmative vote of
30 the voters voting in such election, the district shall be dissolved and
31 the district shall submit to the Chief Water Officer ~~department~~ a full

1 and complete audit by a public accountant showing the assets possessed by
2 the district. Thereupon the Chief Water Officer ~~department~~ shall enter an
3 order providing that within sixty days the assets of such district shall
4 be liquidated, all rights granted by the Chief Water Officer ~~department~~
5 shall be canceled, and any assets on hand shall be divided as follows:

6 (a) All bills payable and all expenses of dissolution shall be
7 deducted from the assets and paid; and

8 (b) The balance remaining shall be divided proportionately among the
9 operating public school districts of the district in the proportion that
10 the number of acres in each school district bears to the total number of
11 acres of all of the school districts within the boundaries of the
12 district. If the district is confined to one county, distribution shall
13 be made by the county treasurer of such county. If the district extends
14 into more than one county, the funds for disbursement to such school
15 districts shall be paid to the county within which the schoolhouses are
16 located for distribution to such school districts;

17 (2) To take by appropriation, grant, purchase, bequest, devise, or
18 lease, and to hold and enjoy water rights and waterworks, and any and all
19 real and personal property of any kind within or without the district
20 necessary or convenient to the full exercise of its powers; to purchase,
21 sell, lease, encumber, alienate, or otherwise dispose of waterworks and
22 real and personal property; to enter into contracts for furnishing water
23 service for use within the district; to acquire, construct, operate,
24 control, and use any and all works, facilities, and means necessary or
25 convenient to the exercise of its power, both within and without the
26 district, for the purpose of providing for the use of such water within
27 the district; and to do and perform any and all things necessary or
28 convenient to the full exercise of the powers granted in this
29 subdivision;

30 (3) To have and to exercise the power of eminent domain in addition
31 to any other rights and powers conferred in this section upon any

1 district organized under the Reclamation Act, for the purposes and after
2 the manner provided for in sections 76-704 to 76-724, except that when
3 any reclamation district exercises the power of eminent domain as to
4 water being used for power purposes, it shall not include any other
5 properties of any irrigation district, public power district, or public
6 power and irrigation district organized and existing under the laws of
7 the State of Nebraska;

8 (4) To construct and maintain works and establish and maintain
9 facilities across or along any public street or highway and in, upon, or
10 over any vacant public lands, which public lands are now or may hereafter
11 become the property of the State of Nebraska, and to construct works and
12 establish and maintain facilities across any stream of water or
13 watercourse. The district shall promptly restore any such street or
14 highway to its former state of usefulness as nearly as may be and shall
15 not use the same in such manner as to completely or unnecessarily impair
16 the usefulness thereof. In the use of streets, the district shall be
17 subject to the reasonable rules and regulations of the county, city, or
18 village where such streets lie concerning excavation and the refilling of
19 excavation, the relaying of pavements, and the protection of the public
20 during periods of construction. The district shall not be required to pay
21 any license or permit fees or file any bonds. The district may be
22 required to pay reasonable inspection fees;

23 (5) To contract with the government of the United States or any
24 agency thereof for the construction, preservation, operation, and
25 maintenance of tunnels, reservoirs, regulating or reregulating basins,
26 diversion works and canals, dams, power plants, drains, and all necessary
27 works incident thereto, to acquire rights to the use of water from such
28 works, and to enter into contracts for the use of water from such works
29 by persons and corporations, public and private;

30 (6) To list in separate ownership the lands within the district
31 which are susceptible of irrigation from the district sources, to enter

1 into contracts to furnish water service to all such lands, and to levy
2 assessments as hereinafter provided against the lands within the district
3 to which water service is furnished on the basis of the value per acre-
4 foot of water service furnished to the lands within the district. The
5 board may divide the district into units and fix a different value per
6 acre-foot of water in the respective units and in such case shall assess
7 the lands within each unit upon the same basis of value per acre-foot of
8 water service furnished to lands within such unit;

9 (7) To fix rates at which water service, not otherwise provided for
10 in this section, may be furnished. Rates shall be equitable although not
11 necessarily equal or uniform for like classes of service throughout the
12 district;

13 (8) To adopt plans and specifications for the works for which the
14 district was organized, which plans and specifications may at any time be
15 changed or modified by the board. The plans shall include maps, profiles,
16 and such other data and descriptions as may be necessary to set forth the
17 location and character of the works, and a copy thereof shall be kept in
18 the office of the district and open to public inspection. The plans and
19 specifications and any changes shall be approved by the Chief Water
20 Officer ~~department~~ in accordance with the statutes;

21 (9) To appropriate and otherwise acquire water rights within or
22 without the state; to develop, store, and transport water; to provide,
23 contract for, and furnish water service for municipal and domestic
24 purposes, irrigation, power, milling, manufacturing, mining,
25 metallurgical use, and any and all other beneficial uses and to derive
26 revenue and benefits therefrom; to fix the terms and rates therefor; to
27 make and adopt plans for and to acquire, construct, operate, and maintain
28 dams, reservoirs, canals, conduits, pipelines, tunnels, power plants,
29 transmission lines, and any and all works, facilities, improvements, and
30 property necessary or convenient therefor; and in the doing of all of
31 such things to obligate itself and execute and perform such obligations

1 according to the tenor thereof. The contracts for furnishing of water
2 service for irrigation and domestic purposes shall only be made for use
3 within the district. The board may transfer water appropriations within
4 the district pursuant to sections 46-2,127 to 46-2,129;

5 (10) To invest any surplus money in the district treasury, including
6 such money as may be in any sinking fund established for the purpose of
7 providing for the payment of the principal or interest of any contract,
8 bond, or other indebtedness or for any other purpose, not required for
9 the immediate necessities of the district, in its own bonds or in
10 treasury notes or bonds of the United States. The investment may be made
11 by direct purchase of any issue of such bonds or treasury notes, or part
12 thereof, at the original sale of the same or by the subsequent purchase
13 of such bonds or treasury notes. Any bonds or treasury notes thus
14 purchased and held may, from time to time, be sold and the proceeds
15 reinvested in bonds or treasury notes as provided in this subdivision.
16 Sales of any bonds or treasury notes thus purchased and held shall, from
17 time to time, be made in season so that the proceeds may be applied to
18 the purposes for which the money with which the bonds or treasury notes
19 were originally purchased was placed in the treasury of the district. The
20 functions and duties authorized by this subdivision shall be performed
21 under such rules and regulations as shall be prescribed by the board;

22 (11) To refund bonded indebtedness incurred by the district under
23 and pursuant to such rules and regulations as shall be prescribed by the
24 board;

25 (12) To borrow money, incur indebtedness, and issue bonds or other
26 evidence of such indebtedness;

27 (13) To adopt bylaws not in conflict with the Constitution of
28 Nebraska and laws of the state for carrying on the business, objects, and
29 affairs of the board and of the district; and

30 (14) To enter into agreements for water service with agencies of the
31 federal government or the Game and Parks Commission through which water

1 will be made available, at rates determined as provided in subdivision
2 (7) of this section, for hunting, fishing, and recreational development.
3 The water service shall not exceed the amount of water which may be
4 appropriated for such purposes by order of the Chief Water Officer
5 ~~department~~, and such amounts shall be included in the total appropriative
6 right of the district or districts involved.

7 **Sec. 168.** Section 46-583, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-583 At the hearing, if the board of directors of such district
10 deems it not for the best interest of such district that a change of its
11 boundaries be so made as to include therein the lands mentioned in the
12 petition, the board of directors of such district shall order that the
13 petition be rejected. But if the board of directors of such district
14 deems it for the best interest of such district that the boundaries of
15 such district be changed and if it appears that the petition for the
16 annexation and incorporation of the tract or tracts of land has been
17 signed and presented as provided in section 46-574, that the allegations
18 of the petition are true, and that no protesting petition has been filed,
19 or if filed has been dismissed as provided by sections 46-574 to 46-584,
20 the board of directors of such district may enter a tentative order
21 annexing and including all lands described in the petition, or some part
22 thereof. The order shall not become final until the proposition of
23 levying taxes as provided for in section 46-543 has been complied with
24 and until the proposition of levying taxes has been submitted by a
25 resolution of the board of directors of such district to the qualified
26 electors residing within the tract or tracts of land described in the
27 tentative order at an election held for that purpose in the same manner
28 as provided for submission of incurring bonded indebtedness in sections
29 46-564 to 46-566, and when the proposition has been approved by a
30 majority of the qualified electors residing within the tract or tracts of
31 land voting on the proposition at such election, then the board of

1 directors shall enter a final order annexing and including all lands
2 described in the tentative order. If at such election a majority of the
3 qualified electors vote against the proposition, then the board of
4 directors of such district shall set aside the tentative order, shall
5 order that the petition be denied, and shall proceed no further in that
6 matter. If the proposition is approved by a majority of the qualified
7 electors of the tract or tracts voting on the proposition at such
8 election in the manner provided for in section 46-543, the board of
9 directors of such district shall certify to the county board of the
10 county in which the tract or tracts of land are situated the rate of tax
11 to be levied. The final order entered by the board of directors of such
12 district shall describe the entire boundaries of the district, and for
13 that purpose the board of directors may cause a survey of such portions
14 thereof to be made as the board of directors deems necessary. A copy of
15 the final order of the board of directors ordering such annexation,
16 certified by the president and secretary of the board of directors of
17 such district, shall be filed with the Chief Water Officer ~~Department of~~
18 ~~Natural Resources~~, and thereupon the district shall be and remain a
19 reclamation district as fully and to every intent and purpose as if the
20 lands which are included in the district by the annexation thereof and
21 the change of boundaries had been included therein at the original
22 organization of the district. Such tract or tracts of land so annexed to
23 such district shall enjoy all the rights and privileges, of whatever kind
24 and nature, and be subject to all the contract, obligation, lien, or
25 charge for or upon which the original district was or might become liable
26 or chargeable.

27 **Sec. 169.** Section 46-601.01, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 46-601.01 For purposes of Chapter 46, article 6:

30 (1) Chief Water Officer means the Chief Water Officer of the
31 Department of Water, Energy, and Environment;

1 (2) Common carrier means any carrier of water including a pipe,
2 canal, ditch, or other means of piping or adjoining water for irrigation
3 purposes;

4 (3) Department means the Department of Water, Energy, and
5 Environment;

6 (4) Director means the Director of Water, Energy, and Environment;
7 and

8 (5)(a) (1)(a) Water well means any excavation that is drilled,
9 cored, bored, washed, driven, dug, jetted, or otherwise constructed for
10 the purpose of exploring for ground water, monitoring ground water,
11 utilizing the geothermal properties of the ground, obtaining
12 hydrogeologic information, or extracting water from or injecting fluid as
13 defined in section 81-1502 into the underground water reservoir.

14 (b) Water well includes any excavation made for any purpose if
15 ground water flows into the excavation under natural pressure and a pump
16 or other device is placed in the excavation for the purpose of
17 withdrawing water from the excavation for irrigation. For such
18 excavations, construction means placing a pump or other device into the
19 excavation for the purpose of withdrawing water for irrigation.

20 (c) Water well does not include (i) any excavation made for
21 obtaining or prospecting for oil or natural gas or for inserting media to
22 repressure oil or natural gas bearing formations regulated by the
23 Nebraska Oil and Gas Conservation Commission or (ii) any structure
24 requiring a permit by the Chief Water Officer Department of Natural
25 Resources used to exercise surface water appropriation. ; and

26 ~~(2) Common carrier means any carrier of water including a pipe,~~
27 ~~canal, ditch, or other means of piping or adjoining water for irrigation~~
28 ~~purposes.~~

29 **Sec. 170.** Section 46-602, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-602 (1) Each water well completed in this state on or after July

1 1, 2001, excluding test holes and dewatering wells to be used for less
2 than ninety days, shall be registered with the ~~department~~ Department of
3 ~~Natural Resources~~ as provided in this section within sixty days after
4 completion of construction of the water well. The licensed water well
5 contractor as defined in section 46-1213 constructing the water well, or
6 the owner of the water well if the owner constructed the water well,
7 shall file the registration on a form made available by the department
8 and shall also file with the department the information from the well log
9 required pursuant to section 46-1241. The department shall, by January 1,
10 2002, provide licensed water well contractors with the option of filing
11 such registration forms electronically. No signature shall be required on
12 forms filed electronically. The fee required by subsection (3) of section
13 46-1224 shall be the source of funds for any required fee to a contractor
14 which provides the online services for such registration. Any discount in
15 the amount paid the state by a credit card, charge card, or debit card
16 company or a third-party merchant bank for such registration fees shall
17 be deducted from the portion of the registration fee collected pursuant
18 to section 46-1224.

19 (2)(a) If the newly constructed water well is a replacement water
20 well, the registration form shall include (i) the registration number of
21 the water well being replaced, if applicable, and (ii) the date the
22 original water well was decommissioned or a certification that the water
23 well will be decommissioned within one hundred eighty days or a
24 certification that the original water well will be modified and equipped
25 to pump fifty gallons per minute or less and will be used only for
26 livestock, monitoring, observation, or any other nonconsumptive use or de
27 minimis use approved by the applicable natural resources district.

28 (b) For purposes of this section, replacement water well means a
29 water well which is constructed to provide water for the same purpose as
30 the original water well and is operating in accordance with any
31 applicable permit from the department or the Chief Water Officer and any

1 applicable rules and regulations of the natural resources district and,
2 if the purpose is for irrigation, the replacement water well delivers
3 water to the same tract of land served by the original water well and (i)
4 replaces a decommissioned water well within one hundred eighty days after
5 the decommissioning of the original water well, (ii) replaces a water
6 well that has not been decommissioned but will not be used after
7 construction of the new water well and the original water well will be
8 decommissioned within one hundred eighty days after such construction,
9 except that in the case of a municipal water well, the original municipal
10 water well may be used after construction of the new water well but shall
11 be decommissioned within one year after completion of the replacement
12 water well, or (iii) the original water well will continue to be used but
13 will be modified and equipped within one hundred eighty days after such
14 construction of the replacement water well to pump fifty gallons per
15 minute or less and will be used only for livestock, monitoring,
16 observation, or any other nonconsumptive or de minimis use approved by
17 the applicable natural resources district.

18 (c) No water well shall be registered as a replacement water well
19 until the department ~~Department of Natural Resources~~ has received a
20 properly completed notice of decommissioning for the water well being
21 replaced on a form made available by the department, or properly
22 completed notice, prepared in accordance with subsection (7) of this
23 section, of the modification and equipping of the original water well to
24 pump fifty gallons per minute or less for use only for livestock,
25 monitoring, observation, or any other nonconsumptive or de minimis use
26 approved by the applicable natural resources district. Such notices, as
27 required, shall be completed by (i) the licensed water well contractor as
28 defined in section 46-1213 who decommissions the water well or modifies
29 and equips the water well, (ii) the licensed pump installation contractor
30 as defined in section 46-1209 who decommissions the water well or
31 modifies and equips the water well, or (iii) the owner if the owner

1 decommissions a driven sandpoint well which is on land owned by him or
2 her for farming, ranching, or agricultural purposes or as his or her
3 place of abode. The department ~~Department of Environment and Energy~~
4 shall, by rule and regulation, determine which contractor or owner shall
5 be 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 pumped
9 into a common carrier as part of a single site plan for irrigation
10 purposes, a registration form and a detailed site plan shall be filed for
11 each water well. The registration form shall include the registration
12 numbers of other water wells included in the series if such water wells
13 are already registered.

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

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

30 (6) The department ~~Department of Natural Resources~~ shall be notified
31 by the owner of any change in the ownership of a water well required to

1 be registered under this section. Notification shall be in such form and
2 include such evidence of ownership as the department ~~Director of Natural~~
3 ~~Resources~~ by rule and regulation directs. The department shall use such
4 notice to update the registration on file. The department shall not
5 collect a fee for the filing of the notice.

6 (7) The licensed water well contractor or licensed pump installation
7 contractor responsible therefor shall notify the department within sixty
8 days on a form provided by the department of any pump installation or any
9 modifications to the construction of the water well or pump, after the
10 initial registration of the well. For a change of use resulting in
11 modification and equipping of an original water well which is being
12 replaced in accordance with subsection (2) of this section, the licensed
13 water well contractor or licensed pump installation contractor shall
14 notify the department within sixty days on a form provided by the
15 department of the water well and pump modifications and equipping of the
16 original water well. A water well owner shall notify the department
17 within sixty days on a form provided by the department of any other
18 changes or any inaccuracies in recorded water well information,
19 including, but not limited to, changes in use. The department shall not
20 collect a fee for the filing of the notice.

21 (8) Whenever a water well becomes an illegal water well as defined
22 in section 46-706, the owner of the water well shall either correct the
23 deficiency that causes the well to be an illegal water well or shall
24 cause the proper decommissioning of the water well in accordance with
25 rules and regulations adopted pursuant to the Water Well Standards and
26 Contractors' Practice Act. The licensed water well contractor who
27 decommissions the water well, the licensed pump installation contractor
28 who decommissions the water well, or the owner if the owner decommissions
29 a driven sandpoint well which is on land owned by him or her for farming,
30 ranching, or agricultural purposes or as his or her place of abode, shall
31 provide a properly completed notice of decommissioning to the department

1 ~~Department of Natural Resources~~ within sixty days. The department
2 ~~Department of Environment and Energy~~ shall, by rule and regulation,
3 determine which contractor or owner shall be responsible for such notice
4 in situations in which more than one contractor or owner may be required
5 to provide notice under this subsection. The department ~~Department of~~
6 ~~Natural Resources~~ shall not collect a fee for the filing of the notice.

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

18 (10) Water wells which are or were used solely for injecting any
19 fluid other than water into the underground water reservoir, which were
20 constructed before July 16, 2004, and which have not been properly
21 decommissioned on or before July 16, 2004, shall be registered on or
22 before July 1, 2005.

23 (11) Water wells described in subdivision (1)(b) of section
24 46-601.01 shall be registered with the department ~~Department of Natural~~
25 ~~Resources~~ as provided in subsection (1) of this section within sixty days
26 after the water well is constructed. Water wells described in subdivision
27 (1)(b) of section 46-601.01 which were constructed prior to May 2, 2007,
28 shall be registered within one hundred eighty days after such date.

29 **Sec. 171.** Section 46-604, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-604 The department ~~Director of Natural Resources~~ shall retain the

1 registration form required by section 46-602 and shall make a copy
2 available to the natural resources district within which the water well
3 is located, to the owner of the water well, and to the licensed water
4 well contractor as defined in section 46-1213.

5 **Sec. 172.** Section 46-606, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-606 (1) The department ~~Director of Natural Resources~~ shall
8 collect in advance a registration fee of forty dollars and the fee
9 required by subsection (3) of section 46-1224 for each water well
10 registered under section 46-602 except as provided in subsections (2)
11 through (5) of this section.

12 (2) For water wells permitted pursuant to the Industrial Ground
13 Water Regulatory Act, the director shall collect in advance a
14 registration fee of forty dollars and the fee required by subsection (3)
15 of section 46-1224 for each of the first ten such water wells registered
16 under section 46-602, and for each group of ten or fewer such water wells
17 registered thereafter, the director shall collect in advance a
18 registration fee of forty dollars and the fee required by subsection (3)
19 of section 46-1224.

20 (3) For a series of water wells completed for purposes of
21 installation of a ground heat exchanger for a structure for utilizing the
22 geothermal properties of the ground, the director shall collect in
23 advance a fee of forty dollars for each such series and the fee required
24 by subsection (3) of section 46-1224.

25 (4) For water wells constructed as part of a single site plan for
26 monitoring ground water, obtaining hydrogeologic information, or
27 extracting contaminants from the ground, the director shall collect in
28 advance a registration fee of forty dollars and the fee required by
29 subsection (3) of section 46-1224 for each of the first five such water
30 wells registered under section 46-602, and for each group of five or
31 fewer such water wells registered thereafter, the director shall collect

1 in advance a registration fee of forty dollars and the fee required by
2 subsection (3) of section 46-1224. However, if such water wells are a
3 part of remedial action approved by the department ~~Department~~ of
4 ~~Environment and Energy~~ pursuant to section 66-1525, 66-1529.02, or
5 81-15,124, the fee set pursuant to this subsection shall be collected as
6 if only one water well was being registered and the fee required by
7 subsection (3) of section 46-1224 shall be collected.

8 (5)(a) For a series of two or more water wells completed and pumped
9 into a common carrier as part of a single site plan for irrigation
10 purposes, the director shall collect in advance a registration fee of
11 forty dollars and the fee required by subsection (3) of section 46-1224
12 for each of the first two such wells registered under section 46-602.

13 (b) Any additional water wells which are part of a series registered
14 under this subsection shall not be subject to a new well registration
15 fee.

16 (6) The director shall remit the fees collected to the State
17 Treasurer for credit to the appropriate fund. From the registration fees
18 required by subsections (1) through (5) of this section, the State
19 Treasurer shall credit to the Department of Water, Energy, and
20 Environment ~~Department of Natural Resources~~ Cash Fund the amount
21 determined by the department ~~Department of Natural Resources~~ to be
22 necessary to pay for the costs of processing notices filed pursuant to
23 section 46-230, the costs of water resources update notices required by
24 section 76-2,124, and the costs for making corrections to water well
25 registration data authorized by subsections (6) and (7) of section 46-602
26 and shall credit the remainder of the registration fees required by
27 subsections (1) through (5) of this section to the Water Well
28 Decommissioning Fund. The State Treasurer shall credit the fees required
29 by subsection (3) of section 46-1224 to the Water Well Standards and
30 Contractors' Licensing Fund.

31 **Sec. 173.** Section 46-609, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-609 (1) Except as otherwise provided by this section or section
3 46-610, no irrigation water well shall be constructed upon any land in
4 this state within six hundred feet of any registered irrigation water
5 well and no existing nonirrigation water well within six hundred feet of
6 any registered irrigation water well shall be used for irrigation
7 purposes. Such spacing requirement shall not apply to (a) any water well
8 used to irrigate two acres or less or (b) any replacement irrigation
9 water well if it is constructed within fifty feet of the irrigation water
10 well being replaced and if the water well being replaced was constructed
11 prior to September 20, 1957, and is less than six hundred feet from a
12 registered irrigation water well.

13 (2) The spacing protection of subsection (1) of this section shall
14 apply to an unregistered water well for a period of sixty days after
15 completion of such water well.

16 (3) No person shall use a water well for purposes other than its
17 registered purpose until the water well registration has been changed to
18 the intended new use, except that a person may use a water well
19 registered for purposes other than its intended purpose for use for
20 livestock, monitoring, observation, or any other nonconsumptive or de
21 minimis use approved by the applicable natural resources district. The
22 change to a new use shall be made by filing a water well registration
23 modification with the department ~~Department of Natural Resources~~ and
24 shall be approved only if the water well is in conformity with subsection
25 (1) of this section and with section 46-651.

26 **Sec. 174.** Section 46-610, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-610 (1) Any person may apply to the Chief Water Officer ~~Director~~
29 ~~of Natural Resources~~ for a special permit to drill an irrigation water
30 well without regard to the spacing requirements of section 46-609 and
31 shall pay a fee to the Chief Water Officer ~~Department of Natural~~

1 Resources of twelve dollars and fifty cents, which fee shall be remitted
2 to the State Treasurer for credit to the General Fund. Such application
3 shall be in such form as the Chief Water Officer ~~director~~ directs and
4 shall contain a statement of the proposed location of the irrigation
5 water well, the reason for seeking such special permit, the legal
6 description of the land to be irrigated by the irrigation water well, the
7 number of acres to be irrigated, the proposed size of the irrigation
8 water well, the estimated capacity of the irrigation water well,
9 expressed in gallons per minute, to the extent that capacity is
10 susceptible of advance determination, and the name of the person who is
11 actually going to construct the irrigation water well.

12 (2) A separate application, like that provided for in subsection (1)
13 of this section, shall be submitted for each irrigation water well for
14 which a special permit is sought. When considering the approval or
15 rejection of any application, the Chief Water Officer ~~director~~ shall
16 consider the size, shape, and irrigation needs of the property for which
17 such special permit is sought, the known ground water supply, the effect
18 on the ground water supply and the surrounding land of the irrigation
19 water well for which such special permit is sought, any waiver or
20 agreement allowing the new irrigation water well by the owner of any
21 registered irrigation water well less than six hundred feet from the
22 location of the proposed new irrigation water well, and such other
23 information as may be available. Such application may be approved or
24 disapproved in whole or in part or may be approved with conditions, and
25 the special permit shall be issued or refused accordingly.

26 **Sec. 175.** Section 46-613.01, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 46-613.01 The Legislature recognizes and declares that the
29 maintenance of an adequate source of ground water within this state is
30 essential to the social stability of the state and the health, safety,
31 and welfare of its citizens and that reasonable restrictions on the

1 transportation of ground water from this state are a proper exercise of
2 the police powers of the state. The need for such restrictions, which
3 protect the health, safety, and general welfare of the citizens of this
4 state, is hereby declared a matter of legislative determination.

5 Any person, firm, city, village, municipal corporation, or other
6 entity intending to withdraw ground water from any water well located in
7 the State of Nebraska and transport it for use in another state shall
8 apply to the Chief Water Officer ~~Department of Natural Resources~~ for a
9 permit to do so. In determining whether to grant or deny such permit, the
10 Chief Water Officer ~~Director of Natural Resources~~ shall consider:

11 (1) The nature of the proposed use and whether it is a beneficial
12 use of ground water;

13 (2) The availability to the applicant of alternative sources of
14 surface or ground water;

15 (3) Any negative effect of the proposed withdrawal on ground water
16 supplies needed to meet present or reasonable future demands for water in
17 the area of the proposed withdrawal, to comply with any interstate
18 compact or decree, or to fulfill the provisions of any other formal state
19 contract or agreement;

20 (4) Any negative effect of the proposed withdrawal on surface water
21 supplies needed to meet present or reasonable future demands within the
22 state, to comply with any interstate compact or decree, or to fulfill the
23 provisions of any other formal state contract or agreement;

24 (5) Any adverse environmental effect of the proposed withdrawal or
25 transportation of ground water;

26 (6) The cumulative effect of the proposed withdrawal and transfer
27 relative to the matters listed in subdivisions (3) through (7) ~~(6)~~ of
28 this section when considered in conjunction with all other transfers
29 subject to this section; and

30 (7) Any other factors consistent with the purposes of this section
31 that the Chief Water Officer ~~director~~ deems relevant to protect the

1 health, safety, and welfare of the state and its citizens.

2 Issuance of a permit shall be conditioned on the applicant's
3 compliance with the rules and regulations of the natural resources
4 district from which the water is to be withdrawn. The applicant shall be
5 required to provide access to his or her property at reasonable times for
6 purposes of inspection by officials of the district or the Chief Water
7 Officer or the Chief Water Officer's representatives ~~department~~.

8 The Chief Water Officer ~~director~~ may include such reasonable
9 conditions on the proposed use as he or she deems necessary to carry out
10 the purposes of this section.

11 **Sec. 176.** Section 46-613.02, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 46-613.02 Any person violating any provision of sections 46-601 to
14 46-613.01 or furnishing false information under such sections shall be
15 guilty of a Class IV misdemeanor. Each day of a violation may be
16 considered a separate offense. The Attorney General and the county
17 attorneys may pursue appropriate proceedings pursuant to this section
18 when notified by the Chief Water Officer ~~Director of Natural Resources~~
19 that such a violation has occurred.

20 **Sec. 177.** Section 46-637, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-637 The use of water described in section 46-636 may only be made
23 after securing a permit from the Chief Water Officer ~~Department of~~
24 ~~Natural Resources~~ for such use. In approving or disapproving applications
25 for such permits, the Chief Water Officer ~~Director of Natural Resources~~
26 shall take into account the effect that such pumping may have on the
27 amount of water in the stream and its ability to meet the requirements of
28 appropriators from the stream. This section does not apply to (1) water
29 wells located within fifty feet of the bank of a channel of any natural
30 stream which were in existence on July 1, 2000, and (2) replacement water
31 wells as defined in section 46-602 that are located within fifty feet of

1 the banks of a channel of a stream if the water wells being replaced were
2 originally constructed prior to July 1, 2000, and were located within
3 fifty feet of the bank of a channel of any natural stream.

4 **Sec. 178.** Section 46-638, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-638 (1) The Chief Water Officer ~~Director of Natural Resources~~ may
7 grant and administer permits to public water suppliers: (a) To locate,
8 develop, and maintain ground water supplies through water wells or other
9 means and to transport water into the area to be served; and (b) to
10 continue existing use of ground water and the transportation of ground
11 water into the area served.

12 (2) For purposes of the Municipal and Rural Domestic Ground Water
13 Transfers Permit Act and sections 46-651 to 46-655, (a) public water
14 supplier shall mean a city, village, municipal corporation, metropolitan
15 utilities district, rural water district, natural resources district,
16 irrigation district, reclamation district, or sanitary and improvement
17 district which supplies or intends to supply water to inhabitants of
18 cities, villages, or rural areas for domestic or municipal purposes and
19 (b) water well shall have the same meaning as in section 46-601.01.

20 **Sec. 179.** Section 46-639, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-639 An applicant which desires to avail itself of the Municipal
23 and Rural Domestic Ground Water Transfers Permit Act shall make
24 application in writing to the Chief Water Officer ~~Director of Natural~~
25 ~~Resources~~ for a permit. The application shall include (1) a statement of
26 the amount of water for which a permit is desired together with an
27 exhibit of maps showing the location of all water wells and (2) such
28 other information as the Chief Water Officer ~~director~~ deems necessary or
29 desirable. The application shall be accompanied by a fee in the amount of
30 fifty dollars for the first five million gallons per day and an
31 additional twenty dollars for each additional increment of five million

1 gallons per day requested. The fee shall be based on the amounts of water
2 requested on a daily average basis.

3 **Sec. 180.** Section 46-640, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-640 Upon receipt of an application filed under section 46-639,
6 the Chief Water Officer ~~Director of Natural Resources~~ shall cause a
7 notice of such application to be published at the applicant's expense at
8 least once a week for three consecutive weeks in a legal newspaper
9 published or of general circulation in each county containing lands on
10 which the water well field or any part of such water well field is or is
11 proposed to be located. The notice shall contain a description of the
12 lands upon which such water well field is or is proposed to be located,
13 the amount of water requested, the number of water wells constructed or
14 proposed, and any other relevant information. The notice shall state that
15 any interested person may object to and request a hearing on the
16 application by filing written objections specifically stating the grounds
17 for each objection within two weeks after the date of final publication
18 ~~with in~~ the Chief Water Officer ~~office of the director~~.

19 **Sec. 181.** Section 46-641, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-641 The Chief Water Officer ~~Department of Natural Resources~~ may
22 hold a hearing on an application filed under section 46-639 on the Chief
23 Water Officer's ~~its~~ own motion and shall hold a hearing on such an
24 application if requested by any person pursuant to section 46-640.

25 **Sec. 182.** Section 46-642, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-642 (1) If the Chief Water Officer ~~Director of Natural Resources~~
28 finds that the withdrawal and transportation of ground water requested by
29 the applicant are reasonable, are not contrary to the conservation and
30 beneficial use of ground water, and are not otherwise detrimental to the
31 public welfare, he or she shall grant a permit to the applicant to

1 withdraw and transport water in the amount applied for or in a lesser
2 amount. The permit so granted shall have a priority date as of the time
3 when the application is filed with the Chief Water Officer ~~director~~.

4 (2) In determining whether to grant or deny a permit under
5 subsection (1) of this section, the Chief Water Officer ~~director~~ shall
6 consider the factors set forth in subdivisions (1) through (7) of section
7 46-613.01.

8 **Sec. 183.** Section 46-644, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-644 Permits granted by the Chief Water Officer ~~Director~~ of
11 ~~Natural Resources~~ shall be valid for a period of five years after the
12 granting of a permit and as long thereafter as the water for which the
13 permit is granted is used. For the purposes of the Municipal and Rural
14 Domestic Ground Water Transfers Permit Act, the commencement of
15 construction of facilities to provide water for beneficial use shall be
16 deemed the date of the commencement of beneficial use. If it appears that
17 the holder of a permit granted under the act has not used water for a
18 beneficial purpose and in accordance with the terms of the permit for
19 more than five years, such permit may be revoked or modified by the Chief
20 Water Officer ~~director~~. The procedure for such revocation or modification
21 shall be the same as that provided for in sections 46-229.02 to
22 46-229.05.

23 **Sec. 184.** Section 46-645, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-645 The Chief Water Officer ~~Director~~ of ~~Natural Resources~~ may
26 grant to any public water supplier permits to store excess, unused, and
27 unappropriated water for recharging ground water reservoirs. The
28 procedure to be followed in granting permits to utilize excess, unused,
29 and unappropriated water for recharging ground water reservoirs shall, so
30 far as applicable, be the same as that required for granting permits for
31 the use of ground water as provided in the Municipal and Rural Domestic

1 Ground Water Transfers Permit Act.

2 **Sec. 185.** Section 46-648, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-648 The use of ground water pursuant to a permit granted by the
5 Chief Water Officer ~~Director of Natural Resources~~ under the Municipal and
6 Rural Domestic Ground Water Transfers Permit Act shall be subject to and
7 governed by section 46-613.

8 **Sec. 186.** Section 46-649, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-649 The Chief Water Officer ~~Director of Natural Resources~~ may
11 adopt and promulgate all rules and regulations necessary or desirable to
12 secure compliance with the Municipal and Rural Domestic Ground Water
13 Transfers Permit Act.

14 **Sec. 187.** Section 46-653, Reissue Revised Statutes of Nebraska, is
15 amended to read:

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

1 for the special permit, the known ground water supply, and such other
2 pertinent information as may be available. Such application may be
3 approved or disapproved in whole or in part and the special permit issued
4 or refused accordingly.

5 **Sec. 188.** Section 46-654, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-654 (1) Any public water supplier having a permit under the
8 Municipal and Rural Domestic Ground Water Transfers Permit Act is hereby
9 granted the protection of sections 46-651 to 46-655 for all water wells
10 for which a permit has been or in the future is granted by the Chief
11 Water Officer ~~Department of Natural Resources~~ under such act.

12 (2) If in its application for a permit pursuant to such act a public
13 water supplier requests the protection of the spacing requirements of
14 section 46-651 for test holes and water wells under construction and if
15 the permit is granted, the Chief Water Officer ~~Director of Natural~~
16 ~~Resources~~ shall identify in the permit the area to which the spacing
17 protection will apply and the spacing protection of section 46-651 shall
18 then apply to such area for a period of one year from the date the permit
19 is granted. The Chief Water Officer ~~director~~ shall notify, by certified
20 or registered mail, owners and occupiers of land affected by the granting
21 of such spacing protection, according to information supplied by the
22 applicant. Costs of providing such notice shall be borne by the
23 applicant. Owners or occupiers of land not receiving the notice required
24 by this subsection shall not be bound by the spacing requirements until
25 the applicant's water wells are completed. Such protection may be
26 extended by the Chief Water Officer ~~director~~, by a similar procedure,
27 upon application by the public water supplier and good cause shown, for
28 additional one-year periods.

29 **Sec. 189.** Section 46-655.01, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 46-655.01 (1) A public water supplier as defined in section 46-638

1 may obtain protection for a public water supply wellfield from
2 encroachment from other water wells by filing with the Chief Water
3 Officer Department of Natural Resources a notice of intent to consider a
4 wellfield. The notice of intent shall include:

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

7 (b) Written consent of the owner of the land considered for a public
8 water supply wellfield, allowing the public water supplier to conduct an
9 evaluation as to whether such land is suitable for a public water supply
10 wellfield.

11 (2) A notice of intent filed under this section shall be limited to
12 a contiguous tract of land. No public water supplier shall have more than
13 three notices of intent under this section on file with the Chief Water
14 Officer department at any one time.

15 (3) A notice of intent filed under this section shall expire one
16 year after the date of filing and may be renewed for one additional year
17 by filing with the Chief Water Officer department a notice of renewal of
18 the original notice of intent filed under this section before expiration
19 of the original notice of intent.

20 (4) At the time a notice of intent or a notice of renewal is filed
21 with the Chief Water Officer department, the public water supplier shall:

22 (a) Provide a copy of the notice of intent or notice of renewal to
23 the owners of land falling within the spacing protection provided by
24 subdivision (5)(a) of this section pursuant to the notice;

25 (b) Provide a copy of the notice to the natural resources district
26 or districts within which the land being considered for a wellfield is
27 located; and

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

30 (5)(a) Except as provided in subdivisions (b) and (c) of this
31 subsection, during the time that a notice of intent under this section is

1 in effect, no person may drill or construct a water well, as defined in
2 section 46-601.01, within the following number of feet of the boundaries
3 of the land described in the notice of intent, whichever is greater:

4 (i) One thousand feet; or

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

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

13 (c) The public water supplier may waive the protection provided by
14 this section and allow a person to drill or construct a new or
15 replacement water well within the area subject to the protection provided
16 by this section.

17 (6) Within thirty days after the public water supplier reaches a
18 determination that the land described in a particular notice of intent is
19 not suitable for a public water supply wellfield, the public water
20 supplier shall notify the Chief Water Officer ~~Department of Natural~~
21 ~~Resources~~, all affected natural resources districts, the owner of the
22 land described in the notice of intent, and the owners of all land
23 falling within the spacing protection provided by subdivision (5)(a) of
24 this section pursuant to the notice of intent of such determination. Upon
25 receipt by the Chief Water Officer ~~department~~ of the notice of such
26 determination, the notice of intent that contains the description of such
27 tract of land shall terminate immediately, notwithstanding any other
28 provision of this section.

29 **Sec. 190.** Section 46-676, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-676 For purposes of the Industrial Ground Water Regulatory Act:

1 (1) The definitions found in section 46-706 are used; and

2 (2) Chief Water Officer means the Chief Water Officer of the
3 Department of Water, Energy, and Environment. Department means the
4 Department of Natural Resources; and

5 ~~(3) Director means the Director of Natural Resources.~~

6 **Sec. 191.** Section 46-677, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-677 (1) Except as provided in sections 46-676.01 and 46-678.01:

9 (a) Any person who desires to withdraw and transfer ground water
10 from aquifers located within the State of Nebraska for industrial
11 purposes shall, prior to commencing construction of any water wells,
12 obtain from the Chief Water Officer ~~director~~ a permit to authorize such
13 withdrawal and transfer of such ground water; and

14 (b) Any person who prior to April 23, 1993, has withdrawn ground
15 water from aquifers located in the State of Nebraska for industrial
16 purposes may file an application for a permit to authorize the transfer
17 of such ground water at any time.

18 (2) For purposes of this section, industrial purposes includes
19 manufacturing, commercial, and power generation uses of water and
20 commercial use includes, but is not limited to, maintenance of the turf
21 of a golf course.

22 **Sec. 192.** Section 46-678, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-678 (1) Applications for permits required by section 46-677 shall
25 be on forms provided by the Chief Water Officer ~~director~~ and shall
26 contain:

27 (a) A statement of the amount of ground water which the applicant
28 proposes to use;

29 (b) A statement of the proposed use and whether the ground water
30 will be transferred for use at a location other than the well site;

31 (c) A hydrologic evaluation of the impact of the proposed use on the

1 surrounding area and on existing users;

2 (d) The date when the applicant expects to first use the ground
3 water; and

4 (e) Such other relevant information as the Chief Water Officer
5 ~~director~~ may deem necessary or desirable.

6 (2) Such applications shall be accompanied by an exhibit of maps
7 showing the location, depth, and capacity of the proposed water wells.

8 **Sec. 193.** Section 46-679, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-679 Within thirty days of the receipt of an application made
11 under section 46-677, the Chief Water Officer ~~director~~ shall accept the
12 application as a completed application or return the application to the
13 applicant as an incomplete application. If the application is deemed to
14 be incomplete, the Chief Water Officer ~~director~~ shall inform the
15 applicant as to the deficiencies in the application.

16 **Sec. 194.** Section 46-680, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-680 (1) After the Chief Water Officer ~~director~~ has accepted the
19 application made under section 46-677 as a completed application, the
20 Chief Water Officer ~~director~~ shall cause a notice of such application to
21 be published at the applicant's expense at least once a week for three
22 consecutive weeks in a legal newspaper published or of general
23 circulation in each county containing land on which one or more water
24 wells are proposed to be located. The notice shall include (a) the amount
25 of ground water the applicant proposes to use, (b) a description of the
26 proposed use and location of that use, (c) the number of water wells
27 proposed at each location of withdrawal, and (d) any other information
28 deemed necessary by the Chief Water Officer ~~director~~ to provide adequate
29 notice of the application to interested persons. The notice shall state
30 that any interested person may object to and request a hearing on the
31 application by filing written objections stating the grounds for each

1 objection within two weeks after the date of final publication of the
2 notice. Such objections shall be filed with ~~in~~ the Chief Water Officer
3 ~~headquarters office of the department.~~

4 (2) The Chief Water Officer ~~director~~ may hold a hearing on an
5 application made under section 46-677 at his or her discretion and shall
6 hold a hearing on such an application if requested by any interested
7 person pursuant to subsection (1) of this section.

8 **Sec. 195.** Section 46-682, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-682 The applicant may negotiate with any user of water in order
11 to obtain an agreement whereby the user waives any cause of action
12 against the applicant for damages or injunctive or other relief for
13 interference with such water use, in exchange for financial payment,
14 substitute water, or other compensation. The applicant shall file copies
15 of any such agreements with the Chief Water Officer ~~director~~ who shall
16 consider the agreements in determining whether to grant or deny a permit.
17 Nothing in this section shall be construed to limit any power of eminent
18 domain possessed by an applicant.

19 **Sec. 196.** Section 46-683, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-683 (1) The Chief Water Officer ~~director~~ shall issue a written
22 order containing specific findings of fact either granting or denying a
23 permit. The Chief Water Officer ~~director~~ shall grant a permit only if he
24 or she finds that the applicant's withdrawal and any transfer of ground
25 water are in the public interest. In determining whether the withdrawal
26 and transfer, if any, are in the public interest, the Chief Water
27 Officer's ~~director's~~ considerations shall include, but not be limited to:

28 (a) Possible adverse effects on existing surface or ground water
29 users;

30 (b) The effect of the withdrawal and any transfer of ground water on
31 surface or ground water supplies needed to meet reasonably anticipated

1 domestic and agricultural demands in the area of the proposed ground
2 water withdrawal;

3 (c) The availability of alternative sources of surface or ground
4 water reasonably accessible to the applicant in or near the region of the
5 proposed withdrawal or use;

6 (d) The economic benefit of the applicant's proposed use;

7 (e) The social and economic benefits of existing uses of surface or
8 ground water in the area of the applicant's proposed use and any
9 transfer;

10 (f) Any waivers of liability from existing users filed with the
11 Chief Water Officer ~~director~~;

12 (g) The effects on interstate compacts or decrees and the
13 fulfillment of the provisions of any other state contract or agreement;
14 and

15 (h) Other factors reasonably affecting the equity of granting the
16 permit.

17 (2) The Chief Water Officer ~~director~~ may grant a permit for less
18 water than requested by the applicant. The Chief Water Officer ~~director~~
19 may also impose reasonable conditions on the manner and timing of the
20 ground water withdrawals and on the manner of any transfer of ground
21 water which the Chief Water Officer ~~director~~ deems necessary to protect
22 existing users of water. If a hearing is held, the Chief Water Officer
23 ~~director~~ shall issue such written order within ninety days of the
24 hearing.

25 **Sec. 197.** Section 46-683.01, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 46-683.01 If during construction or operation a permitholder
28 determines (1) that an additional amount of water is or will be required
29 for the proposed use set forth in a permit issued pursuant to section
30 46-683 or (2) that there is a need to amend any condition set forth in
31 the permit, the permitholder may file an application to amend the permit.

1 Following a hearing conducted in the manner prescribed by section 46-680,
2 the Chief Water Officer ~~director~~ shall issue a written order containing
3 specific findings of fact either granting or denying the proposed
4 amendment in accordance with the public interest considerations
5 enumerated in section 46-683. An application to amend a permit shall not
6 be approved if the amendment would increase the daily peak withdrawal or
7 the annual volume by more than twenty-five percent from the amounts
8 approved in the original permit, except for an amendment to increase the
9 maximum daily volumetric flow rate or annual volume to levels authorized
10 under a permit issued by the department ~~Department of Environment and~~
11 ~~Energy~~ pursuant to section 81-1504 and subsection (9) of section 81-1505.

12 **Sec. 198.** Section 46-684, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-684 (1) A permit granted pursuant to section 46-683 shall be
15 revoked, following a hearing conducted in the same manner as hearings
16 conducted pursuant to section 46-680, if the Chief Water Officer ~~director~~
17 determines that the permitholder has failed to exercise the right to
18 withdraw ground water within three years of the date specified in the
19 permit or for a period of three consecutive years thereafter.

20 (2) If it appears to the Chief Water Officer ~~director~~ that a
21 permitholder has withdrawn more ground water than the amount specified in
22 the permit or has violated any of the conditions specified in the permit,
23 the Chief Water Officer ~~director~~ shall give written notice to the
24 permitholder of the alleged violation.

25 Within thirty days following receipt of such notice, the
26 permitholder may:

27 (a) File an application to amend the permit as provided in section
28 46-683.01;

29 (b) Request a hearing before the Chief Water Officer ~~director~~; or

30 (c) Take appropriate measures to comply with the permit.

31 If the permitholder fails to take action pursuant to subdivision (2)

1 (a), (2)(b), or (2)(c) of this section, the Chief Water Officer ~~director~~
2 may issue an order requiring compliance with the permit and seek, if
3 appropriate, a court injunction prohibiting further violations of the
4 permit.

5 If the permitholder requests a hearing, the Chief Water Officer
6 ~~director~~ shall within thirty days schedule a hearing within or in
7 reasonable proximity to the area where the water wells are located.
8 Within forty-five days following the hearing, the Chief Water Officer
9 ~~director~~ shall issue an order containing specific findings of fact with
10 reference to the alleged violation and directing the permitholder, if
11 necessary, to cease and desist from further violations of the permit.

12 (3) Nothing in this section shall limit the penalty provisions of
13 section 46-687.

14 **Sec. 199.** Section 46-685, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-685 Any affected person aggrieved by any order issued or final
17 decision made by the Chief Water Officer ~~director~~ pursuant to the
18 Industrial Ground Water Regulatory Act may appeal the order to the Court
19 of Appeals. For purposes of this section, affected person means the
20 applicant for a permit which is the subject of the Chief Water Officer's
21 ~~director's~~ order or final decision and any owner of an estate or interest
22 in or concerning land or water whose interest is or may be impacted in a
23 direct and significant manner by the Chief Water Officer's ~~director's~~
24 order or final decision.

25 **Sec. 200.** Section 46-686, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-686 Any owner of an estate or interest in or concerning land or
28 water, except a person who has signed an agreement filed with the Chief
29 Water Officer ~~director~~ pursuant to section 46-682, may bring an action
30 for damages or injunctive or other relief for any injury done to his or
31 her land or water rights by the holder of a permit issued pursuant to

1 section 46-683. Nothing in the Industrial Ground Water Regulatory Act
2 shall be construed as limiting the right to resort to other means of
3 review, redress, or relief provided by law.

4 **Sec. 201.** Section 46-686.01, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 46-686.01 The Chief Water Officer ~~director~~ shall have jurisdiction
7 over any ground water withdrawal and transfer made under section
8 46-678.01. Any person using ground water at the time a notice to transfer
9 is filed under such section whose wells thereafter suffer an
10 unanticipated decline in ground water levels may petition the Chief Water
11 Officer ~~director~~ for a hearing. Such petition shall specifically set
12 forth the cause and extent of the ground water decline as well as the
13 nature and extent of any injury resulting from that decline. If at such
14 hearing the injured party presents evidence showing that the ground water
15 levels declined as a result of such transfer and shows the nature and
16 extent of any resulting injury, the Chief Water Officer ~~director~~ may
17 issue an order terminating or conditioning the transfer to eliminate any
18 further injury. If the injured party prevails and an order is issued
19 pursuant to this section, the order shall provide that the person filing
20 the notice of transfer shall pay the costs of the Chief Water Officer and
21 department staff ~~department~~ and of the injured party, including
22 reasonable attorney's fees. The injured party may maintain a civil action
23 against the person filing the notice of transfer to recover the costs of
24 a hydrologic evaluation. The order of the Chief Water Officer ~~director~~
25 may be appealed to the Court of Appeals.

26 **Sec. 202.** Section 46-688, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-688 The Chief Water Officer ~~director~~ may adopt and promulgate all
29 rules and regulations necessary or desirable to secure compliance with
30 the Industrial Ground Water Regulatory Act. The Chief Water Officer
31 ~~director~~ shall by regulation specify the contents and scope of the

1 hydrologic evaluation required by section 46-678, taking into account the
2 current state of hydrologic knowledge and techniques, and the factors for
3 permit approval listed in section 46-683.

4 **Sec. 203.** Section 46-691, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-691 (1) Any person who withdraws ground water for agricultural
7 purposes, or for any purpose pursuant to a ground water remediation plan
8 as required under the Environmental Protection Act, including the
9 providing of water for domestic purposes, from aquifers located within
10 the State of Nebraska may transfer the use of the ground water off the
11 overlying land if the ground water is put to a reasonable and beneficial
12 use within the State of Nebraska and is used for an agricultural purpose,
13 or for any purpose pursuant to a ground water remediation plan as
14 required under the Environmental Protection Act, including the providing
15 of water for domestic purposes, after transfer, and if such withdrawal,
16 transfer, and use (a) will not significantly adversely affect any other
17 water user, (b) is consistent with all applicable statutes and rules and
18 regulations, and (c) is in the public interest. The determination made by
19 a natural resources district under subsection (2) of this section or the
20 Chief Water Officer ~~Director of Natural Resources~~ under subsection (3) of
21 this section shall include consideration of the factors set forth in
22 subdivisions (1) through (7) of section 46-613.01. For purposes of this
23 section, domestic has the same meaning as in section 46-613.

24 (2) Any affected party may object to the transfer of ground water by
25 filing written objections, specifically stating the grounds for such
26 objection, in the office of the natural resources district containing the
27 land from which the ground water is withdrawn. Upon the filing of such
28 objections or on its own initiative, the natural resources district shall
29 conduct a preliminary investigation to determine if the withdrawal,
30 transfer, and use of ground water is consistent with the requirements of
31 subsection (1) of this section. Following the preliminary investigation,

1 if the district has reason to believe that the withdrawal, transfer, or
2 use may not comply with any rule or regulation of the district, it may
3 utilize its authority under the Nebraska Ground Water Management and
4 Protection Act to prohibit such withdrawal, transfer, or use. If the
5 district has reason to believe that the withdrawal, transfer, and use is
6 consistent with all rules and regulations of the district but may not
7 comply with one or more other requirements of subsection (1) of this
8 section, the district shall request that the Chief Water Officer
9 ~~Department of Natural Resources~~ hold a hearing on such transfer.

10 (3) At the hearing, all interested persons may appear and present
11 testimony. Agencies or political subdivisions of this state and the
12 appropriate natural resources districts shall offer as evidence any
13 information in their possession which they deem relevant to the purposes
14 of the hearing. After the hearing, if the Chief Water Officer ~~Director of~~
15 ~~Natural Resources~~ finds that the withdrawal, transfer, or use of ground
16 water is contrary to the requirements of subsection (1) of this section,
17 he or she shall issue a cease and desist order prohibiting the withdrawal
18 and transfer.

19 (4) The Chief Water Officer ~~director~~ may adopt and promulgate rules
20 and regulations to carry out this section.

21 **Sec. 204.** Section 46-703, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-703 The Legislature further finds:

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

28 (2) Hydrologically connected ground water and surface water may need
29 to be managed differently from unconnected ground water and surface water
30 in order to permit equity among water users and to optimize the
31 beneficial use of interrelated ground water and surface water supplies;

1 (3) Natural resources districts already have significant legal
2 authority to regulate activities which contribute to declines in ground
3 water levels and to nonpoint source contamination of ground water and are
4 the preferred entities to regulate, through ground water management
5 areas, ground water related activities which are contributing to or are,
6 in the reasonably foreseeable future, likely to contribute to conflicts
7 between ground water users and surface water appropriators or to water
8 supply shortages in fully appropriated or overappropriated river basins,
9 subbasins, or reaches;

10 (4) The Legislature recognizes that ground water use or surface
11 water use in one natural resources district may have adverse affects on
12 water supplies in another district or in an adjoining state. The
13 Legislature intends and expects that each natural resources district
14 within which water use is causing external impacts will accept
15 responsibility for ground water management in accordance with the
16 Nebraska Ground Water Management and Protection Act in the same manner
17 and to the same extent as if the impacts were contained within that
18 district;

19 (5) The Chief Water Officer ~~Department of Natural Resources~~ is
20 responsible for regulation of surface water resources and local surface
21 water project sponsors are responsible for much of the structured
22 irrigation utilizing surface water supplies, and the Chief Water Officer
23 and the local surface water project sponsors ~~these entities~~ should be
24 responsible for regulation of surface water related activities which
25 contribute to conflicts between ground water users and surface water
26 appropriators or to water supply shortages in fully appropriated or
27 overappropriated river basins, subbasins, or reaches;

28 (6) All involved natural resources districts, the Chief Water
29 Officer ~~department~~, and surface water project sponsors should cooperate
30 and collaborate on the identification and implementation of management
31 solutions to conflicts between ground water users and surface water

1 appropriators or to water supply shortages in fully appropriated or
2 overappropriated river basins, subbasins, and reaches; and

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

8 **Sec. 205.** Section 46-704, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-704 The Legislature also finds that:

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

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

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

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

22 (5) The department is authorized ~~Department of Environment and~~
23 ~~Energy should be given authority~~ to regulate sources of contamination
24 when necessary to prevent serious deterioration of ground water quality;

25 (6) The powers given to districts and the department ~~Department of~~
26 ~~Environment and Energy~~ should be used to stabilize, reduce, and prevent
27 the increase or spread of ground water contamination; and

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

1 **Sec. 206.** Section 46-705, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-705 Nothing in the Nebraska Ground Water Management and
4 Protection Act shall be construed to limit the powers of the department
5 ~~Department of Environment and Energy~~ provided in the Nebraska Safe
6 Drinking Water Act.

7 Nothing in the Nebraska Ground Water Management and Protection Act
8 relating to the contamination of ground water is intended to limit the
9 powers of the department ~~Department of Environment and Energy~~ provided in
10 Chapter 81, article 15.

11 **Sec. 207.** Section 46-706, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-706 For purposes of the Municipal and Rural Domestic Ground Water
14 Transfers Permit Act, the Nebraska Ground Water Management and Protection
15 Act, and sections 46-601 to 46-613.02, 46-636, 46-637, and 46-651 to
16 46-655, unless the context otherwise requires:

17 (1) Person means a natural person, a partnership, a limited
18 liability company, an association, a corporation, a municipality, an
19 irrigation district, an agency or a political subdivision of the state,
20 or a department, an agency, or a bureau of the United States;

21 (2) Ground water means that water which occurs in or moves, seeps,
22 filters, or percolates through ground under the surface of the land;

23 (3) Contamination or contamination of ground water means nitrate
24 nitrogen or other material which enters the ground water due to action of
25 any person and causes degradation of the quality of ground water
26 sufficient to make such ground water unsuitable for present or reasonably
27 foreseeable beneficial uses;

28 (4) Department means the Department of Water, Energy, and
29 Environment;

30 (5) Chief Water Officer means the Chief Water Officer of the
31 Department of Water, Energy, and Environment;

1 (6) (4) District means a natural resources district operating
2 pursuant to Chapter 2, article 32;

3 (7) (5) Illegal water well means (a) any water well operated or
4 constructed without or in violation of a permit required by the Nebraska
5 Ground Water Management and Protection Act, (b) any water well not in
6 compliance with rules and regulations adopted and promulgated pursuant to
7 the act, (c) any water well not properly registered in accordance with
8 sections 46-602 to 46-604, or (d) any water well not in compliance with
9 any other applicable laws of the State of Nebraska or with rules and
10 regulations adopted and promulgated pursuant to such laws;

11 (8) (6) To commence construction of a water well means the beginning
12 of the boring, drilling, jetting, digging, or excavating of the actual
13 water well from which ground water is to be withdrawn;

14 (9) (7) Management area means any area so designated by a district
15 pursuant to section 46-712 or 46-718, by the Director of Water, Energy,
16 and Environment ~~Director of Environment and Energy~~ pursuant to section
17 46-725, or by the Interrelated Water Review Board pursuant to section
18 46-719. Management area includes a control area or a special ground water
19 quality protection area designated prior to July 19, 1996;

20 (10) (8) Management plan means a ground water management plan
21 developed by a district and submitted to the Chief Water Officer ~~Director~~
22 ~~of Natural Resources~~ for review pursuant to section 46-711;

23 (11) (9) Ground water reservoir life goal means the finite or
24 infinite period of time which a district establishes as its goal for
25 maintenance of the supply and quality of water in a ground water
26 reservoir at the time a ground water management plan is adopted;

27 (12) (10) Board means the board of directors of a district;

28 (13) (11) Acre-inch means the amount of water necessary to cover an
29 acre of land one inch deep;

30 (14) (12) Subirrigation or subirrigated land means the natural
31 occurrence of a ground water table within the root zone of agricultural

1 vegetation, not exceeding ten feet below the surface of the ground;

2 (15) ~~(13)~~ Best management practices means schedules of activities,
3 maintenance procedures, and other management practices utilized for
4 purposes of irrigation efficiency, to conserve or effect a savings of
5 ground water, or to prevent or reduce present and future contamination of
6 ground water. Best management practices relating to contamination of
7 ground water may include, but not be limited to, irrigation scheduling,
8 proper rate and timing of fertilizer application, and other fertilizer
9 and pesticide management programs. In determining the rate of fertilizer
10 application, the district shall consult with the University of Nebraska
11 or a certified crop advisor certified by the American Society of
12 Agronomy;

13 (16) ~~(14)~~ Point source means any discernible, confined, and discrete
14 conveyance, including, but not limited to, any pipe, channel, tunnel,
15 conduit, well, discrete fissure, container, rolling stock, vessel, other
16 floating craft, or other conveyance, over which the department ~~Department~~
17 ~~of Environment and Energy~~ has regulatory authority and from which a
18 substance which can cause or contribute to contamination of ground water
19 is or may be discharged;

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

25 (18) ~~(16)~~ Rotation means a recurring series of use and nonuse of
26 irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

27 (19) ~~(17)~~ Water well has the same meaning as in section 46-601.01;

28 (20) ~~(18)~~ Surface water project sponsor means an irrigation district
29 created pursuant to Chapter 46, article 1, a reclamation district created
30 pursuant to Chapter 46, article 5, or a public power and irrigation
31 district created pursuant to Chapter 70, article 6;

1 ~~(21)~~ ~~(19)~~ Beneficial use means that use by which water may be put to
2 use to the benefit of humans or other species;

3 ~~(22)~~ ~~(20)~~ Consumptive use means the amount of water that is consumed
4 under appropriate and reasonably efficient practices to accomplish
5 without waste the purposes for which the appropriation or other legally
6 permitted use is lawfully made;

7 ~~(23)~~ ~~(21)~~ Dewatering well means a well constructed and used solely
8 for the purpose of lowering the ground water table elevation;

9 ~~(24)~~ ~~(22)~~ Emergency situation means any set of circumstances that
10 requires the use of water from any source that might otherwise be
11 regulated or prohibited and the agency, district, or organization
12 responsible for regulating water use from such source reasonably and in
13 good faith believes that such use is necessary to protect the public
14 health, safety, and welfare, including, if applicable, compliance with
15 federal or state water quality standards;

16 ~~(25)~~ ~~(23)~~ Good cause shown means a reasonable justification for
17 granting a variance for a consumptive use of water that would otherwise
18 be prohibited by rule or regulation and which the granting agency,
19 district, or organization reasonably and in good faith believes will
20 provide an economic, environmental, social, or public health and safety
21 benefit that is equal to or greater than the benefit resulting from the
22 rule or regulation from which a variance is sought;

23 ~~(26)~~ ~~(24)~~ Historic consumptive use means the amount of water that
24 has previously been consumed under appropriate and reasonably efficient
25 practices to accomplish without waste the purposes for which the
26 appropriation or other legally permitted use was lawfully made;

27 ~~(27)~~ ~~(25)~~ Monitoring well means a water well that is designed and
28 constructed to provide ongoing hydrologic or water quality information
29 and is not intended for consumptive use;

30 ~~(28)~~ ~~(26)~~ Order, except as otherwise specifically provided, includes
31 any order required by the Nebraska Ground Water Management and Protection

1 Act, by rule or regulation, or by a decision adopted by a district by
2 vote of the board of directors of the district taken at any regularly
3 scheduled or specially scheduled meeting of the board;

4 (29) ~~(27)~~ Overall difference between the current and fully
5 appropriated levels of development means the extent to which existing
6 uses of hydrologically connected surface water and ground water and
7 conservation activities result in the water supply available for purposes
8 identified in subsection (3) of section 46-713 to be less than the water
9 supply available if the river basin, subbasin, or reach had been
10 determined to be fully appropriated in accordance with section 46-714;

11 (30) ~~(28)~~ Test hole means a hole designed solely for the purposes of
12 obtaining information on hydrologic or geologic conditions;

13 (31) ~~(29)~~ Variance means (a) an approval to deviate from a
14 restriction imposed under subsection (1), (2), (8), or (9) of section
15 46-714 or (b) the approval to act in a manner contrary to existing rules
16 or regulations from a governing body whose rule or regulation is
17 otherwise applicable;

18 (32) ~~(30)~~ Certified irrigated acres means the number of acres or
19 portion of an acre that a natural resources district has approved for
20 irrigation from ground water in accordance with law and with rules
21 adopted by the district; and

22 (33) ~~(31)~~ Certified water uses means beneficial uses of ground water
23 for purposes other than irrigation identified by a district pursuant to
24 rules adopted by the district.

25 **Sec. 208.** Section 46-707, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-707 (1) Regardless of whether or not any portion of a district
28 has been designated as a management area, in order to administer and
29 enforce the Nebraska Ground Water Management and Protection Act and to
30 effectuate the policy of the state to conserve ground water resources, a
31 district may:

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

3 (b) Require such reports from ground water users as may be
4 necessary;

5 (c) Require the reporting of water uses and irrigated acres by
6 landowners and others with control over the water uses and irrigated
7 acres for the purpose of certification by the district;

8 (d) Require meters to be placed on any water wells for the purpose
9 of acquiring water use data;

10 (e) Require decommissioning of water wells that are not properly
11 classified as active status water wells as defined in section 46-1204.02
12 or inactive status water wells as defined in section 46-1207.02;

13 (f) Conduct investigations and cooperate or contract with agencies
14 of the United States, agencies or political subdivisions of this state,
15 public or private corporations, or any association or individual on any
16 matter relevant to the administration of the act;

17 (g) Report to and consult with the department ~~Department~~ of
18 ~~Environment and Energy~~ on all matters concerning the entry of
19 contamination or contaminating materials into ground water supplies; and

20 (h) Issue cease and desist orders, following three days' notice to
21 the person affected stating the contemplated action and in general the
22 grounds for the action and following reasonable opportunity to be heard,
23 to enforce any of the provisions of the act or of orders or permits
24 issued pursuant to the act, to initiate suits to enforce the provisions
25 of orders issued pursuant to the act, and to restrain the construction of
26 illegal water wells or the withdrawal or use of water from illegal water
27 wells.

28 Before any rule or regulation is adopted pursuant to this
29 subsection, a public hearing shall be held within the district. Notice of
30 the hearing shall be given as provided in section 46-743.

31 (2) In addition to the powers enumerated in subsection (1) of this

1 section, a district may impose an immediate temporary stay for a period
2 of one hundred eighty days on the construction of any new water well and
3 on any increase in the number of acres historically irrigated, without
4 prior notice or hearing, upon adoption of a resolution by the board
5 finding that such temporary immediate stay is necessary. The district
6 shall hold at least one public hearing on the matter within the district
7 during such one hundred eighty days, with the notice of the hearing given
8 as provided in section 46-743, prior to making a determination as to
9 imposing a permanent stay or conditions in accordance with subsections
10 (1) and (6) of section 46-739. Within forty-five days after a hearing
11 pursuant to this subsection, the district shall decide whether to exempt
12 from the immediate temporary stay the construction of water wells for
13 which permits were issued prior to the date of the resolution commencing
14 the stay but for which construction had not begun prior to such date. If
15 construction of such water wells is allowed, all permits that were valid
16 when the stay went into effect shall be extended by a time period equal
17 to the length of the stay and such water wells shall otherwise be
18 completed in accordance with section 46-738. Water wells listed in
19 subsection (3) of section 46-714 and water wells of public water
20 suppliers are exempt from this subsection.

21 (3) In addition to the powers enumerated in subsections (1) and (2)
22 of this section, a district may assess a fee against a person requesting
23 a variance to cover the administrative cost of consideration of the
24 variance, including, but not limited to, costs of copying records and the
25 cost of publishing a notice in a legal newspaper of general circulation
26 in the county or counties of the district, radio announcements, or other
27 means of communication deemed necessary in the area where the property is
28 located.

29 **Sec. 209.** Section 46-709, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-709 Each district shall maintain a ground water management plan

1 based upon the best available information and shall submit amendments to
2 such plan to the Chief Water Officer ~~Director of Natural Resources~~ for
3 review and approval.

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

6 (1) Ground water supplies within the district including
7 transmissivity, saturated thickness maps, and other ground water
8 reservoir information, if available;

9 (2) Local recharge characteristics and rates from any sources, if
10 available;

11 (3) Average annual precipitation and the variations within the
12 district;

13 (4) Crop water needs within the district;

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

15 (6) Past, present, and potential ground water use within the
16 district;

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

18 (8) Proposed water conservation and supply augmentation programs for
19 the district;

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

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

24 (11) Ground water management objectives, including a proposed ground
25 water reservoir life goal for the district. For management plans adopted
26 or revised after July 19, 1996, the ground water management objectives
27 may include any proposed integrated management objectives for
28 hydrologically connected ground water and surface water supplies but a
29 management plan does not have to be revised prior to the adoption or
30 implementation of an integrated management plan pursuant to section
31 46-718 or 46-719;

1 (12) Existing subirrigation uses within the district;

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

4 (14) The geographic and stratigraphic boundaries of any proposed
5 management area.

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

10 Each district's ground water management plan shall also identify, to
11 the extent possible, the levels and sources of ground water contamination
12 within the district, ground water quality goals, long-term solutions
13 necessary to prevent the levels of ground water contaminants from
14 becoming too high and to reduce high levels sufficiently to eliminate
15 health hazards, and practices recommended to stabilize, reduce, and
16 prevent the occurrence, increase, or spread of ground water
17 contamination.

18 **Sec. 210.** Section 46-711, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-711 (1) The Chief Water Officer ~~Director of Natural Resources~~
21 shall review any ground water management plan or plan modification
22 submitted by a district to ensure that the best available studies, data,
23 and information, whether previously existing or newly initiated, were
24 utilized and considered and that such plan is supported by and is a
25 reasonable application of such information. ~~If a management area is~~
26 ~~proposed and the primary purpose of the proposed management area is~~
27 ~~protection of water quality, the director shall consult with the~~
28 ~~Department of Environment and Energy regarding approval or denial of the~~
29 ~~management plan.~~ The Chief Water Officer ~~director~~ shall consult with the
30 Conservation and Survey Division of the University of Nebraska and such
31 other state or federal agencies the Chief Water Officer ~~director~~ shall

1 deem necessary when reviewing plans. Within ninety days after receipt of
2 a plan, the Chief Water Officer ~~director~~ shall transmit his or her
3 specific findings, conclusions, and reasons for approval or disapproval
4 to the district submitting the plan.

5 (2) If the Chief Water Officer ~~Director of Natural Resources~~
6 disapproves a ground water management plan, the district which submitted
7 the plan shall, in order to establish a management area, submit to the
8 Chief Water Officer ~~director~~ either the original or a revised plan with
9 an explanation of how the original or revised plan addresses the issues
10 raised by the Chief Water Officer ~~director~~ in his or her reasons for
11 disapproval. Once a district has submitted an explanation pursuant to
12 this section, such district may proceed to schedule a hearing pursuant to
13 section 46-712.

14 **Sec. 211.** Section 46-712, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-712 (1) A natural resources district may establish a ground water
17 management area in accordance with this section to accomplish any one or
18 more of the following objectives: (a) Protection of ground water
19 quantity; (b) protection of ground water quality; or (c) prevention or
20 resolution of conflicts between users of ground water and appropriators
21 of surface water, which ground water and surface water are hydrologically
22 connected.

23 (2) Prior to establishment by a district of a management area other
24 than a management area being established in accordance with section
25 46-718, the district's management plan shall have been approved by the
26 Chief Water Officer ~~Director of Natural Resources~~ or the district shall
27 have completed the requirements of subsection (2) of section 46-711. If
28 necessary to determine whether a management area should be designated,
29 the district may initiate new studies and data-collection efforts and
30 develop computer models. In order to establish a management area, the
31 district shall fix a time and place for a public hearing to consider the

1 management plan information supplied by the Chief Water Officer ~~director~~
2 and to hear any other evidence. The hearing shall be located within or in
3 reasonable proximity to the area proposed for designation as a management
4 area. Notice of the hearing shall be published as provided in section
5 46-743, and the hearing shall be conducted in accordance with such
6 section.

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

11 (b) If the district determines that a management area shall be
12 established, the district shall by order designate the area as a
13 management area and shall adopt one or more controls authorized by
14 section 46-739 to be utilized within the area in order to achieve the
15 ground water management objectives specified in the plan. Such an order
16 shall include a geographic and stratigraphic definition of the area. The
17 boundaries and controls shall take into account any considerations
18 brought forth at the hearing and administrative factors directly
19 affecting the ability of the district to implement and carry out local
20 ground water management.

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

25 (4) Modification of the boundaries of a district-designated
26 management area or dissolution of such an area shall be in accordance
27 with the procedures established in this section. Hearings for such
28 modifications or for dissolution may not be initiated more often than
29 once a year. Hearings for modification of controls may be initiated as
30 often as deemed necessary by the district, and such modifications may be
31 accomplished using the procedure in this section.

1 (5) A district shall, prior to adopting or amending any rules or
2 regulations for a management area, consult with any holders of permits
3 for intentional or incidental underground water storage and recovery
4 issued pursuant to section 46-226.02, 46-233, 46-240, 46-241, 46-242, or
5 46-297.

6 (6) If a ground water management area has been adopted by a district
7 under this section that includes one or more controls authorized by
8 subdivision (1)(f) or (1)(m) of section 46-739, the district may request
9 that the Chief Water Officer Department of Natural Resources to conduct
10 an evaluation to determine if an immediate stay should be placed on the
11 issuance of new surface water natural-flow appropriations in the area,
12 river basin, subbasin, or reach of the management area, and the Chief
13 Water Officer ~~department~~ may determine that the stay is in the public
14 interest. The stay may include provisions for exceptions to be granted
15 for beneficial uses as described in subsection (3) of section 46-714 or
16 for a project that provides hydrological benefit to the area of the stay
17 and may include provisions that the stay may be rescinded based on new or
18 additional information that may become available.

19 **Sec. 212.** Section 46-713, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-713 (1)(a) By January 1 of each year beginning in 2006 and except
22 as otherwise provided in this section and section 46-720, the Chief Water
23 Officer ~~Department of Natural Resources~~ shall complete an evaluation of
24 the expected long-term availability of hydrologically connected water
25 supplies for both existing and new surface water uses and existing and
26 new ground water uses in each of the state's river basins and shall issue
27 a report that describes the results of the evaluation. For purposes of
28 the evaluation and the report, a river basin may be divided into two or
29 more subbasins or reaches. A river basin, subbasin, or reach for which an
30 integrated management plan has been or is being developed pursuant to
31 sections 46-715 to 46-717 or pursuant to section 46-719 shall not be

1 evaluated unless it is being reevaluated as provided in subsection (2) of
2 this section. For each river basin, subbasin, or reach evaluated, the
3 report shall describe (i) the nature and extent of use of both surface
4 water and ground water in each river basin, subbasin, or reach, (ii) the
5 geographic area within which the Chief Water Officer ~~department~~
6 preliminarily considers surface water and ground water to be
7 hydrologically connected and the criteria used for that determination,
8 and (iii) the extent to which the then-current uses affect available
9 near-term and long-term water supplies. River basins, subbasins, and
10 reaches designated as overappropriated in accordance with subsection (4)
11 of this section shall not be evaluated by the Chief Water Officer
12 ~~department~~. The Chief Water Officer ~~department~~ is not required to perform
13 an annual evaluation for a river basin, subbasin, or reach during the
14 four years following a status change in such river basin, subbasin, or
15 reach under subsection (12) of section 46-714.

16 (b) Based on the information reviewed in the evaluation process, the
17 Chief Water Officer ~~department~~ shall arrive at a preliminary conclusion
18 for each river basin, subbasin, and reach evaluated as to whether such
19 river basin, subbasin, or reach presently is fully appropriated without
20 the initiation of additional uses. The Chief Water Officer ~~department~~
21 shall also determine if and how such preliminary conclusion would change
22 if no additional legal constraints were imposed on future development of
23 hydrologically connected surface water and ground water and reasonable
24 projections are made about the extent and location of future development
25 in such river basin, subbasin, or reach.

26 (c) In addition to the conclusion about whether a river basin,
27 subbasin, or reach is fully appropriated, the Chief Water Officer
28 ~~department~~ shall include in the report, for informational purposes only,
29 a summary of relevant data provided by any interested party concerning
30 the social, economic, and environmental impacts of additional
31 hydrologically connected surface water and ground water uses on resources

1 that are dependent on streamflow or ground water levels but are not
2 protected by appropriations or regulations.

3 (d) In preparing the report, the Chief Water Officer ~~department~~
4 shall rely on the best scientific data, information, and methodologies
5 readily available to ensure that the conclusions and results contained in
6 the report are reliable. In its report, the Chief Water Officer
7 ~~department~~ shall provide sufficient documentation to allow these data,
8 information, methodologies, and conclusions to be independently
9 replicated and assessed. Upon request by the Chief Water Officer
10 ~~department~~, state agencies, natural resources districts, irrigation
11 districts, reclamation districts, public power and irrigation districts,
12 mutual irrigation companies, canal companies, municipalities, and other
13 water users and stakeholders shall provide relevant data and information
14 in their possession. The Chief Water Officer ~~Department of Natural~~
15 ~~Resources~~ shall specify by rule and regulation the types of scientific
16 data and other information that will be considered for making the
17 preliminary determinations required by this section.

18 (2)(a) The Chief Water Officer ~~department~~ shall complete a
19 reevaluation of a river basin, subbasin, or reach for which an integrated
20 management plan has been or is being prepared if the Chief Water Officer
21 ~~department~~ has reason to believe that a reevaluation might lead to a
22 different determination about whether such river basin, subbasin, or
23 reach is fully appropriated or overappropriated. A decision to reevaluate
24 may be reached by the Chief Water Officer ~~department~~ on its own or in
25 response to a petition filed with the Chief Water Officer ~~department~~ by
26 any interested person. To be considered sufficient to justify a
27 reevaluation, a petition shall be accompanied by supporting information
28 showing that (i) new scientific data or other information relevant to the
29 determination of whether the river basin, subbasin, or reach is fully
30 appropriated or overappropriated has become available since the last
31 evaluation of such river basin, subbasin, or reach, (ii) the Chief Water

1 Officer department relied on incorrect or incomplete information when the
2 river basin, subbasin, or reach was last evaluated, or (iii) the Chief
3 Water Officer department erred in the its interpretation or application
4 of the information available when the river basin, subbasin, or reach was
5 last evaluated. If a petition determined by the Chief Water Officer
6 department to be sufficient is filed before July 1 of any year, the
7 reevaluation of the river basin, subbasin, or reach involved shall be
8 included in the next annual report prepared in accordance with subsection
9 (1) of this section. If any such petition is filed on or after July 1 of
10 any year, the Chief Water Officer department may defer the reevaluation
11 of the river basin, subbasin, or reach involved until the second annual
12 report after such filing.

13 (b) If the reevaluation results in a different determination by the
14 Chief Water Officer department, then (i) the Chief Water Officer
15 department shall notify, by certified mail, the affected natural
16 resources districts and any irrigation district, public power and
17 irrigation district, mutual irrigation company, canal company, or
18 municipality that relies on water from the affected river basin,
19 subbasin, or reach of the preliminary change in the determination and
20 (ii) the Chief Water Officer department shall hold one or more public
21 hearings not more than ninety days after the publication of the notice
22 required in subdivision (b)(i) of this subsection. Notice of the hearings
23 shall be provided in the same manner as the notice required in subsection
24 (1) of section 46-714. Any interested person may appear at the hearing
25 and present written or oral testimony and evidence concerning the
26 appropriation status of the river basin, subbasin, or reach.

27 (c) Within thirty days after the final hearing under subdivision (b)
28 of this subsection, the Chief Water Officer department shall notify the
29 appropriate natural resources districts of the Chief Water Officer's
30 department's final determination with respect to the appropriation status
31 of the river basin, subbasin, or reach.

1 (3) A river basin, subbasin, or reach shall be deemed fully
2 appropriated if the Chief Water Officer ~~department~~ determines based upon
3 the ~~its~~ evaluation conducted pursuant to subsection (1) of this section
4 and information presented at the hearing pursuant to subsection (4) of
5 section 46-714 that then-current uses of hydrologically connected surface
6 water and ground water in the river basin, subbasin, or reach cause or
7 will in the reasonably foreseeable future cause (a) the surface water
8 supply to be insufficient to sustain over the long term the beneficial or
9 useful purposes for which existing natural-flow or storage appropriations
10 were granted and the beneficial or useful purposes for which, at the time
11 of approval, any existing instream appropriation was granted, (b) the
12 streamflow to be insufficient to sustain over the long term the
13 beneficial uses from wells constructed in aquifers dependent on recharge
14 from the river or stream involved, or (c) reduction in the flow of a
15 river or stream sufficient to cause noncompliance by Nebraska with an
16 interstate compact or decree, other formal state contract or agreement,
17 or applicable state or federal laws.

18 (4)(a) A river basin, subbasin, or reach shall be deemed
19 overappropriated if, on July 16, 2004, the river basin, subbasin, or
20 reach is subject to an interstate cooperative agreement among three or
21 more states and if, prior to such date, the Chief Water Officer
22 ~~department~~ has declared a moratorium on the issuance of new surface water
23 appropriations in such river basin, subbasin, or reach and has requested
24 each natural resources district with jurisdiction in the affected area in
25 such river basin, subbasin, or reach either (i) to close or to continue
26 in effect a previously adopted closure of all or part of such river
27 basin, subbasin, or reach to the issuance of additional water well
28 permits in accordance with subdivision (1)(k) of section 46-656.25 as
29 such section existed prior to July 16, 2004, or (ii) to temporarily
30 suspend or to continue in effect a temporary suspension, previously
31 adopted pursuant to section 46-656.28 as such section existed prior to

1 July 16, 2004, on the drilling of new water wells in all or part of such
2 river basin, subbasin, or reach.

3 (b) Within sixty days after July 16, 2004, the Chief Water Officer
4 ~~department~~ shall designate which river basins, subbasins, or reaches are
5 overappropriated. The designation shall include a description of the
6 geographic area within which the Chief Water Officer ~~department~~ has
7 determined that surface water and ground water are hydrologically
8 connected and the criteria used to make such determination.

9 **Sec. 213.** Section 46-714, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-714 (1) Whenever the Chief Water Officer ~~Department of Natural~~
12 ~~Resources~~ makes a preliminary determination that a river basin, subbasin,
13 or reach not previously designated as overappropriated and not previously
14 determined to be fully appropriated has become fully appropriated, the
15 Chief Water Officer ~~department~~ shall place an immediate stay on the
16 issuance of any new natural-flow, storage, or storage-use appropriations
17 in such river basin, subbasin, or reach. The Chief Water Officer
18 ~~department~~ shall also provide prompt notice of such preliminary
19 determination to all licensed water well contractors in the state and to
20 each natural resources district that encompasses any of the geographic
21 area involved. Such notice to natural resources districts shall be by
22 certified mail. The notice shall be addressed to the manager of the
23 natural resources district or his or her designee and shall include the
24 signature of the Chief Water Officer ~~Director of Natural Resources~~.
25 Immediately upon receipt of such notice by the natural resources
26 district, there shall be a stay on issuance of water well construction
27 permits in the geographic area preliminarily determined by the Chief
28 Water Officer ~~department~~ to include hydrologically connected surface
29 water and ground water in such river basin, subbasin, or reach. The Chief
30 Water Officer ~~department~~ shall also notify the public of the preliminary
31 determination that the river basin, subbasin, or reach is fully

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

7 (2) If the Chief Water Officer ~~department~~ preliminarily determines a
8 river basin, subbasin, or reach to be fully appropriated and has
9 identified the existence of hydrologically connected surface water and
10 ground water in such river basin, subbasin, or reach, stays shall also be
11 imposed:

12 (a) On the construction of any new water well in the area covered by
13 the determination unless a permit with conditions imposed by the natural
14 resources district has been issued prior to the determination. Such
15 conditions shall meet the objectives of subsection (4) of section 46-715
16 and may include, but are not limited to, conditions in accordance with
17 subsection (6) of section 46-739. Any well constructed pursuant to such
18 permit shall be completed in accordance with section 46-738; and

19 (b) On the use of an existing water well or an existing surface
20 water appropriation in the affected area to increase the number of acres
21 historically irrigated.

22 Such additional stays shall begin ten days after the first
23 publication, in a newspaper of statewide circulation, of the notice of
24 the preliminary determination that the river basin, subbasin, or reach is
25 fully appropriated.

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

1 or more water wells that each pump fifty gallons per minute or less may
2 be connected or otherwise combined to serve a single project such that
3 the collective pumping would exceed fifty gallons per minute, (f) water
4 wells for range livestock, (g) new surface water uses or water wells that
5 are necessary to alleviate an emergency situation involving the provision
6 of water for human consumption or public health and safety, (h) water
7 wells defined by the applicable natural resources district as replacement
8 water wells, but the consumptive use of any such replacement water well
9 can be no greater than the historic consumptive use of the water well it
10 is 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 water
12 wells to which a right or permit is transferred in accordance with state
13 law, but the consumptive use of any such new use can be no greater than
14 the historic consumptive use of the surface water use or water well from
15 which the right or permit is being transferred, (j) water wells and
16 increases in ground water irrigated acres for which a variance is granted
17 by the applicable natural resources district for good cause shown, (k)
18 subject to any conditions imposed by the applicable natural resources
19 district, to the extent permitted by the applicable natural resources
20 district, increases in ground water irrigated acres that result from the
21 use of water wells that were permitted prior to the effective date of the
22 determination made in subsection (1) of this section and completed in
23 accordance with section 46-738 but were not used for irrigation prior to
24 that effective date, (l) to the extent permitted by the applicable
25 natural resources district, increases in ground water irrigated acres
26 that result from the use of water wells that are constructed after the
27 effective date of the stay in accordance with a permit granted by that
28 natural resources district prior to the effective date of the stay, (m)
29 surface water uses for which temporary public-use construction permits
30 are issued pursuant to subsection (8) of section 46-233, (n) surface
31 water uses and increases in surface water irrigated acres for which a

1 variance is granted by the Chief Water Officer ~~department~~ for good cause
2 shown, and (o) water wells for which permits have been approved by the
3 Chief Water Officer ~~Department of Natural Resources~~ pursuant to the
4 Municipal and Rural Domestic Ground Water Transfers Permit Act prior to
5 the effective date of the stay.

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

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

17 (6) Within ninety days after a final determination by the Chief
18 Water Officer ~~department~~ that a river basin, subbasin, or reach is fully
19 appropriated, an affected natural resources district may hold one or more
20 public hearings on the question of whether the stays on the issuance of
21 new water well permits, on the construction of new water wells, or on
22 increases in ground water irrigated acres should be terminated. Notice of
23 the hearings shall be published as provided in section 46-743.

24 (7) Within forty-five days after a natural resources district's
25 final hearing pursuant to subsection (6) of this section, the natural
26 resources district shall decide (a) whether to terminate the stay on new
27 water wells in all or part of the natural resources district subject to
28 the stay and (b) whether to terminate the stay on increases in ground
29 water irrigated acres. If the natural resources district decides not to
30 terminate the stay on new water wells in any geographic area, it shall
31 also decide whether to exempt from such stay the construction of water

1 wells for which permits were issued prior to the issuance of the stay but
2 for which construction had not begun prior to issuance of the stay. If
3 construction of water wells for which permits were issued prior to the
4 stay is allowed, all permits that were valid when the stay went into
5 effect shall be extended by a time period equal to the length of the
6 stay.

7 (8) Whenever the Chief Water Officer ~~department~~ designates a river
8 basin, subbasin, or reach as overappropriated, each previously declared
9 moratorium on the issuance of new surface water appropriations in the
10 river basin, subbasin, or reach shall continue in effect. The Chief Water
11 Officer ~~department~~ shall also provide prompt notice of such designation
12 to all licensed water well contractors in the state and to each natural
13 resources district that encompasses any of the geographic area involved.
14 Immediately upon receipt of such notice by a natural resources district,
15 there shall be a stay on the issuance of new water well construction
16 permits in any portion of such natural resources district that is within
17 the hydrologically connected area designated by the Chief Water Officer
18 ~~department~~. The Chief Water Officer ~~department~~ shall also notify the
19 public of its designation of such river basin, subbasin, or reach as
20 overappropriated and of the geographic area involved in such designation.
21 Such notice shall be published once each week for three consecutive weeks
22 in at least one newspaper of statewide circulation and in such other
23 newspapers as are deemed appropriate by the Chief Water Officer
24 ~~department~~ to provide general notice in the river basin, subbasin, or
25 reach.

26 (9) Beginning ten days after the first publication of notice under
27 subsection (8) of this section in a newspaper of statewide circulation,
28 there shall also be stays (a) on the construction of any new water well
29 in the hydrologically connected area if such construction has not
30 commenced prior to such date and if no permit for construction of the
31 water well has been issued previously by either the Chief Water Officer

1 ~~department~~ or the natural resources district, (b) on the use of an
2 existing water well in the hydrologically connected area to increase the
3 number of acres historically irrigated, and (c) on the use of an existing
4 surface water appropriation to increase the number of acres historically
5 irrigated in the affected area.

6 (10) Within ninety days after a designation by the Chief Water
7 Officer ~~department~~ of a river basin, subbasin, or reach as
8 overappropriated, a natural resources district that encompasses any of
9 the hydrologically connected area designated by the Chief Water Officer
10 ~~department~~ may hold one or more public hearings on the question of
11 whether to terminate the stays on (a) the construction of new water wells
12 within all or part of its portion of the hydrologically connected area,
13 (b) the issuance of new water well construction permits in such area, or
14 (c) the increase in ground water irrigated acres in such area. Notice of
15 any hearing for such purpose shall be provided pursuant to section
16 46-743. Prior to the scheduling of a natural resources district hearing
17 on the question of whether to terminate any such stay, the Chief Water
18 Officer ~~department~~ and the affected natural resources district shall
19 consult with any irrigation district, reclamation district, public power
20 and irrigation district, mutual irrigation company, canal company, or
21 municipality that relies on water from the affected river basin,
22 subbasin, or reach and with other water users and stakeholders as deemed
23 appropriate by the Chief Water Officer ~~department~~ or the natural
24 resources district.

25 (11) Any stay issued pursuant to this section shall remain in effect
26 until (a) the stay has been terminated pursuant to subsection (5), (7),
27 or (10) of this section, (b) an integrated management plan for the
28 affected river basin, subbasin, or reach has been adopted by the Chief
29 Water Officer ~~department~~ and the affected natural resources districts and
30 has taken effect, (c) an integrated management plan for the affected
31 river basin, subbasin, or reach has been adopted by the Interrelated

1 Water Review Board and has taken effect, (d) the Chief Water Officer
2 ~~department~~ has completed a reevaluation pursuant to subsection (2) of
3 section 46-713 and has determined that the affected river basin,
4 subbasin, or reach is not fully appropriated or overappropriated, or (e)
5 the stay expires pursuant to this subsection. Such stay may be imposed
6 initially for not more than three years following the Chief Water
7 Officer's ~~department's~~ designation of the river basin, subbasin, or reach
8 as overappropriated or the Chief Water Officer's ~~department's~~ final
9 determination that a river basin, subbasin, or reach is fully
10 appropriated and may be extended thereafter on an annual basis by
11 agreement of the Chief Water Officer ~~department~~ and the affected natural
12 resources district for not more than two additional years if necessary to
13 allow the development, adoption, and implementation of an integrated
14 management plan pursuant to sections 46-715 to 46-719.

15 (12)(a) For purposes of this subsection, (i) a status change occurs
16 when a preliminary or final determination that a river basin, subbasin,
17 or reach is fully appropriated is reversed by the Chief Water Officer
18 ~~department~~ or by judicial determination and such river basin, subbasin,
19 or reach is determined not to be fully appropriated and (ii) the
20 hydrologically connected area means the geographic area within which the
21 Chief Water Officer ~~department~~ considers surface water and ground water
22 in such river basin, subbasin, or reach to be hydrologically connected.

23 (b) If a status change occurs, any stays previously in force by the
24 Chief Water Officer ~~department~~ or affected natural resources districts
25 shall remain in force until the stays imposed under this subsection are
26 in place and the Chief Water Officer ~~department~~ shall place an immediate
27 stay on the issuance of any new natural-flow, storage, or storage-use
28 appropriations in the river basin, subbasin, or reach. The Chief Water
29 Officer ~~department~~ shall also provide prompt notice of the status change
30 in accordance with subsection (1) of this section. Immediately upon
31 receipt of the notice by the affected natural resources district, there

1 shall be stays imposed as set forth in subsections (1) and (2) of this
2 section, subject to the exceptions set forth in subsection (3) of this
3 section. The stays imposed pursuant to this subsection shall remain in
4 effect within each affected natural resources district until such
5 district adopts rules and regulations in accordance with subdivision (c),
6 (d), or (e) of this subsection.

7 (c) Upon receipt of notice of a status change, each affected natural
8 resources district shall adopt rules and regulations within one hundred
9 twenty days after receipt of such notice for the prioritization and
10 granting of water well permits within the hydrologically connected area
11 for the four-year period following the status change. Nothing in this
12 subsection shall be construed to supersede the authority provided to
13 natural resources districts under subsection (2) of section 46-707 and
14 subdivisions (1)(f) and (1)(m) of section 46-739.

15 (d) The rules and regulations adopted by each affected natural
16 resources district in accordance with subdivision (c) of this subsection
17 shall (i) allow a limited number of total new ground water irrigated
18 acres annually, (ii) be created with the purpose of maintaining the
19 status of not fully appropriated based on the most recent basin
20 determination, (iii) be for a term of not less than four years, and (iv)
21 limit the number of new permits so that total new ground water irrigated
22 acres do not exceed the number set in the rules and regulations. The
23 Chief Water Officer ~~department~~ shall approve the proposed new number of
24 ground water irrigated acres within sixty days after approval by the
25 natural resources district if such district meets the conditions set
26 forth in subdivision (d)(ii) of this subsection, based on the most recent
27 basin determination.

28 (e) If the proposed new number of acres is not approved by the Chief
29 Water Officer ~~department~~ within the applicable time period as provided in
30 subdivision (d) of this subsection, the affected natural resources
31 districts shall adopt rules and regulations that allow water well permits

1 to be issued that will result in no more than two thousand five hundred
2 irrigated acres or that will result in an increase of not more than
3 twenty percent of all historically irrigated acres within the
4 hydrologically connected area of each natural resources district within
5 the affected river basin, subbasin, or reach, whichever is less, for each
6 calendar year of the four-year period following the date of the
7 determination described in this subsection. Each affected natural
8 resources district may, after the initial four-year period has expired,
9 annually determine whether water well permit limitations should continue
10 and may enforce such limitations.

11 (f) During the four-year period following the status change, the
12 Chief Water Officer department shall ensure that any new appropriation
13 granted will not cause the basin, subbasin, or reach to be fully
14 appropriated based on the most recent basin determination. The Chief
15 Water Officer department, pursuant to its rules and regulations adopted
16 and promulgated under the Nebraska Ground Water Management and Protection
17 Act, shall not issue new natural flow surface water appropriations for
18 irrigation, within the river basin, subbasin, or reach affected by the
19 status change, that will result in a net increase of more than eight
20 hundred thirty-four irrigated acres in each natural resources district
21 during each calendar year of the four-year period following the date of
22 the determination described in this subsection.

23 **Sec. 214.** Section 46-715, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-715 (1)(a) Whenever the Chief Water Officer Department of Natural
26 Resources has designated a river basin, subbasin, or reach as
27 overappropriated or has made a final determination that a river basin,
28 subbasin, or reach is fully appropriated, the natural resources districts
29 encompassing such river basin, subbasin, or reach and the Chief Water
30 Officer department shall jointly develop an integrated management plan
31 for such river basin, subbasin, or reach. The plan shall be completed,

1 adopted, and take effect within three years after such designation or
2 final determination unless the Chief Water Officer ~~department~~ and the
3 natural resources districts jointly agree to an extension of not more
4 than two additional years.

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

22 (2) In developing an integrated management plan, the effects of
23 existing and potential new water uses on existing surface water
24 appropriators and ground water users shall be considered. An integrated
25 management plan shall include the following: (a) Clear goals and
26 objectives with a purpose of sustaining a balance between water uses and
27 water supplies so that the economic viability, social and environmental
28 health, safety, and welfare of the river basin, subbasin, or reach can be
29 achieved and maintained for both the near term and the long term; (b) a
30 map clearly delineating the geographic area subject to the integrated
31 management plan; (c) one or more of the ground water controls authorized

1 for adoption by natural resources districts pursuant to section 46-739;
2 (d) one or more of the surface water controls authorized for adoption by
3 the Chief Water Officer ~~department~~ pursuant to section 46-716; and (e) a
4 plan to gather and evaluate data, information, and methodologies that
5 could be used to implement sections 46-715 to 46-717, increase
6 understanding of the surface water and hydrologically connected ground
7 water system, and test the validity of the conclusions and information
8 upon which the integrated management plan is based. The plan may also
9 provide for utilization of any applicable incentive programs authorized
10 by law. Nothing in the integrated management plan for a fully
11 appropriated river basin, subbasin, or reach shall require a natural
12 resources district to regulate ground water uses in place at the time of
13 the Chief Water Officer's ~~department's~~ preliminary determination that the
14 river basin, subbasin, or reach is fully appropriated, unless such
15 regulation is necessary to carry out the goals and objectives of a basin-
16 wide plan pursuant to section 46-755, but a natural resources district
17 may voluntarily adopt such regulations. The applicable natural resources
18 district may decide to include all water users within the district
19 boundary in an integrated management plan.

20 (3) In order to provide a process for economic development
21 opportunities and economic sustainability within a river basin, subbasin,
22 or reach, the integrated management plan shall include clear and
23 transparent procedures to track depletions and gains to streamflows
24 resulting from new, retired, or other changes to uses within the river
25 basin, subbasin, or reach. The procedures shall:

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

28 (b) Include a generally accepted methodology to be utilized to
29 estimate depletions and gains to streamflows, which methodology includes
30 location, amount, and time regarding gains to streamflows as offsets to
31 new uses;

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

4 (d) Identify procedures the natural resources district and the Chief
5 Water Officer ~~department~~ will use to report, consult, and otherwise share
6 information on new uses, changes in uses, or other activities affecting
7 water use in the river basin, subbasin, or reach;

8 (e) Identify, to the extent feasible, potential water available to
9 mitigate new uses, including, but not limited to, water rights leases,
10 interference agreements, augmentation projects, conjunctive use
11 management, and use retirement;

12 (f) Develop, to the extent feasible, an outline of plans after
13 consultation with and an opportunity to provide input from irrigation
14 districts, public power and irrigation districts, reclamation districts,
15 municipalities, other political subdivisions, and other water users to
16 make water available for offset to enhance and encourage economic
17 development opportunities and economic sustainability in the river basin,
18 subbasin, or reach; and

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

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

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

1 recharge from the river or stream involved and the surface water
2 appropriators on such river or stream from streamflow depletion caused by
3 surface water uses and ground water uses begun, in the case of a river
4 basin, subbasin, or reach designated as overappropriated or preliminarily
5 determined to be fully appropriated in accordance with section 46-713,
6 after the date of such designation or preliminary determination.

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

20 (b) In any river basin, subbasin, or reach designated as
21 overappropriated and subject to this subsection, the Chief Water Officer
22 ~~department~~ and each natural resources district encompassing such river
23 basin, subbasin, or reach shall jointly develop an integrated management
24 plan for such river basin, subbasin, or reach pursuant to subsections (1)
25 through (4) of this section. Each integrated management plan for a river
26 basin, subbasin, or reach subject to this subsection shall be consistent
27 with any basin-wide plan developed pursuant to subdivision (a) of this
28 subsection. Such integrated management plan shall be developed after
29 consultation and collaboration with irrigation districts, reclamation
30 districts, public power and irrigation districts, mutual irrigation
31 companies, 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 their
3 desire to participate in such process. In addition, the Chief Water
4 Officer ~~department~~ or the affected natural resources districts may
5 include designated representatives of other stakeholders. If agreement is
6 reached by all parties involved in such consultation and collaboration
7 process, the Chief Water Officer ~~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 Chief Water Officer
11 ~~department~~ and the affected natural resources district pursuant to
12 sections 46-715 to 46-718 or by the Interrelated Water Review Board
13 pursuant to section 46-719.

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

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

27 (i) The first incremental goals shall be to address the impact of
28 streamflow depletions to (A) surface water appropriations and (B) water
29 wells constructed in aquifers dependent upon recharge from streamflow, to
30 the extent those depletions are due to water use initiated after July 1,
31 1997, and, unless an interstate cooperative agreement for such river

1 basin, subbasin, or reach is no longer in effect, to prevent streamflow
2 depletions that would cause noncompliance by Nebraska with such
3 interstate cooperative agreement. During the first increment, the Chief
4 Water Officer ~~department~~ and the affected natural resources districts
5 shall also pursue voluntary efforts, subject to the availability of
6 funds, to offset any increase in streamflow depletive effects that occur
7 after July 1, 1997, but are caused by ground water uses initiated prior
8 to such date. The Chief Water Officer ~~department~~ and the affected natural
9 resources districts may also use other appropriate and authorized
10 measures for such purpose;

11 (ii) The Chief Water Officer ~~department~~ and the affected natural
12 resources districts may amend an integrated management plan subject to
13 this subsection (5) as necessary based on an annual review of the
14 progress being made toward achieving the goals for that increment;

15 (iii) During the ten years following adoption of an integrated
16 management plan developed under this subsection (5) or during the ten
17 years after the adoption of any subsequent increment of the integrated
18 management plan pursuant to subdivision (d)(iv) of this subsection, the
19 Chief Water Officer ~~department~~ and the affected natural resources
20 district shall conduct a technical analysis of the actions taken in such
21 increment to determine the progress towards meeting the goals and
22 objectives adopted pursuant to subsection (2) of this section. The
23 analysis shall include an examination of (A) available supplies and
24 changes in long-term availability, (B) the effects of conservation
25 practices and natural causes, including, but not limited to, drought, and
26 (C) the effects of the plan on reducing the overall difference between
27 the current and fully appropriated levels of development identified in
28 subdivision (5)(c) of this section. The analysis shall determine whether
29 a subsequent increment is necessary in the integrated management plan to
30 meet the goals and objectives adopted pursuant to subsection (2) of this
31 section and reduce the overall difference between the current and fully

1 appropriated levels of development identified in subdivision (5)(c) of
2 this section;

3 (iv) Based on the determination made in subdivision (d)(iii) of this
4 subsection, the Chief Water Officer ~~department~~ and the affected natural
5 resources districts, utilizing the consultative and collaborative process
6 described in subdivision (b) of this subsection, shall if necessary
7 identify goals for a subsequent increment of the integrated management
8 plan. Subsequent increments shall be completed, adopted, and take effect
9 not more than ten years after adoption of the previous increment; and

10 (v) If necessary, the steps described in subdivisions (d)(ii)
11 through (iv) of this subsection shall be repeated until the Chief Water
12 Officer ~~department~~ and the affected natural resources districts agree
13 that the goals and objectives identified pursuant to subsection (2) of
14 this section have been met and the overall difference between the current
15 and fully appropriated levels of development identified in subdivision
16 (5)(c) of this section has been addressed so that the river basin,
17 subbasin, or reach has returned to a fully appropriated condition.

18 (6) In any river basin, subbasin, or reach that is designated as
19 fully appropriated or overappropriated and whenever necessary to ensure
20 that the state is in compliance with an interstate compact or decree or a
21 formal state contract or agreement, the Chief Water Officer ~~department~~,
22 in consultation with the affected districts, shall forecast on an annual
23 basis the maximum amount of water that may be available from streamflow
24 for beneficial use in the short term and long term in order to comply
25 with the requirement of subdivision (4)(b) of this section. This forecast
26 shall be made by January 1, 2008, and each January 1 thereafter.

27 **Sec. 215.** Section 46-716, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-716 (1) The surface water controls that may be included in an
30 integrated management plan and may be adopted by the Chief Water Officer
31 ~~Department of Natural Resources~~ are: (a) Increased monitoring and

1 enforcement of surface water diversion rates and amounts diverted
2 annually; (b) the prohibition or limitation of additional surface water
3 appropriations; (c) requirements for surface water appropriators to apply
4 or utilize reasonable conservation measures consistent with good
5 husbandry and other requirements of section 46-231 and consistent with
6 reasonable reliance by other surface water or ground water users on
7 return flows or on seepage to the aquifer; and (d) other reasonable
8 restrictions on surface water use which are consistent with the intent of
9 section 46-715 and the requirements of section 46-231.

10 (2) If during the development of the integrated management plan the
11 Chief Water Officer ~~department~~ determines that surface water
12 appropriators should be required to apply or utilize conservation
13 measures or that other reasonable restrictions on surface water use need
14 to be imposed, the Chief Water Officer's ~~department's~~ portion of the
15 integrated management plan shall allow the affected surface water
16 appropriators and surface water project sponsors a reasonable amount of
17 time, not to exceed one hundred eighty days unless extended by the Chief
18 Water Officer ~~department~~, to identify the conservation measures to be
19 applied or utilized, to develop a schedule for such application and
20 utilization, and to comment on any other proposed restrictions.

21 **Sec. 216.** Section 46-717, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-717 (1) In developing an integrated management plan, the Chief
24 Water Officer ~~Department of Natural Resources~~ and the affected natural
25 resources districts shall utilize the best scientific data and other
26 information available and shall review and consider any rules and
27 regulations in effect in any existing ground water management area that
28 encompasses all or part of the geographic area to be encompassed by the
29 plan. Consideration shall be given to the applicable scientific data and
30 other information relied upon by the Chief Water Officer ~~department~~ in
31 preparing the annual report required by section 46-713 and to other types

1 of data and information that may be deemed appropriate by the Chief Water
2 Officer department. The Chief Water Officer department, after seeking
3 input from the affected natural resources districts, shall specify by
4 rule and regulation the types of scientific data and other information
5 that will be considered in developing an integrated management plan. The
6 natural resources districts shall adopt similar rules and regulations
7 specifying the types of scientific data and other information necessary
8 for purposes of this section. Existing research, data, studies, or any
9 other relevant information which has been compiled by or is in possession
10 of other state or federal agencies, other natural resources districts,
11 and other political subdivisions within the State of Nebraska shall be
12 utilized. State agencies and political subdivisions shall furnish
13 information or data upon request of the Chief Water Officer department or
14 any affected natural resources district. Neither the Chief Water Officer
15 ~~department~~ nor the natural resources districts shall be required to
16 conduct new research or to develop new computer models to prepare an
17 integrated management plan, but such new research may be conducted or new
18 computer models developed within the limits of available funding if the
19 additional information is desired by the Chief Water Officer ~~department~~
20 or the affected natural resources districts.

21 (2) During preparation of an integrated management plan for a fully
22 appropriated river basin, subbasin, or reach or of an integrated
23 management plan under subdivision (1)(b) of section 46-715, the Chief
24 Water Officer ~~department~~ and the affected natural resources districts
25 shall consult with any irrigation district, reclamation district, public
26 power and irrigation district, mutual irrigation company, canal company,
27 or municipality that relies on water from the affected river basin,
28 subbasin, or reach and with other water users and stakeholders as deemed
29 appropriate by the Chief Water Officer ~~department~~ or by the affected
30 natural resources districts. They shall also actively solicit public
31 comments and opinions through public meetings and other means.

1 **Sec. 217.** Section 46-718, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-718 (1) If the Chief Water Officer ~~Department of Natural~~
4 ~~Resources~~ and the affected natural resources districts preparing an
5 integrated management plan reach agreement on (a) the proposed goals and
6 objectives of the plan for the affected river basin, subbasin, or reach,
7 (b) the proposed geographic area to be subject to controls, and (c) the
8 surface water and ground water controls and any incentive programs that
9 are proposed for adoption and implementation in the river basin,
10 subbasin, or reach, they shall schedule one or more public hearings to
11 take testimony on the proposed integrated management plan and the
12 proposed controls. Such hearings shall be held within forty-five days
13 after reaching agreement and within or in reasonable proximity to the
14 area to be affected by implementation of the integrated management plan.
15 Notice of such hearings shall be published as provided in section 46-743.
16 The costs of publishing the notice shall be shared between the Chief
17 Water Officer ~~department~~ and the affected natural resources districts.
18 All interested persons may appear at the hearings and present testimony
19 or provide other evidence relevant to the issues being considered.

20 (2) Within sixty days after the final hearing under this section,
21 the Chief Water Officer ~~department~~ and the affected natural resources
22 districts shall jointly decide whether to implement the plan proposed,
23 with or without modifications, and whether to adopt and implement the
24 surface water and ground water controls and incentive programs proposed
25 in the plan. If the Chief Water Officer ~~department~~ and the natural
26 resources districts agree to implement the plan and to adopt and
27 implement the proposed controls, the natural resources districts shall by
28 order designate a ground water management area for integrated management
29 or, if the geographic area subject to the integrated management plan is
30 already in a ground water management area, the order shall designate an
31 integrated management subarea for that area. The order shall include a

1 geographic and stratigraphic definition of the ground water management
2 area or integrated management subarea and shall adopt the controls in the
3 integrated management plan that are authorized for adoption by the
4 natural resources district pursuant to section 46-739. The Chief Water
5 Officer ~~department~~ shall by order adopt the controls in the integrated
6 management plan that are authorized for adoption by the Chief Water
7 Officer ~~department~~ pursuant to section 46-716. Neither the controls
8 adopted by the district nor those adopted by the Chief Water Officer
9 ~~department~~ shall include controls substantially different from those set
10 forth in the notice of hearing. The area designated as a ground water
11 management area or an integrated management subarea by the natural
12 resources district shall not include any area that was not identified in
13 the notice of the hearing as within the area proposed to be subject to
14 the controls in the plan. The Chief Water Officer ~~department~~ and the
15 natural resources district shall each cause a copy of their respective
16 orders ~~its order~~ to be published in the manner provided in section
17 46-744.

18 (3) If at any time during the development of a basin-wide plan or an
19 integrated management plan either the Chief Water Officer ~~department~~ or
20 the affected natural resources districts conclude that the parties will
21 be unable to reach a timely agreement on the basin-wide plan or on (a)
22 the goals and objectives of the integrated management plan for the
23 affected river basin, subbasin, or reach, (b) the geographic area to be
24 subject to controls, or (c) the surface water or ground water controls or
25 any incentive programs to be proposed for adoption and implementation in
26 the affected river basin, subbasin, or reach, the Governor shall be
27 notified and the dispute shall be submitted to the Interrelated Water
28 Review Board as provided in subsection (2) of section 46-719.

29 **Sec. 218.** Section 46-719, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-719 (1)(a) The Interrelated Water Review Board is created for the

1 purposes stated in subsections (2) through (5) of this section. The board
2 shall consist of five members. The board, when appointed and convened,
3 shall continue in existence only until it has resolved a dispute referred
4 to it pursuant to such subsections. The Governor shall appoint and
5 convene the board within forty-five days of being notified of the need to
6 resolve a dispute. The board shall be chaired by the Governor or his or
7 her designee, which designee shall be knowledgeable concerning surface
8 water and ground water issues. The Governor shall appoint one additional
9 member of his or her choosing and shall appoint the other three members
10 of the board from a list of no fewer than six nominees provided by the
11 Nebraska Natural Resources Commission within twenty days after request by
12 the Governor for a list of nominees.

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

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

25 (2)(a) If the Chief Water Officer ~~Department of Natural Resources~~
26 and the affected natural resources districts cannot resolve disputes over
27 the content of a basin-wide plan or an integrated management plan by
28 utilizing the process described in sections 46-715 to 46-718, the
29 Governor shall be notified and the dispute submitted to the Interrelated
30 Water Review Board. When the board has been appointed and convened to
31 resolve disputes over a basin-wide plan, the Chief Water Officer

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

13 (b) When the Interrelated Water Review Board concludes that the
14 issues in dispute have been fully presented and commented upon by the
15 parties to the dispute, which conclusion shall be made not more than
16 forty-five days after the board is convened, the board shall select the
17 proposals or portions of proposals that the board will consider for
18 adoption and shall schedule one or more public hearings to take testimony
19 on the selected proposals. The hearings shall be held within forty-five
20 days after the board's selection of proposals to consider for adoption
21 and shall be within or in reasonable proximity to the area that would be
22 affected by implementation of any of the proposals to be considered at
23 the hearings. Notice of the hearings shall be published as provided in
24 section 46-743. The cost of publishing the notice shall be shared by the
25 Chief Water Officer ~~department~~ and the affected natural resources
26 districts. All interested persons may appear at the hearings and present
27 testimony or provide other evidence relevant to the issues being
28 considered.

29 (c) Within forty-five days after the final hearing pursuant to
30 subdivision (b) of this subsection, the Interrelated Water Review Board
31 shall by order, as applicable, adopt a basin-wide plan or an integrated

1 management plan for the affected river basin, subbasin, or reach and, in
2 the case of an integrated management plan, shall designate a ground water
3 management area for integrated management or an integrated management
4 subarea for such river basin, subbasin, or reach. An integrated
5 management plan shall be consistent with subsection (2) of section
6 46-715, and the surface water and ground water controls and any
7 applicable incentive programs adopted as part of that plan shall be
8 consistent with subsection (4) of section 46-715. The controls adopted by
9 the board shall not be substantially different from those described in
10 the notice of hearing. The area designated as a ground water management
11 area or an integrated management subarea shall not include any area that
12 was not identified in the notice of the hearing as within the area
13 proposed to be subject to the controls in the plan.

14 (d) The order adopted under this subsection shall be published in
15 the manner prescribed in section 46-744.

16 (e) Surface water controls adopted by the Interrelated Water Review
17 Board shall be implemented and enforced by the Chief Water Officer
18 ~~department~~. Ground water controls adopted by the Interrelated Water
19 Review Board shall be implemented and enforced by the affected natural
20 resources districts.

21 (3) Whether an integrated management plan is adopted pursuant to
22 section 46-718 or by the Interrelated Water Review Board pursuant to
23 subsection (2) of this section, the Chief Water Officer ~~department~~ or a
24 natural resources district responsible in part for implementation and
25 enforcement of an integrated management plan may propose modification of
26 the goals or objectives of that plan, of the area subject to the plan, or
27 of the surface water controls, ground water controls, or incentive
28 programs adopted to implement the plan. The Chief Water Officer
29 ~~department~~ and the affected natural resources districts shall utilize the
30 procedures in sections 46-715 to 46-718 in an attempt to reach agreement
31 on and to adopt and implement proposed modifications. If agreement on

1 such modifications cannot be achieved utilizing those procedures, either
2 the Chief Water Officer ~~department~~ or an affected natural resources
3 district may notify the Governor of the dispute. The Interrelated Water
4 Review Board shall be appointed and convened in accordance with
5 subsection (1) of this section to resolve the dispute and, if applicable,
6 to adopt any modifications utilizing the procedures in subsection (2) of
7 this section.

8 (4) The Chief Water Officer ~~department~~ and the affected natural
9 resources districts may also raise objections concerning the
10 implementation or enforcement of previously adopted surface water or
11 ground water controls. The Chief Water Officer ~~department~~ and the
12 affected natural resources districts shall utilize the procedures in
13 sections 46-715 to 46-718 in an attempt to reach agreement on such
14 implementation or enforcement issues. If agreement on such issues cannot
15 be achieved utilizing such procedures, either the Chief Water Officer
16 ~~department~~ or an affected natural resources district may notify the
17 Governor of the dispute. The Interrelated Water Review Board shall be
18 appointed and convened in accordance with subsection (1) of this section.
19 After permitting each party to fully express the its reasons for the its
20 position taken by each party on the disputed issues, the board may either
21 take no action or conclude (a) that one or more parties needs to modify
22 the party's its approach to implementation or enforcement and direct that
23 such modifications take place or (b) that one or more parties either has
24 not made a good faith effort to implement or enforce the portion of the
25 plan or controls for which the party it is responsible or is unable to
26 fully implement and enforce such portion and that such party's
27 jurisdiction with respect to implementation and enforcement of the plan
28 and controls shall be terminated and reassigned to one or more of the
29 other parties responsible for implementation and enforcement. A decision
30 by the Interrelated Water Review Board to terminate and reassign
31 jurisdiction of any portion of the plan or controls shall take effect

1 immediately upon that decision. Notice of such reassignment shall be
2 published at least once in one or more newspapers as necessary to provide
3 general circulation in the area affected by such reassignment.

4 (5) The board may be reconvened in accordance with subsection (1) of
5 this section at a later date upon request to the Governor by the party
6 for which jurisdiction for implementation and enforcement was terminated
7 if such party desires to have the party's ~~its~~ jurisdiction reinstated,
8 but no such request shall be honored until at least one year after the
9 termination and not more than once per year thereafter. The board may
10 reinstate jurisdiction to that party only upon a clear showing by such
11 party that the party ~~it~~ is willing and able to fully implement and
12 enforce the plan and any applicable controls. Notice that a party's
13 jurisdiction has been reinstated shall be provided in the same manner
14 that notice of the earlier termination was given.

15 **Sec. 219.** Section 46-720, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-720 (1) The Legislature finds that, prior to July 16, 2004,
18 actions were taken by the Department of Natural Resources as it existed
19 prior to July 1, 2025, and by one or more natural resources districts
20 pursuant to section 46-656.28, as such section existed immediately prior
21 to July 16, 2004 ~~such date~~, for the purpose of addressing circumstances
22 that are, after July 16, 2004 ~~such date~~, to be addressed in accordance
23 with sections 46-713 to 46-719. It is the intent of the Legislature that
24 actions taken pursuant to section 46-656.28, as such section existed
25 immediately prior to July 16, 2004, should not be negated and that
26 transition from the authorities and responsibilities granted by such
27 section to those granted by sections 46-713 to 46-719 should occur in as
28 efficient a manner as possible. Such transition shall be therefor
29 governed by subsections (2) through (5) of this section, and all
30 references in such subsections to section 46-656.28 shall be construed to
31 mean section 46-656.28 as such section existed immediately prior to July

1 16, 2004.

2 (2) If, prior to July 16, 2004, (a) a natural resources district
3 requested pursuant to subsection (1) of section 46-656.28 that affected
4 appropriators, affected surface water project sponsors, and the
5 department consult and that studies and a hearing be held but (b) the
6 Director of Natural Resources, as such position existed, had ~~has~~ not made
7 a preliminary determination relative to that request pursuant to
8 subsection (2) of section 46-656.28, no further action on the district's
9 request shall be required of the department. If under the same
10 circumstances a temporary suspension in the drilling of certain water
11 wells has been imposed by the district pursuant to subsection (16) of
12 section 46-656.28 and remains in effect immediately prior to July 16,
13 2004, such temporary suspension shall remain in effect for thirty days
14 after the department issues its first annual report under section 46-713,
15 except that (i) such temporary suspension shall not apply to water wells
16 for which a permit has been obtained pursuant to the Municipal and Rural
17 Domestic Ground Water Transfers Permit Act and (ii) to the extent any
18 such temporary suspension is in effect for all or part of a
19 hydrologically connected area for a river basin, subbasin, or reach
20 designated as overappropriated by the department, such temporary
21 suspension shall remain in effect only until it is superseded by the
22 stays imposed pursuant to subsections (8) and (9) of section 46-714. To
23 the extent that any such temporary suspension applies to a geographic
24 area preliminarily considered by the department to have ground water
25 hydrologically connected to the surface water of a fully appropriated
26 river basin, subbasin, or reach, such temporary suspension shall be
27 superseded by the stays imposed pursuant to subsections (1) and (2) of
28 section 46-714.

29 (3)(a) If prior to July 16, 2004, (i) the director has made a
30 preliminary determination pursuant to subsection (2) of section 46-656.28
31 that there is reason to believe that the use of hydrologically connected

1 ground water and surface water in a specific geographic area is
2 contributing to or is in the reasonably foreseeable future likely to
3 contribute to any conflict, dispute, or difficulty listed in such
4 subsection, (ii) the director has not made a determination pursuant to
5 subsection (4) of section 46-656.28 that a joint action plan should not
6 be prepared, and (iii) preparation of a joint action plan pursuant to
7 subsections (5) through (9) of such section has not been completed, the
8 geographic area involved shall become subject to sections 46-713 to
9 46-719 on July 16, 2004, and the department need not evaluate such
10 geographic area in its first annual report issued pursuant to section
11 46-713.

12 (b) For purposes of this subsection and section 46-714 and except as
13 otherwise provided in this section, (i) July 16, 2004, shall result in
14 the imposition in any geographic area subject to this subsection of the
15 stays required by subsections (1) and (2) of section 46-714, (ii) such
16 stays shall be imposed in the manner required by such section, and (iii)
17 July 16, 2004, shall be treated as if it were the date of a departmental
18 preliminary determination pursuant to section 46-713 that such area is a
19 geographic area within which ground water and surface water of a fully
20 appropriated river basin, subbasin, or reach are hydrologically
21 connected. Notwithstanding the other provisions of this subsection, if a
22 temporary suspension in the drilling of certain new water wells has
23 previously been imposed by the affected natural resources district, (A)
24 the stays on construction of new water wells and on the increase in
25 ground water irrigated acres shall be limited in geographic extent to
26 only that part of the affected area within which the temporary suspension
27 was in effect unless the director determines that inclusion of additional
28 area is necessary because ground water and surface water are
29 hydrologically connected in such additional area and (B) the stays on
30 construction of certain new water wells shall not apply to a water well
31 constructed in accordance with the terms of a water well construction

1 permit approved by the district prior to July 16, 2004, unless such well
2 was subject to the district's temporary suspension. If, prior to July 16,
3 2004, the director has held a hearing on a report issued pursuant to
4 subsection (3) of section 46-656.28 but has not yet determined whether a
5 joint action plan should be prepared, no departmental hearing shall be
6 required pursuant to subsection (4) of section 46-714 before a final
7 determination is made about whether the river basin, subbasin, or reach
8 involved is fully appropriated. If, prior to July 16, 2004, the director
9 has determined pursuant to subsection (4) of section 46-656.28 that a
10 joint action plan should be prepared, such determination shall have the
11 same effect as a final departmental determination pursuant to subsection
12 (5) of section 46-714 that the affected river basin, subbasin, or reach
13 is fully appropriated and no separate determination to that effect shall
14 be required. If, after July 16, 2004, the department determines that all
15 or part of the area subject to this subsection is in an overappropriated
16 river basin, subbasin, or reach, that portion of the area shall
17 thereafter be subject to the provisions of the Nebraska Ground Water
18 Management and Protection Act applicable to an overappropriated river
19 basin, subbasin, or reach and stays that have previously taken effect in
20 accordance with this subsection shall continue in effect as stays for an
21 overappropriated river basin, subbasin, or reach without additional
22 action or publication of notice by the department. Any temporary
23 suspension in the drilling of certain water wells that has been imposed
24 in the geographic area involved by a natural resources district pursuant
25 to subsection (16) of section 46-656.28 prior to July 16, 2004, shall
26 remain in effect until superseded by the stays imposed pursuant to
27 subsections (1) and (2) of section 46-714.

28 (4) If, prior to July 16, 2004, preparation of a joint action plan
29 has been completed pursuant to subsections (5) through (9) of section
30 46-656.28 but the plan has not yet been adopted pursuant to subsection
31 (11) of such section, the department need not evaluate the affected

1 geographic area in its first annual report issued pursuant to section
2 46-713. The department and the affected natural resources district shall
3 review the completed joint action plan for its compliance with sections
4 46-715 to 46-717. If the joint action plan is determined to be in
5 compliance with sections 46-715 to 46-717 or if agreement is reached on
6 the revisions necessary to bring it into such compliance, the department
7 and the district shall adopt the plan and implement the controls as
8 provided in section 46-718. If the joint action plan is determined not to
9 be in compliance with sections 46-715 to 46-717 and agreement on the
10 proposed plan or the proposed controls cannot be reached pursuant to
11 section 46-718, section 46-719 shall apply. Except to the extent that any
12 portion of the affected area is designated as all or part of an
13 overappropriated river basin, subbasin, or reach, any temporary
14 suspension in the drilling of certain water wells imposed in the affected
15 geographic area by a natural resources district pursuant to subsection
16 (16) of section 46-656.28 shall remain in effect until (a) the department
17 and the affected district have jointly decided to implement the plan,
18 with or without modifications, and controls have been adopted and taken
19 effect or (b) the Interrelated Water Review Board, pursuant to section
20 46-719, has adopted an integrated management plan for the affected river
21 basin, subbasin, or reach and the controls adopted by the board have
22 taken effect. To the extent that any portion of the affected area is
23 designated as all or part of an overappropriated river basin, subbasin,
24 or reach, any temporary suspension in the drilling of water wells shall
25 be superseded by the stays imposed pursuant to subsections (8) and (9) of
26 section 46-714.

27 (5) If, before July 16, 2004, a joint action plan has been adopted
28 and implemented pursuant to subsections (10) through (12) of section
29 46-656.28 and is in effect immediately prior to such date, the department
30 need not evaluate the geographic area subject to the plan in the
31 department's first annual report issued pursuant to section 46-713. For

1 purposes of the Nebraska Ground Water Management and Protection Act, (a)
2 the plan adopted shall be considered an integrated management plan
3 adopted pursuant to section 46-718, (b) the management area designated
4 shall be considered an integrated management area or subarea designated
5 pursuant to section 46-718, and (c) the controls adopted shall be
6 considered controls adopted pursuant to section 46-718 and shall remain
7 in effect until amended or repealed pursuant to section 46-718 or 46-719.

8 **Sec. 220.** Section 46-721, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-721 Each state agency and political subdivision shall promptly
11 report to the department ~~Department of Environment and Energy~~ any
12 information which indicates that contamination is occurring.

13 **Sec. 221.** Section 46-722, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-722 If, as a result of information provided pursuant to section
16 46-721 or studies conducted by or otherwise available to the department
17 ~~Department of Environment and Energy~~ and following preliminary
18 investigation, the director ~~Director of Environment and Energy~~ makes a
19 preliminary determination (1) that there is reason to believe that
20 contamination of ground water is occurring or likely to occur in an area
21 of the state in the reasonably foreseeable future and (2) that the
22 natural resources district or districts in which the area is located have
23 not designated a management area or have not implemented adequate
24 controls to prevent such contamination from occurring, the department
25 shall, in cooperation with any appropriate state agency and district,
26 conduct a study to determine the source or sources of the contamination
27 and the area affected by such contamination and shall issue a written
28 report within one year of the initiation of the study. During the study,
29 the department shall consider the relevant water quality portions of the
30 management plan developed by each district pursuant to sections 46-709 to
31 46-711, whether the district has designated a management area

1 encompassing the area studied, and whether the district has adopted any
2 controls for the area.

3 **Sec. 222.** Section 46-723, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-723 If the director ~~Director of Environment and Energy~~ determines
6 from the study conducted pursuant to section 46-722 that one or more
7 sources of contamination are point sources, he or she shall expeditiously
8 use the procedures authorized in the Environmental Protection Act to
9 stabilize or reduce the level and prevent the increase or spread of such
10 contamination.

11 **Sec. 223.** Section 46-724, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-724 If the director ~~Director of Environment and Energy~~ determines
14 from the study conducted pursuant to section 46-722 that one or more
15 sources of contamination are not point sources and if a management area,
16 a purpose of which is protection of water quality, has been established
17 which includes the affected area, the director ~~Director of Environment
18 and Energy~~ shall consider whether to require the district which
19 established the management area to adopt an action plan as provided in
20 sections 46-725 to 46-729.

21 If the director ~~Director of Environment and Energy~~ determines that
22 one or more of the sources are not point sources and if such a management
23 area has not been established or does not include all the affected area,
24 he or she shall, within thirty days after completion of the report
25 required by section 46-722, consult with the district within whose
26 boundaries the area affected by such contamination is located and fix a
27 time and place for a public hearing to consider the report, hear any
28 other evidence, and secure testimony on whether a management area should
29 be designated or whether an existing area should be modified. The hearing
30 shall be held within one hundred twenty days after completion of the
31 report. Notice of the hearing shall be given as provided in section

1 46-743, and the hearing shall be conducted in accordance with such
2 section.

3 At the hearing, all interested persons shall be allowed to appear
4 and present testimony. The Conservation and Survey Division of the
5 University of Nebraska, the Department of Health and Human Services, the
6 ~~Department of Natural Resources,~~ and the appropriate district may offer
7 as evidence any information in their possession which they deem relevant
8 to the purpose of the hearing. After the hearing and after any studies or
9 investigations conducted by or on behalf of the director ~~Director of~~
10 ~~Environment and Energy~~ as he or she deems necessary, the director shall
11 determine whether a management area shall be designated.

12 **Sec. 224.** Section 46-725, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-725 (1) When determining whether to designate or modify the
15 boundaries of a management area or to require a district which has
16 established a management area, a purpose of which is protection of water
17 quality, to adopt an action plan for the affected area, the director
18 ~~Director of Environment and Energy~~ shall consider:

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

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

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

28 (d) Whether, if a management area has been established which
29 includes the affected area, the controls adopted by the district pursuant
30 to section 46-739 as administered and enforced by the district are
31 sufficient to address the ground water quality issues in the management

1 area; and

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

4 (2) If the director ~~Director of Environment and Energy~~ determines
5 that no such area should be established, he or she shall issue an order
6 declaring that no management area shall be designated.

7 (3) If the director ~~Director of Environment and Energy~~ determines
8 that a management area shall be established, that the boundaries of an
9 existing management area shall be modified, or that the district shall be
10 required to adopt an action plan, he or she shall consult with relevant
11 state agencies and with the district or districts affected and determine
12 the boundaries of the area, taking into account the effect on political
13 subdivisions and the socioeconomic and administrative factors directly
14 affecting the ability to implement and carry out local ground water
15 management, control, and protection. The report by the director ~~Director~~
16 ~~of Environment and Energy~~ shall include the specific reasons for the
17 creation of the management area or the requirement of such an action plan
18 and a full disclosure of the possible causes.

19 (4) When the boundaries of an area have been determined or modified,
20 the director ~~Director of Environment and Energy~~ shall issue an order
21 designating the area as a management area, specifying the modified
22 boundaries of the management area, or requiring such an action plan. Such
23 an order shall include a geographic and stratigraphic definition of the
24 area. Such order shall be published in the manner provided in section
25 46-744.

26 **Sec. 225.** Section 46-726, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-726 (1) Within one hundred eighty days after the designation of a
29 management area or the requiring of an action plan for a management area,
30 a purpose of which is protection of water quality, the district or
31 districts within whose boundaries the area is located shall prepare an

1 action plan designed to stabilize or reduce the level and prevent the
2 increase or spread of ground water contamination. Whenever a management
3 area or the affected area of such a management area encompasses portions
4 of two or more districts, the responsibilities and authorities delegated
5 in this section shall be exercised jointly and uniformly by agreement of
6 the respective boards of all districts so affected.

7 (2) Within thirty days after an action plan has been prepared, a
8 public hearing on such plan shall be held by the district. Notice of the
9 hearing shall be given as provided in section 46-743, and the hearing
10 shall be conducted in accordance with such section.

11 (3) Within thirty days after the hearing, the district shall adopt
12 and submit an action plan to the department ~~Department of Environment and~~
13 ~~Energy~~. Notice of the district's order adopting an action plan shall be
14 published as required by section 46-744.

15 **Sec. 226.** Section 46-728, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-728 (1) In adopting or amending an action plan authorized by
18 subsection (2) of this section, the district's considerations shall
19 include, but not be limited to, whether it reasonably appears that such
20 action will mitigate or eliminate the condition which led to designation
21 of the management area or the requirement of an action plan for a
22 management area or will improve the administration of the area.

23 (2) The director ~~Director of Environment and Energy~~ shall approve or
24 deny the adoption or amendment of an action plan within one hundred
25 twenty days after the date the plan is submitted by the district. He or
26 she may hold a public hearing to consider testimony regarding the action
27 plan prior to the issuance of an order approving or disapproving the
28 adoption or amendment. In approving the adoption or amendment of the plan
29 in such an area, considerations shall include, but not be limited to,
30 those enumerated in subsection (1) of this section.

31 (3) If the director denies approval of an action plan by the

1 district, the order shall list the reason the action plan was not
2 approved. A district may submit a revised action plan within sixty days
3 after denial of its original action plan to the director for approval
4 subject to section 46-731.

5 **Sec. 227.** Section 46-729, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-729 Following approval of the action plan by the director
8 ~~Director of Environment and Energy~~, the district shall cause a copy of
9 the order adopted pursuant to section 46-728 to be published in the
10 manner provided in section 46-744.

11 **Sec. 228.** Section 46-730, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-730 Each district in which a management area has been designated
14 or an action plan for a management area has been required pursuant to
15 section 46-725 shall, in cooperation with the department ~~Department of~~
16 ~~Environment and Energy~~, establish a program to monitor the quality of the
17 ground water in the area and shall if appropriate provide each landowner
18 or operator of an irrigation system with current information available
19 with respect to fertilizer and chemical usage for the specific soil types
20 present and cropping patterns used.

21 **Sec. 229.** Section 46-731, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-731 (1) The power to specify controls authorized by section
24 46-739 shall vest in the director ~~Director of Environment and Energy~~ if
25 (a) at the end of one hundred eighty days following the designation of a
26 management area or the requiring of an action plan for a management area
27 pursuant to section 46-725, a district encompassed in whole or in part by
28 the management area has not completed and adopted an action plan, (b) a
29 district does not submit a revised action plan within sixty days after
30 denial of its original action plan, or (c) the district submits a revised
31 action plan which is not approved by the director.

1 (2) If the power to specify controls in such a management area is
2 vested in the director ~~Director of Environment and Energy~~, he or she
3 shall within ninety days adopt and promulgate by rule and regulation such
4 measures as he or she deems necessary for carrying out the intent of the
5 Nebraska Ground Water Management and Protection Act. He or she shall
6 conduct one or more public hearings prior to the adoption of controls.
7 Notice of any such additional hearings shall be given in the manner
8 provided in section 46-743. The enforcement of controls adopted pursuant
9 to this section shall be the responsibility of the department ~~Department~~
10 ~~of Environment and Energy~~.

11 **Sec. 230.** Section 46-732, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-732 The controls in the action plan approved by the director
14 ~~Director of Environment and Energy~~ pursuant to section 46-728 shall be
15 exercised by the district for the period of time necessary to stabilize
16 or reduce the level of contamination and prevent the increase or spread
17 of ground water contamination. An action plan may be amended by the same
18 method utilized in the adoption of the action plan.

19 **Sec. 231.** Section 46-733, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-733 A district may petition the director ~~Director of Environment~~
22 ~~and Energy~~ to remove the director's designation of the area as a
23 management area or the requirement of an action plan for a management
24 area or to modify the boundaries of a management area designated pursuant
25 to section 46-725. If the director determines that the level of
26 contamination in a management area has stabilized at or been reduced to a
27 level which is not detrimental to beneficial uses of ground water, he or
28 she may remove the designation or action plan requirement or modify the
29 boundaries of the management area.

30 **Sec. 232.** Section 46-736, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-736 An application for a permit or late permit for a water well
2 in a management area shall be denied only if the district in which the
3 water well is to be located finds (1) that the location or operation of
4 the proposed water well or other work would conflict with any regulations
5 or controls adopted by the district, (2) that the proposed use would not
6 be a beneficial use of water, or (3) in the case of a late permit only,
7 that the applicant did not act in good faith in failing to obtain a
8 timely permit.

9 If the district finds that the application is incomplete or
10 defective, it shall return the application for correction. If the
11 correction is not made within sixty days, the application shall be
12 canceled. All permits shall be issued with or without conditions attached
13 or denied not later than thirty days after receipt by the district of a
14 complete and properly prepared application.

15 A permit issued shall specify all regulations and controls adopted
16 by a district relevant to the construction or utilization of the proposed
17 water well. No refund of any application fees shall be made regardless of
18 whether the permit is issued, canceled, or denied. The district shall
19 transmit one copy of each permit issued to the department ~~Director of~~
20 ~~Natural Resources~~.

21 **Sec. 233.** Section 46-737, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-737 The issuance by the district of a permit pursuant to section
24 46-736 or registration of a water well by the department ~~Director of~~
25 ~~Natural Resources~~ pursuant to section 46-602 shall not vest in any person
26 the right to violate any district rule, regulation, or control in effect
27 on the date of issuance of the permit or the registration of the water
28 well or to violate any rule, regulation, or control properly adopted
29 after such date.

30 **Sec. 234.** Section 46-739, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-739 (1) A district in which a management area has been designated
2 shall by order adopt one or more of the following controls for the
3 management area:

4 (a) It may allocate the amount of ground water that may be withdrawn
5 by ground water users;

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

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

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

11 (e) It may adopt a system which requires reduction of irrigated
12 acres pursuant to subsection (2) of section 46-740;

13 (f) It may limit or prevent the expansion of irrigated acres or
14 otherwise limit or prevent increases in the consumptive use of ground
15 water withdrawals from water wells used for irrigation or other
16 beneficial purposes;

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

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

20 (i) It may impose mandatory educational requirements designed to
21 protect water quality or to stabilize or reduce the incidence of ground
22 water depletion, conflicts between ground water users and surface water
23 appropriators, disputes over interstate compacts or decrees, or
24 difficulties fulfilling the provisions of other formal state contracts or
25 agreements;

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

29 (k) It may require district approval of (i) transfers of ground
30 water off the land where the water is withdrawn, (ii) transfers of rights
31 to use ground water that result from district allocations imposed

1 pursuant to subdivision (1)(a) of this section or from other restrictions
2 on use that are imposed by the district in accordance with this section,
3 (iii) transfers of certified water uses or certified irrigated acres
4 between landowners or other persons, or (iv) transfers of certified water
5 uses or certified irrigated acres between parcels or tracts under the
6 control of a common landowner or other person. Such approval may be
7 required whether the transfer is within the management area, from inside
8 to outside the management area, or from outside to inside the management
9 area, except that transfers for which permits have been obtained from the
10 Department of Natural Resources, as it existed, prior to July 16, 2004,
11 or pursuant to the Municipal and Rural Domestic Ground Water Transfers
12 Permit Act shall not be subject to district approval pursuant to this
13 subdivision. If the district adopts rules and regulations pursuant to
14 this subdivision, such regulations shall require that the district deny
15 or condition the approval of any such transfer when and to the extent
16 such action is necessary to (A) ensure the consistency of the transfer
17 with the purpose or purposes for which the management area was
18 designated, (B) prevent adverse effects on other ground water users or on
19 surface water appropriators, (C) prevent adverse effects on the state's
20 ability to comply with an interstate compact or decree or to fulfill the
21 provisions of any other formal state contract or agreement, and (D)
22 otherwise protect the public interest and prevent detriment to the public
23 welfare. Approval of any transfer of certified water uses or certified
24 irrigated acres under subdivision (1)(k)(iii) or (iv) of this section
25 shall further be subject to the district having complied with the
26 requirements of section 46-739.01;

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

1 (m) It may close all or a portion of the management area to the
2 issuance of additional permits or may condition the issuance of
3 additional permits on compliance with other rules and regulations adopted
4 and promulgated by the district to achieve the purpose or purposes for
5 which the management area was designated; and

6 (n) It may adopt and promulgate such other reasonable rules and
7 regulations as are necessary to carry out the purpose for which a
8 management area was designated.

9 (2) In adopting, amending, or repealing any control authorized by
10 subsection (1) of this section or sections 46-740 and 46-741, the
11 district's considerations shall include, but not be limited to, whether
12 it reasonably appears that such action will mitigate or eliminate the
13 condition which led to designation of the management area or will improve
14 the administration of the area.

15 (3) Upon request by the district or when any of the controls being
16 proposed are for the purpose of integrated management of hydrologically
17 connected ground water and surface water, the Chief Water Officer
18 ~~Director of Natural Resources~~ shall review and comment on the adoption,
19 amendment, or repeal of any authorized control in a management area. The
20 Chief Water Officer ~~director~~ may hold a public hearing to consider
21 testimony regarding the control prior to commenting on the adoption,
22 amendment, or repeal of the control. The Chief Water Officer ~~director~~
23 shall consult with the district and fix a time, place, and date for such
24 hearing. In reviewing and commenting on an authorized control in a
25 management area, the Chief Water Officer's ~~director's~~ considerations
26 shall include, but not be limited to, those enumerated in subsection (2)
27 of this section.

28 (4) If because of varying ground water uses, varying surface water
29 uses, different irrigation distribution systems, or varying climatic,
30 hydrologic, geologic, or soil conditions existing within a management
31 area the uniform application throughout such area of one or more controls

1 would fail to carry out the intent of the Nebraska Ground Water
2 Management and Protection Act in a reasonably effective and equitable
3 manner, the controls adopted by the district pursuant to this section may
4 contain different provisions for different categories of ground water use
5 or portions of the management area which differ from each other because
6 of varying climatic, hydrologic, geologic, or soil conditions. Any
7 differences in such provisions shall recognize and be directed toward
8 such varying ground water uses or varying conditions. Except as otherwise
9 provided in this section, if the district adopts different controls for
10 different categories of ground water use, those controls shall be
11 consistent with section 46-613 and shall, for each such category, be
12 uniform for all portions of the area which have substantially similar
13 climatic, hydrologic, geologic, and soil conditions.

14 (5) The district may establish different water allocations for
15 different irrigation distribution systems.

16 (6)(a) The district may establish different provisions for different
17 hydrologic relationships between ground water and surface water.

18 (b) For management areas a purpose of which is the integrated
19 management of hydrologically connected ground water and surface water,
20 the district may establish different provisions for water wells either
21 permitted or constructed before the designation of a management area for
22 integrated management of hydrologically connected ground water and
23 surface water and for water wells either permitted or constructed on or
24 after the designation date or any other later date or dates established
25 by the district. Permits for construction of new wells not completed by
26 the date of the determination of fully appropriated shall be subject to
27 any conditions imposed by the applicable natural resources district.

28 (c) For a management area in a river basin or part of a river basin
29 that is or was the subject of litigation over an interstate water compact
30 or decree in which the State of Nebraska is a named defendant, the
31 district may establish different provisions for restriction of water

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

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

12 (7) If the district has included controls delineated in subdivision
13 (1)(m) of this section in its management plan, but has not implemented
14 such controls within two years after the initial public hearing on the
15 controls, the district shall hold a public hearing, as provided in
16 section 46-712, regarding the controls before implementing them.

17 (8) In addition to the controls listed in subsection (1) of this
18 section, a district in which a management area has been designated may
19 also adopt and implement one or more of the following measures if it
20 determines that any such measures would help the district and water users
21 achieve the goals and objectives of the management area: (a) It may
22 sponsor nonmandatory educational programs; and (b) it may establish and
23 implement financial or other incentive programs. As a condition for
24 participation in an incentive program, the district may require water
25 users or landowners to enter into and perform such agreements or
26 covenants concerning the use of land or water as are necessary to produce
27 the benefits for which the incentive program is established and shall
28 further condition participation upon satisfaction of the requirements of
29 section 46-739.01.

30 **Sec. 235.** Section 46-740, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-740 (1) If allocation is adopted for use of ground water for
2 irrigation purposes in a management area, the permissible withdrawal of
3 ground water shall be allocated equally per irrigated acre except as
4 permitted by subsections (4) through (6) of section 46-739. Such
5 allocation shall specify the total number of acre-inches that are
6 allocated per irrigated acre per year, except that the district may allow
7 a ground water user to average his or her allocation over any reasonable
8 period of time. A ground water user may use his or her allocation on all
9 or any part of the irrigated acres to which the allocation applies or in
10 any other manner approved by the district.

11 (2) Except as permitted pursuant to subsections (4) through (6) of
12 section 46-739, if annual rotation or reduction of irrigated acres is
13 adopted for use of ground water for irrigation purposes in a management
14 area, the nonuse of irrigated acres shall be a uniform percentage
15 reduction of each landowner's irrigated acres within the management area
16 or a subarea of the management area. Such uniform reduction may be
17 adjusted for each landowner based upon crops grown on his or her land to
18 reflect the varying consumptive requirements between crops.

19 (3) Unless an integrated management plan, a rule, or an order is
20 established, adopted, or issued prior to November 1, 2005, no integrated
21 management plan, rule, or order shall limit the use of ground water by a
22 municipality, within an area determined by the Chief Water Officer
23 ~~Department of Natural Resources~~ to be fully appropriated pursuant to
24 section 46-714 or designated as overappropriated pursuant to section
25 46-713, until January 1, 2026, except that:

26 (a) Any allocations to a municipality that have been made as of
27 November 1, 2005, shall remain in full force and effect unless changed by
28 the appropriate natural resources district;

29 (b)(i) For any municipality that has not received an allocation as
30 of November 1, 2005, the minimum annual allocation may be the greater of
31 either the amount of ground water authorized by a permit issued pursuant

1 to the Municipal and Rural Domestic Ground Water Transfers Permit Act or
2 the governmental, commercial, and industrial uses of the municipality
3 plus a per capita allowance. Water for commercial and industrial uses may
4 be limited as specified in subdivision (b)(iii) of this subsection.

5 (ii) The per capita allowance shall be based on the location of the
6 municipality, increasing in equal increments from east to west, and shall
7 not be less than two hundred gallons per person per day at 95 degrees, 19
8 minutes, 00 seconds longitude and not less than two hundred fifty gallons
9 per person per day at 104 degrees, 04 minutes, 00 seconds longitude.
10 Persons served by a municipality outside of its corporate limits shall be
11 considered part of the municipality's population if such service begins
12 prior to January 1, 2026.

13 (iii) Prior to January 1, 2026, any new or expanded single
14 commercial or single industrial development served by any municipality
15 within the fully appropriated or overappropriated area which, after July
16 14, 2006, commences water use resulting in the consumptive use of water
17 in amounts greater than twenty-five million gallons annually may be
18 subject to controls adopted pursuant to section 46-715;

19 (c) Prior to January 1, 2026, increases in the consumptive use of
20 water by a municipality that result in a decrease in streamflow shall be
21 addressed by the integrated management plan pursuant to controls or
22 incentive programs adopted pursuant to section 46-715 and shall not
23 affect the municipal allocations outlined in subdivisions (3)(a) and (b)
24 of this section. Any permanent reduction in consumptive use of water
25 associated with municipal growth, including governmental, industrial, and
26 commercial growth, during the period between July 14, 2006, and January
27 1, 2026, shall accrue to the benefit of the natural resources district
28 within which such municipality is located; and

29 (d) To qualify for the exemption specified in subsection (3) of this
30 section, any city of the metropolitan class, city of the primary class,
31 city of the first class, or city of the second class shall file a

1 conservation plan with the natural resources district, if required by the
2 integrated management plan. Villages and other municipalities smaller
3 than a city of the second class shall not be required to submit a
4 conservation plan to qualify for such exemption.

5 (4) On and after January 1, 2026, the base amount for an annual
6 allocation to a municipality shall be determined as the greater of either
7 (a) the amount of water authorized by a permit issued pursuant to the
8 Municipal and Rural Domestic Ground Water Transfers Permit Act or (b) the
9 greatest annual use prior to January 1, 2026, for uses specified in
10 subdivision (3)(b) of this section plus the per capita allowance
11 described in subdivision (3)(b)(ii) of this section. On and after January
12 1, 2026, increases in the consumptive use of water by a municipality that
13 result in a decrease in streamflow shall be addressed by the integrated
14 management plan pursuant to controls or incentive programs adopted
15 pursuant to section 46-715. Each municipality may be subject to controls
16 adopted pursuant to such section for amounts in excess of the
17 allocations.

18 (5) Unless an integrated management plan, rule, or order is
19 established, adopted, or issued prior to November 1, 2005, no integrated
20 management plan, rule, or order shall limit the use of ground water by a
21 nonmunicipal commercial or industrial water user within an area
22 determined by the Department of Natural Resources as it existed prior to
23 July 1, 2025, or the Chief Water Officer ~~department~~ to be fully
24 appropriated pursuant to section 46-714 or designated as overappropriated
25 pursuant to section 46-713, until January 1, 2026, except that:

26 (a) Prior to January 1, 2026, the minimum annual allocation for a
27 nonmunicipal commercial or industrial user shall be the greater of either
28 (i) the amount specified in a permit issued pursuant to the Industrial
29 Ground Water Regulatory Act or (ii) the amount necessary to achieve the
30 commercial or industrial use, including all new or expanded uses that
31 consume less than twenty-five million gallons annually. Any increases in

1 the consumptive use of water by a nonmunicipal commercial or industrial
2 water user that result in a decrease in streamflow shall be addressed by
3 the integrated management plan pursuant to controls or incentive programs
4 adopted pursuant to section 46-715;

5 (b) Prior to January 1, 2026, any new or expanded single commercial
6 or industrial development served by a nonmunicipal well within an area
7 determined by the Department of Natural Resources as it existed prior to
8 July 1, 2025, or the Chief Water Officer ~~department~~ to be fully
9 appropriated pursuant to section 46-714 or designated as overappropriated
10 pursuant to section 46-713 which, after July 14, 2006, commences water
11 use resulting in the consumptive use of water in amounts greater than
12 twenty-five million gallons annually may be subject to controls adopted
13 pursuant to section 46-715. This subdivision does not apply to a water
14 user described in this subdivision that is regulated by the Industrial
15 Ground Water Regulatory Act and the United States Nuclear Regulatory
16 Commission;

17 (c) On and after January 1, 2026, the base amount for an annual
18 allocation to a nonmunicipal commercial or industrial user within an area
19 determined by the Chief Water Officer ~~department~~ to be fully appropriated
20 pursuant to section 46-714 or designated as overappropriated pursuant to
21 section 46-713 shall be the amount specified in subdivision (5)(a) or (b)
22 of this section;

23 (d) On and after January 1, 2026, increases in the consumptive use
24 of water by a nonmunicipal commercial or industrial water user that
25 result in a decrease in streamflow shall be addressed by the integrated
26 management plan pursuant to controls or incentive programs adopted
27 pursuant to section 46-715; and

28 (e) Any reduction in consumptive use associated with new
29 nonmunicipal industrial or commercial uses of less than twenty-five
30 million gallons, during the period between July 14, 2006, and January 1,
31 2026, shall accrue to the benefit of the natural resources district

1 within which such nonmunicipal industrial or commercial user is located.

2 **Sec. 236.** Section 46-742, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-742 (1) Whenever the drilling of new wells has been stayed
5 pursuant to section 46-714, ground water withdrawn outside the affected
6 area shall not be transported for use inside such area unless (a) such
7 withdrawal and transport began before the stay took effect, (b) the water
8 is used solely for domestic purposes, or (c) such withdrawal and
9 transport is approved in advance by the district in which the stay is in
10 effect and, if the water is withdrawn in another natural resources
11 district, by the other district.

12 (2) Whenever a natural resources district pursuant to subdivision
13 (1)(m) of section 46-739 has closed all or part of the district to the
14 issuance of additional well permits, ground water withdrawn outside the
15 affected area shall not be transported for use inside such area unless
16 (a) such withdrawal and transport began before the affected area was
17 closed to the issuance of additional well permits, (b) the water is used
18 solely for domestic purposes, or (c) such withdrawal and transport is
19 approved in advance by the district that closed the affected area to
20 additional well permits and, if the water is withdrawn in another natural
21 resources district, by the other district.

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

29 **Sec. 237.** Section 46-743, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-743 Any public hearing required under the Nebraska Ground Water

1 Management and Protection Act shall comply with the following
2 requirements:

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

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

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

18 (4) For all other rules and regulations, the notice shall provide a
19 general description of the contents of the rules and regulations proposed
20 for adoption or amendment and shall identify all locations where a copy
21 of the full text of the proposed rules and regulations may be obtained;

22 (5) The full text of all controls, rules, or regulations shall be
23 available to the public upon request not later than the date of first
24 publication;

25 (6) All interested persons shall be allowed to appear and present
26 testimony; and

27 (7) The hearing shall include testimony of a representative of the
28 ~~department Department of Natural Resources and, if the primary purpose of~~
29 ~~the proposed management area is protection of water quality, testimony of~~
30 ~~a representative of the Department of Environment and Energy~~ and shall
31 include the results of any relevant water quality studies or

1 investigations conducted by the district.

2 **Sec. 238.** Section 46-744, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-744 Any order adopted pursuant to section 46-712, 46-718, 46-719,
5 46-725, or 46-726 shall be published once each week for three consecutive
6 weeks in a local newspaper published or of general circulation in the
7 area involved, the last publication of which shall be not less than seven
8 days prior to the date set for the effective date of the order. The
9 publication shall provide a general description of the text of all
10 controls adopted or amended and shall identify all locations where a copy
11 of the full text of the proposed controls may be obtained. The full text
12 of all controls adopted shall be available to the public upon request at
13 least thirty days prior to the effective date of the controls.

14 Such order shall become effective on the date specified by the
15 adopting district, Chief Water Officer, department, or board, as
16 applicable.

17 **Sec. 239.** Section 46-745, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-745 (1) Any person who violates a cease and desist order issued
20 by a district pursuant to section 46-707 shall be subject to a civil
21 penalty of not less than one thousand dollars and not more than five
22 thousand dollars for each day an intentional violation occurs. In
23 assessing the amount of the civil penalty, the court shall consider the
24 degree and extent of the violation, the size of the operation, whether
25 the violator has been previously convicted or subjected to a civil
26 penalty under this section, and any economic benefit derived from
27 noncompliance. Any civil penalty assessed and unpaid shall constitute a
28 debt to the state which may be collected in the manner of a lien
29 foreclosure or sued for and recovered in a proper form of action in the
30 name of the state in the district court of the county in which the
31 violator resides or owns property. The court shall remit the civil

1 penalty to the State Treasurer, within thirty days after receipt, for
2 distribution in accordance with Article VII, section 5, of the
3 Constitution of Nebraska ~~The court shall, within thirty days after~~
4 ~~receipt, remit the civil penalty to the State Treasurer for credit to the~~
5 ~~permanent school fund.~~

6 (2)(a) Prior to issuing a cease and desist order against a public
7 water supplier as defined in section 46-638, the district shall consult
8 with the Attorney General. If the Attorney General determines that the
9 district does not have sufficient grounds to issue a cease and desist
10 order, the district shall abide by such determination and shall not issue
11 a cease and desist order. The Attorney General shall have exclusive
12 authority to enforce actions under this subsection.

13 (b) Any determination as to whether a water well is properly
14 registered under sections 46-602 to 46-604 shall be made by the
15 department. ~~Any determination as to~~ ~~or~~ whether a water well is properly
16 permitted under the Municipal and Rural Domestic Ground Water Transfers
17 Permit Act shall be made by the Chief Water Officer ~~Department of Natural~~
18 ~~Resources.~~

19 (3) When the Attorney General, a county attorney, or a private
20 attorney brings an action on behalf of a district to recover a civil
21 penalty under this section, the district shall recover the costs of the
22 action if a civil penalty is awarded. Any recovered costs of the action
23 shall be: (a) Remitted to the State Treasurer for credit to the
24 Department of Justice Natural Resources Enforcement Fund if the action is
25 brought by the Attorney General; (b) credited to the applicable county
26 fund if the action is brought by the county attorney; and (c) remitted to
27 the district if the action is brought by the district's private attorney.

28 (4) The Department of Justice Natural Resources Enforcement Fund is
29 created. The fund shall consist of money credited pursuant to subsection
30 (3) of this section. Money in the fund shall be used to reimburse the
31 office of the Attorney General for the costs incurred in enforcing this

1 section. Any money in the fund available for investment shall be invested
2 by the state investment officer pursuant to the Nebraska Capital
3 Expansion Act and the Nebraska State Funds Investment Act.

4 **Sec. 240.** Section 46-746, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-746 (1) Any person who violates any cease and desist order issued
7 by a district pursuant to section 46-707 or any controls, rules, or
8 regulations adopted by a natural resources district relating to a
9 management area shall be subject to the imposition of penalties imposed
10 through the controls adopted by the district, including, but not limited
11 to, having any allocation of water granted or irrigated acres certified
12 by the district reduced in whole or in part. Before a district takes any
13 action, notice and hearing shall be provided to such person.

14 (2) Any person who violates any of the provisions of sections 46-721
15 to 46-733 for which a penalty is not otherwise provided, other than the
16 requirements imposed on a district, the Chief Water Officer of the
17 Department of Water, Energy, and Environment, the director ~~Director of~~
18 ~~Natural Resources~~, or the department ~~Department of Natural Resources~~,
19 shall be subject to a civil penalty of not more than five hundred
20 dollars. Each day of continued violation shall constitute a separate
21 offense.

22 **Sec. 241.** Section 46-748, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-748 The Chief Water Officer ~~Director of Natural Resources~~ shall
25 adopt and promulgate, in accordance with the Administrative Procedure
26 Act, such rules and regulations as are necessary to the discharge of
27 duties assigned to the Chief Water Officer ~~director or the Department of~~
28 ~~Natural Resources~~ by the Nebraska Ground Water Management and Protection
29 Act.

30 **Sec. 242.** Section 46-749, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-749 In the administration of the Nebraska Ground Water Management
2 and Protection Act, all actions of the director, the Chief Water Officer,
3 ~~Director of Environment and Energy, the Director of Natural Resources,~~
4 and the districts shall be consistent with the provisions of section
5 46-613.

6 **Sec. 243.** Section 46-750, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-750 Any person aggrieved by any order of the district, the Chief
9 Water Officer, or ~~the director~~ ~~Director of Environment and Energy, or~~
10 ~~the Director of Natural Resources~~ issued pursuant to the Nebraska Ground
11 Water Management and Protection Act may appeal the order. The appeal
12 shall be in accordance with the Administrative Procedure Act.

13 **Sec. 244.** Section 46-751, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-751 All fees paid to the Chief Water Officer ~~Director of Natural~~
16 ~~Resources~~ pursuant to the Nebraska Ground Water Management and Protection
17 Act shall be remitted to the State Treasurer for credit to the Ground
18 Water Management Fund which is hereby created and which shall be
19 administered by the Chief Water Officer ~~director~~. Any money credited to
20 the fund may be utilized by the Chief Water Officer ~~director~~ for payments
21 of expenses incurred in the administration of the act. Any money in the
22 fund available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act.

25 **Sec. 245.** Section 46-753, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-753 (1) The Water Resources Trust Fund is created. The State
28 Treasurer shall credit to the fund such money as is specifically
29 appropriated thereto by the Legislature, transfers authorized by the
30 Legislature, and such funds, fees, donations, gifts, or bequests received
31 by the department ~~Department of Natural Resources~~ from any federal,

1 state, public, or private source for expenditure for the purposes
2 described in the Nebraska Ground Water Management and Protection Act.
3 Money in the fund shall not be subject to any fiscal-year limitation or
4 lapse provision of unexpended balance at the end of any fiscal year or
5 biennium. Any money in the fund available for investment shall be
6 invested by the state investment officer pursuant to the Nebraska Capital
7 Expansion Act and the Nebraska State Funds Investment Act.

8 (2) The fund shall be administered by the Chief Water Officer
9 ~~department~~. The Chief Water Officer ~~department~~ may adopt and promulgate
10 rules and regulations regarding the allocation and expenditure of money
11 from the fund.

12 (3) Money in the fund may be expended by the Chief Water Officer
13 ~~department~~ for costs incurred by the Chief Water Officer ~~department~~, by
14 natural resources districts, or by other political subdivisions in (a)
15 determining whether river basins, subbasins, or reaches are fully
16 appropriated in accordance with section 46-713, (b) developing or
17 implementing integrated management plans for such fully appropriated
18 river basins, subbasins, or reaches or for river basins, subbasins, or
19 reaches designated as overappropriated in accordance with section 46-713,
20 (c) developing or implementing integrated management plans in river
21 basins, subbasins, or reaches which have not yet become either fully
22 appropriated or overappropriated, or (d) attaining state compliance with
23 an interstate water compact or decree or other formal state contract or
24 agreement.

25 (4) Except for funds paid to a political subdivision for forgoing or
26 reducing its own water use or for implementing projects or programs
27 intended to aid the state in complying with an interstate water compact
28 or decree or other formal state contract or agreement, a political
29 subdivision that receives funds from the fund shall provide, or cause to
30 be provided, matching funds in an amount at least equal to twenty percent
31 of the amount received from the fund by that natural resources district

1 or political subdivision. The Chief Water Officer department shall
2 monitor programs and activities funded by the fund to ensure that the
3 required match is being provided.

4 **Sec. 246.** Section 46-754, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-754 The Interrelated Water Management Plan Program is created for
7 the purpose of facilitating and funding the duties of districts arising
8 under the Nebraska Ground Water Management and Protection Act. The
9 program shall function as a grant program administered by the Nebraska
10 Natural Resources Commission and the Chief Water Officer ~~Department of~~
11 ~~Natural Resources~~ upon recommendations of the commission using funds
12 appropriated for the program. The commission shall develop guidelines and
13 limitations for grant requests for funding such district's duties,
14 including studies required to carry out those duties. Grant requests
15 shall be made to the commission for review in a manner and form
16 prescribed by the commission. The amounts requested and approved shall be
17 supported by a minimum local revenue match comprising twenty percent of
18 the total project cost. The Chief Water Officer ~~Director of Natural~~
19 ~~Resources~~ shall expend funds to implement the commission's
20 recommendations for fiscal support under the program only upon the
21 commission's approval.

22 **Sec. 247.** Section 46-755, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-755 This section shall apply notwithstanding any other provision
25 of the Nebraska Ground Water Management and Protection Act.

26 (1) If a river basin as described in subdivision (2)(a) of section
27 2-1504 includes three or more natural resources districts that, pursuant
28 to subdivision (1)(a) of section 46-715, have been or are required to
29 develop an integrated management plan for all or substantially all
30 (eighty-five percent) of the district, such natural resources districts
31 shall, jointly with the Chief Water Officer ~~department~~ and the natural

1 resources districts within the same basin, develop and adopt a basin-wide
2 plan for the areas of a basin, subbasin, or reach determined by the
3 department to have hydrologically connected water supplies, except that
4 any natural resources district that has developed and implemented a
5 basin-wide plan pursuant to subsection (5) of section 46-715 shall not be
6 affected by this section. If deemed appropriate by the Chief Water
7 Officer ~~department~~ and the affected natural resources districts, the
8 basin-wide plan may combine two or more river basins.

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

15 (3) A basin-wide plan shall be completed, adopted, and take effect
16 within three years after April 17, 2014, unless the Chief Water Officer
17 ~~department~~ and the natural resources districts jointly agree to an
18 extension of not more than an additional two years.

19 (4) A basin-wide plan shall (a) have clear goals and objectives with
20 a purpose of sustaining a balance between water uses and water supplies
21 so that the economic viability, social and environmental health, safety,
22 and welfare of the river basin, subbasin, or reach can be achieved and
23 maintained for both the near term and the long term, (b) ensure that
24 compliance with any interstate compact or decree or other formal state
25 contract or agreement or applicable state or federal law is maintained,
26 and (c) set forth a timeline to meet the goals and objectives as required
27 under this subdivision, but in no case shall a timeline exceed thirty
28 years after April 17, 2014.

29 (5)(a) A basin-wide plan developed under this section shall utilize
30 the best generally-accepted methodologies and available information,
31 data, and science to evaluate the effect of existing uses of

1 hydrologically connected water on existing surface water and ground water
2 users. The plan shall include a process to gather and evaluate data,
3 information, and methodologies to increase understanding of the surface
4 water and hydrologically connected ground water system within the basin,
5 subbasin, or reach and test the validity of the conclusions, information,
6 and assumptions upon which the plan is based.

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

18 (c) A basin-wide plan shall be developed using a consultation and
19 collaboration process involving representatives from irrigation
20 districts, reclamation districts, public power and irrigation districts,
21 mutual irrigation companies, canal companies, ground water users, range
22 livestock owners, the Game and Parks Commission, and municipalities that
23 rely on water from within the affected area and that, after being
24 notified of the commencement of the plan development process, indicate in
25 writing their desire to become an official participant in such process.
26 The Chief Water Officer ~~department~~ and affected natural resources
27 districts shall involve official participants in formulating, evaluating,
28 and recommending plans and management actions and work to reach an
29 agreement among all official participants involved in a basin-wide plan.
30 In addition, the Chief Water Officer ~~department~~ or the affected natural
31 resources districts may include designated representatives of other

1 stakeholders. If agreement is reached by all parties involved in such
2 consultation and collaboration process, the Chief Water Officer
3 ~~department~~ and the affected natural resources districts shall adopt the
4 agreed-upon basin-wide plan. If agreement cannot be reached by all
5 parties involved, the basin-wide plan shall be developed and adopted by
6 the Chief Water Officer ~~department~~ and the affected natural resources
7 districts or by the Interrelated Water Review Board pursuant to section
8 46-719.

9 (d) Within five years after the adoption of the basin-wide plan, and
10 every five years thereafter, the Chief Water Officer ~~department~~ and
11 affected natural resources districts shall conduct a technical analysis
12 of the actions taken in a river basin to determine the progress towards
13 meeting the goals and objectives of the plan. The analysis shall include
14 an examination of (i) available supplies, current uses, and changes in
15 long-term water availability, (ii) the effects of conservation practices
16 and natural causes, including, but not limited to, drought, and (iii) the
17 effects of the plan in meeting the goal of sustaining a balance between
18 water uses and water supplies. The analysis shall determine if changes or
19 modifications to the basin-wide plan are needed to meet the goals and
20 objectives pursuant to subdivision (4)(a) of this section. The Chief
21 Water Officer ~~department~~ and affected natural resources districts shall
22 present the results of the analysis and any recommended modifications to
23 the plan at a public meeting and shall provide for at least a thirty-day
24 public comment period before holding a public hearing on the recommended
25 modifications. The Chief Water Officer ~~department~~ shall submit a report
26 to the Legislature of the results of this analysis and the progress made
27 under the basin-wide plan. The report shall be submitted electronically.
28 Any official participant or stakeholder may submit comments to the Chief
29 Water Officer ~~department~~ and affected natural resources districts on the
30 final basin-wide plan adopted by the Chief Water Officer ~~department~~ and
31 affected natural resources districts, which shall be made a part of the

1 report to the Legislature.

2 (e) Before adoption of a basin-wide plan, the Chief Water Officer
3 ~~department~~ and affected natural resources districts shall schedule at
4 least one public hearing to take testimony on the proposed plan. Any such
5 hearings shall be held in reasonable proximity to the area affected by
6 the plan. Notice of hearings shall be published as provided in section
7 46-743. All interested persons may appear at any hearings and present
8 testimony or provide other evidence relevant to the issues under
9 consideration. Within sixty days after the final hearing, the Chief Water
10 Officer ~~department~~ and affected natural resources districts shall jointly
11 determine whether to adopt the plan.

12 (f) The Chief Water Officer ~~department~~ and the affected natural
13 resources districts may utilize, when necessary, the Interrelated Water
14 Review Board process provided in section 46-719 for disputes arising from
15 developing, implementing, and enforcing a basin-wide plan developed under
16 this section.

17 **Sec. 248.** Section 46-801, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-801 No person shall drain, lower, or in any manner reduce or
20 divert the water supply of any natural or perennial lake, if the area
21 exceeds twenty acres at low water stage or if the lake is of such depth
22 and character as to have more economic importance for aquaculture,
23 hunting, or other purpose than the bed of such lake would have for
24 agricultural purposes. Any person intending to drain, lower, divert, or
25 in any way reduce the waters or water supply of any natural or perennial
26 lake shall, before commencing the construction of any such work for
27 drainage or diversion, make application to the Chief Water Officer of the
28 Department of Water, Energy, and Environment ~~Natural Resources~~ for a
29 permit to do so.

30 **Sec. 249.** Section 46-802, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-802 On the receipt of such application in the form prescribed by
2 the Chief Water Officer Department of Natural Resources, the Chief Water
3 Officer department shall cause the same to be recorded in the Chief Water
4 Officer's its office. The Chief Water Officer department shall make a
5 careful examination to ascertain whether it sets forth all the facts
6 necessary to enable the Chief Water Officer department to determine the
7 nature and extent of the proposed work of drainage and diversion. If such
8 an examination shows the application to be in any way defective, the
9 Chief Water Officer it shall return the same to the applicant for
10 correction.

11 **Sec. 250.** Section 46-803, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-803 If the proposed work of drainage or diversion will not result
14 in injury or damage to any person and will not be otherwise detrimental
15 to the public welfare but will result in economic benefit to the state,
16 the Chief Water Officer Department of Natural Resources shall approve the
17 same by endorsement thereon. The Chief Water Officer It shall make a
18 record of such endorsement thereon in some proper manner in the Chief
19 Water Officer's its office. The Chief Water Officer It shall also return
20 the same so endorsed to the applicant. Such applicant shall, upon receipt
21 thereof, be authorized to proceed with the work and to take such measures
22 as may be necessary to its completion.

23 **Sec. 251.** Section 46-804, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-804 If it appears to the Chief Water Officer Department of
26 Natural Resources that the proposed works of drainage or diversion will
27 result in injury or damage to any person or will be detrimental to the
28 public welfare and not result in economic benefit to the state, the Chief
29 Water Officer department shall refuse to approve the application. The
30 party making such application shall not prosecute such work so long as
31 such refusal shall continue in force.

1 **Sec. 252.** Section 46-1001, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-1001 As used in sections 46-1001 to 46-1020, unless the context
4 otherwise requires:

5 (1) District means a rural water district organized pursuant to
6 sections 46-1001 to 46-1020;

7 (2) Board means the governing body of a district;

8 (3) The terms county board and county clerk mean, respectively, the
9 county board and county clerk of the county in which the greatest portion
10 of the territory of any existing or proposed rural water district is
11 located;

12 (4) Participating member means an individual, firm, partnership,
13 limited liability company, association, or corporation which owns land
14 located within a district and which has subscribed to one or more benefit
15 units of such district; and

16 (5) Chief Water Officer means the Chief Water Officer of the
17 Department of Water, Energy, and Environment ~~Director means the Director~~
18 ~~of Natural Resources.~~

19 **Sec. 253.** Section 46-1004, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-1004 Whenever a petition as provided in section 46-1003 is filed
22 with the county clerk, the county clerk shall thereupon give notice to
23 the county board of the filing and pendency of such petition and the
24 county board shall forthwith fix a time and place within thirty days
25 after the date of filing of the petition for a hearing of the same, and
26 the county clerk shall, at least seven days before the date fixed for
27 such hearing, give or send by registered or certified mail written notice
28 thereof to each of the petitioners and shall transmit to the Chief Water
29 Officer ~~director~~ one copy of the petition and notice of the time and
30 place the same is set for consideration. The county clerk shall also, at
31 least seven days before the date fixed for such hearing, cause to be

1 published in a newspaper of general circulation in the county a notice of
2 the hearing. The published notice shall (1) define the boundaries of the
3 proposed district; (2) state the time and place of hearing; (3) state
4 that all owners of land within such boundaries may appear and be heard;
5 and (4) state that a rural water district, if incorporated, shall have no
6 power or authority to levy any taxes whatsoever.

7 **Sec. 254.** Section 46-1005, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-1005 At the time and place set for the hearing and consideration
10 of the petition, it shall be the duty of the county board to ascertain
11 (1) whether proper notice of the hearing has been given to the signers of
12 the petition, the Chief Water Officer ~~director~~, and the landowners in the
13 district as required by section 46-1004; (2) whether lands within the
14 area defined in the petition are without an adequate water supply; (3)
15 whether the construction and maintenance of ponds, reservoirs, pipelines,
16 wells, check dams, pumping installations, or any other facility for the
17 storage, transportation, or utilization of water or the construction and
18 maintenance of any combination of such proposed projects are necessary
19 for the improvement of the area. The county board shall make no
20 affirmative finding that any proposed project is necessary if the
21 construction and maintenance of such project would encourage the
22 cultivation of lands which are submarginal and which should be devoted to
23 other uses in the public interest. The county board shall make no
24 affirmative finding that any proposed project is necessary unless the
25 Chief Water Officer ~~director~~ has approved such project; (4) whether such
26 improvement or works will be conducive to and will tend to promote the
27 public health, convenience, and welfare; and (5) whether the boundaries
28 of the proposed district lie within five miles of any incorporated city
29 or village and whether approval for incorporation of the district has
30 been given by the governing body of such city or village. If upon such
31 consideration it is found that such petition is in conformity with the

1 requirements of sections 46-1001 to 46-1020, the county board shall
2 thereupon immediately declare the district within the boundaries defined
3 in the petition to constitute a public corporation and to be incorporated
4 as a rural water district under the name of Rural Water District
5 No., County, Nebraska (inserting number in order of
6 incorporation and name of county) and thereupon shall enter upon its
7 records full minutes of such hearing, together with a declaration that
8 thenceforth such district shall constitute a body politic and corporate
9 under such corporate name for the purposes of sections 46-1001 to
10 46-1020.

11 **Sec. 255.** Section 46-1011, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-1011 Plans and specifications for any proposed improvement
14 authorized by sections 46-1001 to 46-1020 shall be filed with the Chief
15 Water Officer ~~director~~, the Department of Water, Energy, and Environment
16 ~~Environment and Energy~~, and the secretary of the district. No
17 construction of any such improvement shall begin until the plans and
18 specifications for such improvement have been approved by ~~the director~~
19 ~~and the Chief Water Officer~~ Department of Environment and Energy, except
20 that if the improvement involves a public water system as defined in
21 section 71-5301, only the department ~~Department of Environment and Energy~~
22 shall be required to review the plans and specifications for such
23 improvement and approve the same if in compliance with the Nebraska Safe
24 Drinking Water Act and departmental regulations adopted thereunder.

25 The total benefits of any such improvement shall be divided into a
26 suitable number of benefit units. Each landowner within the district
27 shall subscribe to a number of such units in proportion to the extent he
28 or she desires to participate in the benefits of the improvements. As
29 long as the capacity of the district's facilities permits, participating
30 members of the district may subscribe to additional units upon payment of
31 a unit fee for each such unit. Owners of land located within the district

1 who are not participating members may subscribe to such units as the
2 board in its discretion may grant, and upon payment of the unit fee for
3 each such unit shall be entitled to the same rights as original
4 participating members. If the capacity of the district's facilities
5 permits, the district may sell water to persons engaged in hauling water
6 and to any political subdivision organized under the laws of the State of
7 Nebraska.

8 **Sec. 256.** Section 46-1023, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-1023 Whenever a petition as provided in section 46-1022 is filed
11 with the county clerk, the county clerk shall thereupon give notice to
12 the county board of the filing and pendency of such petition and the
13 county board shall forthwith fix a time and place within thirty days
14 after the date of filing of the petition for a hearing of the same, and
15 the county clerk shall, at least seven days before the date fixed for
16 such hearing, give or send by registered or certified mail written notice
17 thereof to the chairperson of each district seeking consolidation and
18 shall transmit to the Chief Water Officer ~~director~~ one copy of the
19 petition and notice of the time and place the same is set for hearing.
20 The county clerk shall also, at least seven days before the date fixed
21 for such hearing, cause a notice of the hearing to be published in a
22 newspaper of general circulation in the county. The published notice
23 shall (1) identify by name the districts seeking consolidation; (2) state
24 the time and place of the hearing; (3) state that all interested persons
25 may appear and be heard; and (4) state that a consolidated water district
26 shall have no power or authority to levy any taxes whatsoever.

27 **Sec. 257.** Section 46-1102, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-1102 The Legislature finds that the use of chemigation throughout
30 the state is increasing and that, although chemigation provides a viable
31 alternative to other means of chemical application, if an irrigation

1 distribution system is not properly equipped or if a chemical is not used
2 with proper precautions, there exists a potential to contaminate the
3 water.

4 The Legislature also finds that complete information as to the
5 occurrences and use of chemigation in this state is essential to the
6 development of a sound state water management policy.

7 For these reasons, the Legislature deems it necessary to provide the
8 natural resources districts and the Department of Water, Energy, and
9 Environment ~~Environment and Energy~~ with the authority to document,
10 monitor, regulate, and enforce chemigation practices in Nebraska.

11 **Sec. 258.** Section 46-1108, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-1108 Department shall mean the Department of Water, Energy, and
14 Environment ~~Environment and Energy~~.

15 **Sec. 259.** Section 46-1109, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-1109 Director shall mean the Director of Water, Energy, and
18 Environment ~~Environment and Energy~~.

19 **Sec. 260.** Section 46-1204.01, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 46-1204.01 Abandoned water well means any water well (1) the use of
22 which has been accomplished or permanently discontinued, (2) which has
23 been decommissioned as described in the rules and regulations of the
24 department ~~Department of Environment and Energy~~, and (3) for which the
25 notice of abandonment required by subsection (2) of section 46-602 has
26 been filed with the department ~~Department of Natural Resources~~ by the
27 licensed water well contractor or licensed pump installation contractor
28 who decommissioned the water well or by the water well owner if the owner
29 decommissioned the water well.

30 **Sec. 261.** Section 46-1207, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1207 Department means the Department of Water, Energy, and
2 Environment ~~Environment and Energy~~.

3 **Sec. 262.** Section 46-1217, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-1217 (1) There is hereby created a Water Well Standards and
6 Contractors' Licensing Board. The board shall be composed of ten members,
7 six of whom shall be appointed by the Governor as follows: (a) A licensed
8 water well contractor representing irrigation water well contractors, (b)
9 a licensed water well contractor representing domestic water well
10 contractors, (c) a licensed water well contractor representing municipal
11 and industrial water well contractors, (d) a licensed pump installation
12 contractor, (e) a manufacturer or supplier of water well or pumping
13 equipment, and (f) a holder of a license issued under the Water Well
14 Standards and Contractors' Practice Act employed by a natural resources
15 district. The chief executive officer of the Department of Health and
16 Human Services or his or her designated representative, the Director of
17 Water, Energy, and Environment ~~Environment and Energy~~ or his or her
18 designated representative, ~~the Director of Natural Resources or his or~~
19 ~~her designated representative,~~ and the director of the Conservation and
20 Survey Division of the University of Nebraska or his or her designated
21 representative shall also serve as members of the board.

22 (2) Each member shall be a resident of the state. Each industry
23 representative shall have had at least five years of experience in the
24 business of his or her category prior to appointment and shall be
25 actively engaged in such business at the time of appointment and while
26 serving on the board. Each member representing a category subject to
27 licensing under the Water Well Standards and Contractors' Practice Act
28 shall be licensed by the department pursuant to such act. In making
29 appointments, the Governor may consider recommendations made by the trade
30 associations of each category.

31 **Sec. 263.** Section 46-1222, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-1222 No board member shall take any action or make any decision
3 in the discharge of the duties of a member of the board that may
4 constitute a conflict of interest. As soon as a member is aware of a
5 potential conflict or should reasonably be aware of such potential
6 conflict, whichever is sooner, the member shall submit a written
7 statement to the Director of Water, Energy, and Environment ~~Environment~~
8 ~~and Energy~~ describing the matter requiring action or decision and the
9 nature of the potential conflict. The member shall take such action as
10 the director shall advise or prescribe to remove the member from
11 influence over the action or decision on the matter. For purposes of this
12 section, conflict of interest includes financial, professional, or
13 personal obligations that may compromise or present the appearance of
14 compromising the judgment of a member in the performance of the duties of
15 a member of the board. The director may establish a definition of
16 conflicts of interest for members of the board and may establish
17 procedures in case such a conflict arises.

18 **Sec. 264.** Section 46-1224, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-1224 (1) Except as otherwise provided in subsections (3) and (4)
21 of this section, the board shall set reasonable fees in an amount
22 calculated to recover the costs incurred by the department and the board
23 in administering and carrying out the purposes of the Water Well
24 Standards and Contractors' Practice Act. Such fees shall be paid to the
25 department and remitted to the State Treasurer for credit to the Water
26 Well Standards and Contractors' Licensing Fund, which fund is hereby
27 created. Such fund shall be used by the department and the board for the
28 purpose of administering the Water Well Standards and Contractors'
29 Practice Act. Additionally, such fund shall be used to pay any required
30 fee to a contractor which provides the online services for registration
31 of water wells. Any discount in the amount paid the state by a credit

1 card, charge card, or debit card company or a third-party merchant bank
2 for such registration fees shall be deducted from the portion of the
3 registration fee collected pursuant to this section. Any money in the
4 fund available for investment shall be invested by the state investment
5 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
6 State Funds Investment Act.

7 (2) The board shall set fees for licensing individuals under the
8 Water Well Standards and Contractors' Practice Act for application for,
9 issuance of, and renewal of licenses. The fees shall be waived for
10 initial licenses for low-income individuals, military families, and young
11 workers as those terms are defined in the Uniform Credentialing Act.

12 (3) The board shall set a fee of not less than twenty-five dollars
13 and not more than forty dollars for each water well which is required to
14 be registered and which is designed and constructed to pump fifty gallons
15 per minute or less and each monitoring and observation well and a fee of
16 not less than forty dollars and not more than eighty dollars for each
17 water well which is required to be registered and which is designed and
18 constructed to pump more than fifty gallons per minute. For water wells
19 permitted pursuant to the Industrial Ground Water Regulatory Act, the fee
20 set pursuant to this subsection shall be collected for each of the first
21 ten such water wells registered, and for each group of ten or fewer such
22 water wells registered thereafter, the fee shall be collected as if only
23 one water well was being registered. For a series of two or more water
24 wells completed and pumped into a common carrier, as defined in section
25 46-601.01, as part of a single site plan for irrigation purposes, the fee
26 set pursuant to this subsection shall be collected for each of the first
27 two such water wells registered. For a series of water wells completed
28 for purposes of installation of a ground heat exchanger for a structure
29 for utilizing the geothermal properties of the ground, the fee set
30 pursuant to this subsection shall be collected as if only one water well
31 was being registered. For water wells constructed as part of a single

1 site plan for monitoring ground water, obtaining hydrogeologic
2 information, or extracting contaminants from the ground and for water
3 wells constructed as part of remedial action approved by the department
4 ~~Department of Environment and Energy~~ pursuant to section 66-1525,
5 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall
6 be collected for each of the first five such water wells registered, and
7 for each group of five or fewer such water wells registered thereafter,
8 the fee shall be collected as if only one water well was being
9 registered. The fees shall be remitted to the Director of Water, Energy,
10 and Environment ~~Natural Resources~~ with the registration form required by
11 section 46-602 and shall be in addition to the fee in section 46-606. The
12 director shall remit the fee to the State Treasurer for credit to the
13 Water Well Standards and Contractors' Licensing Fund.

14 (4) The board shall set an application fee for a declaratory ruling
15 or variance of not less than fifty dollars and not more than one hundred
16 dollars. The fee shall be remitted to the State Treasurer for credit to
17 the Water Well Standards and Contractors' Licensing Fund.

18 **Sec. 265.** Section 46-1235, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-1235 In cases other than those relating to failure to meet the
21 requirements for an initial license, the Director of Water, Energy, and
22 Environment ~~Environment and Energy~~ may deny, refuse renewal of, suspend,
23 or revoke licenses or may take other disciplinary action following notice
24 and an opportunity for a hearing for any of the following acts or
25 offenses:

26 (1) Violation of the Water Well Standards and Contractors' Practice
27 Act or any standards, rules, or regulations adopted and promulgated
28 pursuant to such act;

29 (2) Fraud or deception by the applicant or licensee;

30 (3) Failure to exercise reasonable care in the practice of the
31 trade;

1 (4) Inability to properly perform the practice of the trade;

2 (5) Failure to comply with continuing education requirements for
3 licensure under the act;

4 (6) Conduct or practices detrimental to the health or safety of
5 persons hiring the services of the licensee or of members of the general
6 public;

7 (7) Practice of the trade while the license to do so is suspended or
8 practice of the trade in contravention of any limitation placed upon the
9 license;

10 (8) Failing to file a water well registration required by subsection
11 (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice
12 required by subsection (7) of such section; or

13 (9) Failing to file a properly completed notice of abandonment of a
14 water well required by subsection (8) of section 46-602.

15 **Sec. 266.** Section 46-1301, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-1301 The Legislature finds that (1) existing monitoring of ground
18 water quality performed by natural resources districts is excellent and
19 deserves recognition, (2) substantial efforts have been undertaken by the
20 Department of Water, Energy, and Environment ~~Environment and Energy~~ to
21 monitor surface water quality, and (3) it is within the state's capacity
22 to develop a comprehensive, integrated statewide water quality monitoring
23 system.

24 **Sec. 267.** Section 46-1304, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1304 The Department of Water, Energy, and Environment ~~Environment~~
27 ~~and Energy~~ shall prepare a report outlining the extent of ground water
28 quality monitoring conducted by natural resources districts during the
29 preceding calendar year. The department shall analyze the data collected
30 for the purpose of determining whether or not ground water quality is
31 degrading or improving and shall present the results electronically to

1 the Natural Resources Committee of the Legislature beginning December 1,
2 2001, and each year thereafter. The districts shall submit in a timely
3 manner all ground water quality monitoring data collected to the
4 department or its designee. The department shall use the data submitted
5 by the districts in conjunction with all other readily available and
6 compatible data for the purposes of the annual ground water quality trend
7 analysis.

8 **Sec. 268.** Section 46-1403, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-1403 There is hereby created the Water Well Decommissioning Fund.
11 The State Treasurer shall credit to the fund for the uses and purposes of
12 sections 46-1401 to 46-1405 such money as is specifically appropriated
13 and such funds, fees, donations, gifts, services, or devises or bequests
14 of real or personal property received by the Department of Water, Energy,
15 and Environment ~~Natural Resources~~ from any source, federal, state,
16 public, or private, to be used by the department for the purpose of
17 accelerating the decommissioning of illegal water wells. The department
18 shall allocate money from the fund for purposes of sections 46-1401 to
19 46-1405. The fund shall be exempt from provisions relating to lapsing of
20 appropriations. Transfers may be made from the fund to the General Fund
21 at the direction of the Legislature. Any money in the Water Well
22 Decommissioning Fund available for investment shall be invested by the
23 state investment officer pursuant to the Nebraska Capital Expansion Act
24 and the Nebraska State Funds Investment Act.

25 **Sec. 269.** Section 46-1404, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-1404 The Water Well Decommissioning Fund shall be allocated by
28 contractual agreement with natural resources districts for the purpose of
29 accelerating the decommissioning of illegal water wells throughout the
30 state. The allocations each fiscal year shall be made by the Department
31 of Water, Energy, and Environment ~~Natural Resources~~ to natural resources

1 districts in a proportion based on the number of illegal water wells
2 decommissioned in each district in the previous fiscal year which were
3 part of the district's cost-share program to the total number of illegal
4 water wells decommissioned in the state in the previous fiscal year which
5 were part of a district cost-share program. Subsequent allocations for
6 any district which has had a cost-share program for three or more
7 consecutive years shall be based upon the previous three-year average.
8 The allocations may be adjusted on or after March 1 of any year if the
9 Director of Water, Energy, and Environment ~~Natural Resources~~ determines
10 that one or more districts cannot reasonably be expected to use their
11 full allocation for that fiscal year. Actual disbursement to each
12 district shall be on a reimbursement basis and shall not exceed the
13 amount expended by the district consistent with sections 46-1401 to
14 46-1405. The Nebraska Natural Resources Commission shall adopt and
15 promulgate rules and regulations to carry out such sections.

16 **Sec. 270.** Section 46-1502, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-1502 For purposes of the Wellhead Protection Area Act:

19 (1) Controlling entity means a city, a village, a natural resources
20 district, a rural water district, any other entity, including, but not
21 limited to, a privately owned public water supply system, or any
22 combination thereof operating under an agreement pursuant to the
23 Interlocal Cooperation Act or the Joint Public Agency Act that operates a
24 public water supply system;

25 (2) Department means the Department of Water, Energy, and
26 Environment ~~Environment and Energy~~;

27 (3) Director means the Director of Water, Energy, and Environment
28 ~~Environment and Energy~~; and

29 (4) Wellhead protection area means the surface and subsurface area
30 surrounding a water well or well field, supplying a public water system,
31 through which contaminants are reasonably likely to move toward and reach

1 such water well or well field.

2 **Sec. 271.** Section 46-1605, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-1605 Alterations means alterations to an existing dam that
5 directly affect the safety of the dam or reservoir, as determined by the
6 Chief Water Officer ~~department~~, but does not include maintenance and
7 repair of the dam to retain its initial structural integrity.

8 **Sec. 272.** Section 46-1606, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-1606 Application approval means authorization in writing issued
11 by the Chief Water Officer ~~department~~ to an owner who has applied to the
12 Chief Water Officer ~~department~~ for permission to construct, reconstruct,
13 enlarge, alter, breach, remove, or abandon a dam and which specifies the
14 conditions or limitations under which work is to be performed by the
15 owner or under which approval is granted.

16 **Sec. 273.** Section 46-1607, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-1607 Approval to operate means authorization in writing issued by
19 the Chief Water Officer ~~department~~ to an owner who has completed
20 construction, reconstruction, enlargement, or alteration of a dam.

21 **Sec. 274.** Section 46-1611, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-1611 (1) Dam means any artificial barrier, including appurtenant
24 works, with the ability to impound water, wastewater, or liquid-borne
25 materials and which (a) is twenty-five feet or more in height from the
26 natural bed of the stream or watercourse measured at the downstream toe
27 of the barrier, or from the lowest elevation of the outside limit of the
28 barrier if it is not across a stream channel or watercourse, to the
29 maximum storage elevation or (b) has an impounding capacity at maximum
30 storage elevation of fifty acre-feet or more, except that any barrier
31 described in this subsection which is not in excess of six feet in height

1 or which has an impounding capacity at maximum storage elevation of not
2 greater than fifteen acre-feet shall be exempt, unless such barrier, due
3 to its location or other physical characteristics, is classified as a
4 high hazard potential dam.

5 (2) Dam does not include:

6 (a) An obstruction in a canal used to raise or lower water;

7 (b) A fill or structure for highway or railroad use, but if such
8 structure serves, either primarily or secondarily, additional purposes
9 commonly associated with dams it shall be subject to review by the Chief
10 Water Officer ~~department~~;

11 (c) Canals, including the diversion structure, and levees; or

12 (d) Water storage or evaporation ponds regulated by the United
13 States Nuclear Regulatory Commission.

14 **Sec. 275.** Section 46-1613, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1613 Department means the Department of Water, Energy, and
17 Environment ~~Natural Resources~~.

18 **Sec. 276.** Section 46-1614, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-1614 Chief Water Officer means the Chief Water Officer of the
21 Department of Water, Energy, and Environment ~~Director means the Director~~
22 ~~of Natural Resources~~.

23 **Sec. 277.** Section 46-1636, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-1636 The Safety of Dams and Reservoirs Act does not relieve the
26 owner or operator of a dam or reservoir from obtaining any necessary
27 approvals from the Chief Water Officer ~~department~~ under sections 46-233
28 to 46-241 or from any other local, state, or federal regulatory
29 authority.

30 **Sec. 278.** Section 46-1637, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1637 (1) Except as provided in subsections (2) and (4) of this
2 section, no city, village, or county may, by ordinance or resolution
3 enacted by the legislative body thereof or adopted by the people, (a)
4 regulate, supervise, or provide for the regulation or supervision of any
5 dams and associated reservoirs or the construction, reconstruction,
6 enlargement, repair, alteration, operation, breach, removal, or
7 abandonment thereof or (b) limit the size or the impounding capacity of a
8 dam if such action would conflict with the power and authority vested in
9 the Chief Water Officer ~~department~~ pursuant to the Safety of Dams and
10 Reservoirs Act.

11 (2) A city, village, or county may adopt ordinances or resolutions
12 (a) regulating, supervising, or providing for the regulation or
13 supervision of dams and reservoirs that are not within the state's
14 jurisdiction and are not subject to regulation, owned, or operated by
15 another public agency or body or (b) which apply only to adjacent
16 structures not germane to the safety of the dam, such as, but not limited
17 to, roads and fences.

18 (3) A city, village, or county may institute overlay zoning
19 precluding construction of structures downstream of a state-permitted dam
20 that is classified as having other than a high hazard potential if a
21 breach-inundation study performed by an engineer, in accordance with
22 generally accepted engineering practice, determines that construction of
23 such structures would require that such dam be reclassified as having a
24 high hazard potential. The owners of such dam shall provide such
25 engineering study as a condition to requesting such overlay zoning.

26 (4) The Safety of Dams and Reservoirs Act does not preempt or
27 supersede any local zoning ordinances, resolutions, rules, or regulations
28 regarding special use permits enacted by a political subdivision with
29 respect to permit applications for livestock waste control facilities.

30 **Sec. 279.** Section 46-1639, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1639 (1) No action shall be brought against the state, the Chief
2 Water Officer, the department, or its agents or employees for the
3 recovery of damages caused by the partial or total failure of any dam by
4 reason of control and regulation thereof pursuant to the Safety of Dams
5 and Reservoirs Act, including, but not limited to, any of the following:

6 (a) Design and construction application approval of the dam or
7 approval of interim flood routing plans during construction,
8 reconstruction, enlargement, alteration, breach, removal, or abandonment;

9 (b) The issuance or enforcement of orders relative to maintenance or
10 operation of the dam;

11 (c) Control and regulation of the dam;

12 (d) Measures taken to protect against failure of the dam during an
13 emergency, except for negligent acts of the department or the Chief Water
14 Officer in assuming control of a dam during an emergency; or

15 (e) Failure to act.

16 (2) The Safety of Dams and Reservoirs Act does not relieve an owner
17 or operator of a dam of the legal duties, obligations, or liabilities
18 incident to the ownership or operation of the dam.

19 **Sec. 280.** Section 46-1640, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-1640 The findings and orders of the Chief Water Officer
22 ~~department~~, an application approval, and an approval to operate any dam
23 issued by the Chief Water Officer ~~department~~ are final, conclusive, and
24 binding upon all owners and state agencies, regulatory or otherwise, as
25 to the safety of design, construction, reconstruction, enlargement,
26 alteration, breach, removal, or abandonment of any dam.

27 The Chief Water Officer ~~department~~ may report all dam incidents as
28 defined by the National Performance of Dams Program to the National
29 Performance of Dams Program archive.

30 **Sec. 281.** Section 46-1641, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1641 The owner of any dam subject to the Safety of Dams and
2 Reservoirs Act shall notify the Chief Water Officer ~~department~~ of any
3 change in the ownership of the dam. Notification shall be in such form
4 and include such evidence of ownership as the Chief Water Officer
5 ~~director~~ may by rule and regulation require.

6 **Sec. 282.** Section 46-1642, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1642 An applicant for a permit for a livestock waste control
9 facility which includes a dam, holding pond, or lagoon for which approval
10 by the Chief Water Officer ~~Department of Natural Resources~~ is not
11 otherwise required but for which approval ~~by the Department of~~
12 ~~Environment and Energy~~ under section 54-2429 is required shall submit an
13 application for approval along with plans, drawings, and specifications
14 to the Chief Water Officer ~~Department of Natural Resources~~ and obtain
15 approval from the Chief Water Officer ~~Department of Natural Resources~~
16 before beginning construction. The Chief Water Officer ~~Department of~~
17 ~~Natural Resources~~ shall approve or deny the dam, holding pond, or lagoon
18 pursuant to this section within sixty days after such application is
19 submitted.

20 **Sec. 283.** Section 46-1645, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1645 When the safety and technical considerations pertaining to
23 an application approval, an approval to operate, or the plans and
24 specifications of a dam require it, or when requested in writing by the
25 owner, the Chief Water Officer ~~department~~ shall appoint a consulting
26 board of three or more consultants to report to the Chief Water Officer
27 ~~department~~ on the safety features involved. The cost and expense of a
28 consulting board, if appointed at the request of an owner, shall be paid
29 by the owner.

30 **Sec. 284.** Section 46-1646, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1646 (1) The Chief Water Officer ~~department~~ shall review and
2 approve the design, construction, reconstruction, enlargement,
3 alteration, breach, removal, or abandonment of all dams in the state for
4 the protection of life and property as provided in the Safety of Dams and
5 Reservoirs Act.

6 (2) No person shall construct, reconstruct, enlarge, alter, breach,
7 remove, or abandon any dam without approval by the Chief Water Officer
8 ~~department~~.

9 (3) An owner of a dam who has entered into a cooperative agreement
10 with the Chief Water Officer ~~department~~ pursuant to subdivision (2)(d) of
11 section 46-1663 shall be deemed to be in compliance with the act.

12 **Sec. 285.** Section 46-1647, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-1647 (1) In order to protect life and property, the owner of
15 every high hazard potential dam shall develop and periodically test and
16 update an emergency action plan to be implemented in the event of an
17 emergency involving such dam. In order to protect life and property, the
18 Chief Water Officer ~~department~~ may require the owners of any significant
19 hazard potential dam to develop and periodically test and update an
20 emergency action plan to be implemented in the event of an emergency
21 involving such dams.

22 (2) Such emergency action plan shall include, but not be limited to,
23 the following elements:

- 24 (a) Emergency notification plan with flowchart;
- 25 (b) A statement of purpose;
- 26 (c) A project description;
- 27 (d) Emergency detection, evaluation, and classification;
- 28 (e) General responsibilities;
- 29 (f) Preparedness;
- 30 (g) Inundation maps or other acceptable description of the inundated
31 area; and

1 (h) Appendices.

2 (3) For purposes of evaluating the adequacy of an emergency action
3 plan, the Chief Water Officer ~~department~~ shall review, evaluate for
4 adequacy, and approve or disapprove each emergency action plan submitted
5 under this section. The Chief Water Officer ~~department~~ shall accept
6 emergency action plans developed for dams under a federal dam safety
7 program.

8 (4) If the Chief Water Officer ~~department~~ determines that a dam
9 constitutes an immediate risk to life or property, the Chief Water
10 Officer ~~department~~ shall order the owner to take such action as is
11 necessary to remove such risk.

12 **Sec. 286.** Section 46-1648, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-1648 In making any investigation or inspection necessary to
15 enforce or implement the Safety of Dams and Reservoirs Act, the Chief
16 Water Officer or the Chief Water Officer's representatives ~~department~~ or
17 ~~its representatives~~, upon reasonable notice, may enter upon private
18 property of the dam and reservoir owner as necessary. Such right of entry
19 shall extend to all employees, surveyors, or other agents of the
20 department in the official performance of their duties, and such persons
21 shall not be liable for prosecution for trespass when performing their
22 official duties.

23 **Sec. 287.** Section 46-1649, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-1649 (1) The Chief Water Officer ~~department~~ may investigate and
26 gather or cause the owner to gather such data, including advances made in
27 safety practices elsewhere, as may be needed for a proper review and
28 study of the various features of the design, construction,
29 reconstruction, enlargement, alteration, breach, removal, or abandonment
30 of dams.

31 (2) The Chief Water Officer ~~department~~ may make or cause the owner

1 to make such watershed investigations and studies as are necessary to
2 keep abreast of developments affecting runoff and peak storm discharges
3 in the vicinity of a dam.

4 (3) The Chief Water Officer ~~department~~ may make or cause the owner
5 to make such seismic investigations and studies as may be necessary to
6 keep abreast of developments affecting seismic stability of a dam.

7 **Sec. 288.** Section 46-1650, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-1650 (1) The Chief Water Officer ~~department~~ may take any
10 administrative or legal action necessary for the enforcement of the
11 Safety of Dams and Reservoirs Act.

12 (2) An action or proceeding under this section may be initiated
13 whenever any owner or any person acting as an agent of any owner:

14 (a) Fails to comply with the requirements imposed by the act or by
15 any application approval, approval to operate, order, rule, regulation,
16 or requirement of the Chief Water Officer ~~department~~ under the act; or

17 (b) Commits or allows the commission of violations of the act or of
18 any application approval, approval to operate, order, rule, regulation,
19 or requirement of the Chief Water Officer ~~department~~ under the act.

20 (3) Any action or proceeding under this section shall be initiated
21 either administratively or in a court in a jurisdiction in which:

22 (a) The dam, area of hazard potential, or some part thereof exists;

23 (b) The person named in the complaint has its principal place of
24 business; or

25 (c) The person named in the complaint resides.

26 **Sec. 289.** Section 46-1651, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-1651 (1) The Chief Water Officer ~~department~~ may adopt and
29 promulgate rules and regulations containing standards for the design,
30 inspection, construction, reconstruction, enlargement, alteration,
31 breach, removal, abandonment, and periodic testing of emergency action

1 plans of dams to carry out the purposes of the Safety of Dams and
2 Reservoirs Act. Such rules and regulations may also include, but are not
3 limited to, establishing:

4 (a) Standards and criteria for the siting and design of dams,
5 considering both existing and projected conditions which may affect the
6 safety of a project during its construction and operational life;

7 (b) Requirements for operation of dams, including operational plans
8 to be prepared and implemented by owners;

9 (c) Requirements for monitoring, inspection, and reporting of
10 conditions affecting the safety of dams; and

11 (d) Requirements for emergency action plans to be prepared and
12 implemented by owners in cooperation with emergency management
13 authorities.

14 (2) In adopting rules and regulations applicable to dams which may
15 have a high hazard potential or a significant hazard potential, the Chief
16 Water Officer ~~department~~ may consider:

17 (a) The state of scientific and technological knowledge and good
18 engineering practices relating to various types of dams;

19 (b) The economic impact of a failure of a structure upon the state
20 and its citizens; and

21 (c) The relationship of dams in hydrologic management in the
22 watershed as a whole.

23 **Sec. 290.** Section 46-1652, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-1652 (1) Construction of any new dam or the enlargement of any
26 dam shall not commence until the owner has applied for and obtained from
27 the Chief Water Officer ~~department~~ written application approval of plans
28 and specifications.

29 (2) A separate application for each dam shall be filed with the
30 Chief Water Officer ~~department~~ upon forms provided by the Chief Water
31 Officer ~~department~~. Plans and specifications signed and sealed by the

1 design engineer shall accompany the application.

2 (3) The application shall provide the following information:

3 (a) The name and address of the owner;

4 (b) The name and address of the applicant, if different from the
5 owner;

6 (c) The name and address of the operator or other person to be
7 contacted regarding arrangements for inspections or other matters
8 associated with the dam;

9 (d) The location, type, size, purpose, and height of the proposed
10 dam;

11 (e) The reservoir surface areas and associated storage capacity at
12 elevation intervals not exceeding two feet;

13 (f) Plans for proposed permanent instrument installations in the
14 dam;

15 (g) The area of the drainage basin, rainfall records, streamflow
16 records, and flood flow records and estimates, if available;

17 (h) Maps and design drawings showing plans, elevations, and sections
18 of all principal structures and appurtenant works with other features of
19 the project in sufficient detail, including design analyses, to determine
20 safety, adequacy, and suitability of design;

21 (i) The estimated construction cost of the dam; and

22 (j) Such other pertinent information as the Chief Water Officer
23 ~~department~~ requires.

24 (4) The Chief Water Officer ~~department~~ may, when in the Chief Water
25 Officer's ~~its~~ judgment it is necessary, also require the following:

26 (a) Data concerning subsoil and rock foundation conditions and the
27 materials involved in the construction of the dam;

28 (b) Investigations of, and reports on, subsurface conditions,
29 exploratory pits, trenches and adits, drilling, coring, and geophysical
30 tests to measure in place and in the laboratory the properties and
31 behavior of foundation materials at the dam site;

1 (c) Investigations and reports on the geology of the dam site,
2 possible geologic hazards, seismic activity, faults, weak seams and
3 joints, availability and quality of construction materials, and other
4 pertinent features; and

5 (d) Other appropriate information.

6 (5) If an application is incomplete or defective, it shall be
7 returned to the applicant to complete or to correct the defects. The
8 application shall be corrected and returned to the Chief Water Officer
9 ~~department~~ within ninety days after it is returned to the applicant or
10 within such additional time as may be allowed by the Chief Water Officer
11 ~~department~~. If the application is returned to the Chief Water Officer
12 ~~department~~ after expiration of such time period, it shall be dismissed.

13 **Sec. 291.** Section 46-1653, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-1653 (1) Before commencing the reconstruction or alteration of a
16 dam or the abandonment, breach, or removal of a dam so that it no longer
17 constitutes a dam, the owner shall file an application and secure the
18 written application approval of the Chief Water Officer ~~department~~.

19 (2) The application shall give such pertinent information or data
20 concerning the dam as may be required by the Chief Water Officer
21 ~~department~~.

22 (3) The application shall give the name and address of the applicant
23 and shall adequately detail, with appropriate references to the existing
24 dam, the proposed reconstruction, alteration, abandonment, breach, or
25 removal of the dam. The application shall be accompanied by plans and
26 specifications signed and sealed by the design engineer. The Chief Water
27 Officer ~~department~~ may waive any of the requirements of this section if
28 the requirements are unnecessary for the application approval.

29 (4) If an application is incomplete or defective, it shall be
30 returned to the applicant to complete or to correct the defects. The
31 application shall be corrected and returned to the Chief Water Officer

1 ~~department~~ within ninety days after it is returned to the applicant or
2 within such additional time as may be allowed by the Chief Water Officer
3 ~~department~~. If the application is returned to the Chief Water Officer
4 ~~department~~ after expiration of such time period, it shall be dismissed.

5 (5) In case of an emergency in which the Chief Water Officer
6 ~~department~~ declares that repairs or breaching of the dam are necessary to
7 safeguard life and property, repairs or breaching shall be started
8 immediately by the owner or by the Chief Water Officer ~~department~~ at the
9 owner's expense. The Chief Water Officer ~~department~~ shall be notified
10 within twenty-four hours of emergency repairs or breaching when
11 instituted by the owner.

12 (6) The proposed repairs or breaching shall conform to any orders
13 issued by the Chief Water Officer ~~department~~.

14 **Sec. 292.** Section 46-1654, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1654 (1) Approval of applications for which approval under
17 sections 46-233 to 46-242 is not required shall be issued within ninety
18 days after receipt of the completed application plus any extensions of
19 time required to resolve matters diligently pursued by the applicant. At
20 the discretion of the Chief Water Officer ~~department~~, one or more public
21 hearings may be held on an application.

22 (2) Approval of applications under the Safety of Dams and Reservoirs
23 Act, for which approval under sections 46-233 to 46-242 is required,
24 shall not be issued until all pending matters before the Chief Water
25 Officer ~~department~~ under the Safety of Dams and Reservoirs Act or such
26 sections have been resolved and approved.

27 (3) Application approval shall be granted with terms, conditions,
28 and limitations necessary to safeguard life and property.

29 (4) If actual construction, reconstruction, enlargement, alteration,
30 breach, removal, or abandonment of the dam is not commenced within the
31 time established by the Chief Water Officer ~~department~~, the application

1 approval becomes void, except that the Chief Water Officer ~~department~~
2 may, upon written application and for good cause shown, extend the time
3 for commencing construction, reconstruction, enlargement, alteration,
4 breach, removal, or abandonment. If approval under sections 46-233 to
5 46-242 is also required, the Chief Water Officer ~~department~~ may not
6 extend the time for commencing construction without following the
7 procedures and granting a similar extension under subsection (2) of
8 section 46-238.

9 (5) Written notice shall be provided to the Chief Water Officer
10 ~~department~~ at least ten days before construction, reconstruction,
11 enlargement, alteration, breach, removal, or abandonment is to begin and
12 such other notices shall be given to the Chief Water Officer ~~department~~
13 as the Chief Water Officer ~~it~~ may require.

14 **Sec. 293.** Section 46-1655, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1655 (1) The application for approval of construction,
17 reconstruction, enlargement, alteration, breach, removal, or abandonment
18 of a dam shall be accompanied by a filing fee as established by rule and
19 regulation of the Chief Water Officer ~~department~~ but not to exceed (a)
20 two hundred dollars for a dam less than twenty-five feet in height, (b)
21 three hundred dollars for a dam twenty-five feet in height to not more
22 than fifty feet in height, and (c) four hundred dollars for a dam in
23 excess of fifty feet in height.

24 (2) Only one filing fee shall be collected for an enlargement by
25 flashboards, sandbags, earthen levees, gates, or other works, devices, or
26 obstructions which are from time to time to be removed and replaced or
27 opened and shut and thereby operated so as to vary the surface elevation
28 of the reservoir.

29 (3) A dam subject to the Safety of Dams and Reservoirs Act and for
30 which plans and specifications have been approved prior to September 4,
31 2005, shall not be required to pay any additional fee or submit an

1 additional application for approval unless such dam requires
2 reconstruction, enlargement, alteration, breach, removal, or abandonment.

3 (4) An application shall not be considered by the Chief Water
4 Officer ~~department~~ until the filing fee is received.

5 (5) Fees collected by the department under this section shall be
6 remitted to the State Treasurer for credit to the Dam Safety Cash Fund.

7 **Sec. 294.** Section 46-1656, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-1656 The Dam Safety Cash Fund is created. The fund shall consist
10 of fees credited pursuant to section 46-1655 and any money specifically
11 appropriated to the fund by the Legislature. Money in the fund shall not
12 be subject to any fiscal-year limitation or provision for lapse of
13 unexpended balance at the end of any fiscal year or biennium. The fund
14 shall be administered by the department. Money in the fund may be
15 expended by the department for costs incurred by the department or the
16 Chief Water Officer in the administration of the Safety of Dams and
17 Reservoirs Act. Any money in the fund available for investment shall be
18 invested by the state investment officer pursuant to the Nebraska Capital
19 Expansion Act and the Nebraska State Funds Investment Act.

20 **Sec. 295.** Section 46-1657, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1657 (1) Upon completion of a new or reconstructed dam and
23 reservoir or of the enlargement of a dam and reservoir, the owner shall
24 file with the Chief Water Officer ~~department~~, without a filing fee, a
25 completion certification accompanied by supplementary drawings or
26 descriptive matter signed and sealed by the design engineer, showing or
27 describing the work as actually completed. Such supplementary materials
28 may include, but need not be limited to, the following as determined by
29 the Chief Water Officer ~~department~~:

30 (a) A record of all geological boreholes and grout holes and
31 grouting;

1 (b) A record of permanent location points, benchmarks, and
2 instruments embedded in the structure;

3 (c) A record of tests of concrete or other material used in the
4 construction, reconstruction, or enlargement of the dam; and

5 (d) A record of initial seepage flows and embedded instrument
6 readings.

7 (2) In connection with the enlargement of a dam, the supplementary
8 drawings and descriptive matter need apply only to the new work.

9 (3) An approval to operate shall be issued by the Chief Water
10 Officer department upon a finding by the Chief Water Officer department
11 that the dam is safe to impound within the limitations prescribed in the
12 application approval. No impoundment by the structure shall occur prior
13 to issuance of the approval to operate.

14 **Sec. 296.** Section 46-1658, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1658 (1) Upon completion of the alteration of any dam, the owner
17 shall file with the Chief Water Officer department a completion
18 certification accompanied by supplementary drawings or descriptive
19 matter, as determined by the Chief Water Officer department, signed and
20 sealed by the design engineer, showing or describing the work as actually
21 completed.

22 (2) An approval to operate shall be issued upon a finding by the
23 Chief Water Officer department that the dam is safe to impound within the
24 limitations prescribed in the application approval. Pending issuance of a
25 new or revised approval to operate, the owner of the dam shall not cause
26 the dam to impound beyond the limitations prescribed in the existing
27 application approval.

28 **Sec. 297.** Section 46-1659, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-1659 (1) Upon completion of the removal, breach, or abandonment
31 of a dam, the design engineer shall file with the Chief Water Officer

1 ~~department~~ a completion certification.

2 (2) Before final approval of the removal of a dam is issued, the
3 Chief Water Officer ~~department~~ may inspect the site of the work and
4 determine that all work was accomplished in substantial conformance with
5 the application approval.

6 (3) Following the removal of a dam, the Chief Water Officer
7 ~~department~~ may report such removal to the National Performance of Dams
8 Program and to the National Inventory of Dams.

9 **Sec. 298.** Section 46-1660, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-1660 (1) Each approval to operate issued by the Chief Water
12 Officer ~~department~~ under the Safety of Dams and Reservoirs Act shall
13 contain such terms and conditions as the Chief Water Officer ~~department~~
14 may prescribe.

15 (2) The Chief Water Officer ~~department~~ shall revoke, suspend, or
16 amend any approval to operate whenever it determines that the dam
17 constitutes a danger to life and property.

18 (3) Before any approval to operate is revoked by the Chief Water
19 Officer ~~department~~, the Chief Water Officer ~~department~~ shall hold a
20 public hearing. Written notice of the time and place of the hearing shall
21 be mailed to the owner at least thirty days before the date set for the
22 hearing. Any interested persons may appear at the hearing and present
23 their views and objections to the proposed action.

24 **Sec. 299.** Section 46-1661, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1661 (1) Upon receipt of a written complaint alleging that the
27 person or property of the complainant is endangered by the construction,
28 reconstruction, enlargement, alteration, breach, removal, or abandonment
29 of any dam, the Chief Water Officer ~~department~~ shall cause an inspection
30 and investigation to be made unless the data, records, and inspection
31 reports on file are found adequate to make a determination whether the

1 complaint is valid. The complainant shall be provided with a copy of the
2 official report of the inspection and investigation.

3 (2) If it is found that an unsafe condition exists, the Chief Water
4 Officer department shall notify the owner of the dam to take such action
5 as is necessary to correct the condition, including breaching or removal
6 of any dam found to be beyond repair.

7 **Sec. 300.** Section 46-1662, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-1662 (1) During the construction, reconstruction, enlargement,
10 alteration, breach, removal, or abandonment of any dam, the Chief Water
11 Officer department may make periodic inspections for the purpose of
12 ascertaining compliance with the approved plans and specifications. The
13 Chief Water Officer department shall require the owner to direct the
14 design engineer to provide adequate supervision during construction,
15 reconstruction, enlargement, alteration, breach, removal, or abandonment
16 and to provide sufficient information to enable the Chief Water Officer
17 department to determine that conformity with the approved plans and
18 specifications is being attained.

19 (2) If, after any inspection or investigation, during the
20 construction, reconstruction, enlargement, alteration, breach, removal,
21 or abandonment of a dam or at any time prior to issuance of an approval
22 to operate, it is found by the Chief Water Officer department that
23 modifications or changes are necessary to ensure the safety of the dam,
24 the Chief Water Officer department shall order the owner to revise his or
25 her plans and specifications. The owner may, pursuant to section 46-1645,
26 request an independent consulting board to review the order of the Chief
27 Water Officer department.

28 (3) If at any time during construction, reconstruction, enlargement,
29 alteration, breach, removal, or abandonment of any dam, the Chief Water
30 Officer department finds that the work is not being done in accordance
31 with the approved plans and specifications, the Chief Water Officer

1 ~~department~~ shall deliver a written notice of noncompliance to the owner.
2 The notice shall be delivered by registered mail or by personal service
3 to the owner, shall state the particulars in which the approved plans and
4 specifications are not being or have not been complied with, and shall
5 order immediate compliance with the approved plans and specifications.
6 The Chief Water Officer ~~department~~ may order that no further work be done
7 until such compliance has been effected and approved by the department.

8 (4) Failure to comply with the notice delivered under subsection (3)
9 of this section may cause revocation of application approval by the Chief
10 Water Officer ~~department~~. If compliance with the notice has not occurred
11 within sixty days after the date of the notice, the Chief Water Officer
12 ~~department~~ shall order the incomplete structure removed sufficiently to
13 eliminate any safety hazard to life.

14 **Sec. 301.** Section 46-1663, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1663 (1) The Chief Water Officer ~~department~~ shall require owners
17 to keep original records and any modifications to construction available
18 and in good order.

19 (2) The Chief Water Officer ~~department~~ may:

20 (a) Adopt such rules and regulations and issue such orders as
21 necessary to secure adequate maintenance, operation, and inspection by
22 owners;

23 (b) Require engineering and geologic investigations to safeguard
24 life and property;

25 (c) Accept approvals and reports of equivalent inspections prepared
26 for dams under a federal dam safety program; and

27 (d) Enter into cooperative agreements with the owners of dams which
28 are required to comply with a federal dam safety program that has
29 objectives, standards, and requirements that meet or exceed the purposes
30 of the Safety of Dams and Reservoirs Act.

31 **Sec. 302.** Section 46-1664, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-1664 (1) The Chief Water Officer ~~department~~ shall inspect dams
3 for the purpose of determining their safety. The normal inspection
4 frequency shall be annually for high hazard potential dams, biennially
5 for significant hazard potential dams, and every five years for low
6 hazard potential dams and every five years or more for minimal hazard
7 potential dams. The Chief Water Officer ~~department~~ may vary the
8 inspection frequency of some sites based on an evaluation of the site
9 performance history. The Chief Water Officer ~~department~~ may conduct
10 additional inspections at any time. If serious safety concerns are found
11 by the Chief Water Officer ~~department~~ during the inspections, the Chief
12 Water Officer ~~department~~ shall require the owner to conduct tests and
13 investigations sufficient for the Chief Water Officer ~~department~~ to
14 determine the condition of the dam. After review of the tests or
15 investigations, the Chief Water Officer ~~department~~ may require
16 modification, removal, or breach of the dam or alteration of operating
17 procedures to restore or improve the safety of the dam and may require
18 installation of instrumentation to monitor the performance of the dam.

19 (2) The Chief Water Officer ~~department~~ may report the results of dam
20 inspections that determine unsafe conditions or noncompliance to the
21 National Performance of Dams Program.

22 **Sec. 303.** Section 46-1665, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-1665 (1) The owner of a dam has the primary responsibility for
25 determining when an emergency exists. When the owner of a dam determines
26 that an emergency exists involving a dam, the owner shall immediately
27 implement the emergency action plan as required pursuant to section
28 46-1647. The owner shall immediately notify any persons who may be
29 endangered if the dam should fail, notify emergency management
30 organizations in the area, take necessary remedial action to prevent or
31 mitigate the consequences of failure, and notify the Chief Water Officer

1 ~~department~~. The Chief Water Officer ~~department~~ shall take any remedial
2 action necessary to protect life and property if, in the Chief Water
3 Officer's ~~its~~ judgment, either:

4 (a) The condition of any dam is so dangerous to the safety of life
5 or property as not to permit time for the issuance and enforcement of an
6 order relative to maintenance or operation; or

7 (b) Passing or imminent floods or any other condition threatens the
8 safety of any dam.

9 (2) In applying the remedial means provided for in this section, the
10 Chief Water Officer ~~department~~ may in an emergency, with the Chief Water
11 Officer's ~~its~~ own forces or by other means at the Chief Water Officer's
12 ~~its~~ disposal, do any or all of the following:

13 (a) Take full charge and control of any dam;

14 (b) Lower the water level by releasing water from the reservoir;

15 (c) Completely drain the reservoir;

16 (d) Perform any necessary remedial or protective work at the site;

17 or

18 (e) Take such other steps as may be essential to safeguard life and
19 property.

20 (3) The Chief Water Officer ~~department~~ shall continue in full charge
21 and control of such dam and its appurtenant works until they are rendered
22 safe or the emergency occasioning the action has ceased and the owner is
23 able to take back full charge and control. The Chief Water Officer's
24 ~~department's~~ taking full charge and control under this section does not
25 relieve the owner of such dam of liability for any negligent acts of such
26 owner.

27 (4) The Chief Water Officer ~~department~~ may report emergency actions
28 involving the safety of a dam to the National Performance of Dams Program
29 in a timely manner.

30 **Sec. 304.** Section 46-1666, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1666 (1) Violation of the Safety of Dams and Reservoirs Act or of
2 any application approval, approval to operate, order, rule, regulation,
3 or requirement of the Chief Water Officer ~~department~~ under the act is a
4 Class V misdemeanor. Each day that the violation continues constitutes a
5 separate and distinct offense.

6 (2) Any person who willfully obstructs, hinders, or prevents the
7 Chief Water Officer ~~department~~ from performing the duties imposed by the
8 act commits a Class IV misdemeanor.

9 (3) Any owner or any person who engages in the construction,
10 reconstruction, enlargement, alteration, breach, removal, or abandonment
11 of any dam or who knowingly does work on or permits work to be done on
12 the dam without the approval of the Chief Water Officer ~~department~~ or in
13 violation of the act and who fails to immediately notify the Chief Water
14 Officer ~~department~~ thereof commits a Class V misdemeanor.

15 **Sec. 305.** Section 46-1667, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-1667 (1) If the Chief Water Officer ~~department~~ has reason to
18 believe that an owner or other person is violating or has violated the
19 Safety of Dams and Reservoirs Act, an application approval, an approval
20 to operate, a rule, a regulation, an order, or a requirement of the Chief
21 Water Officer ~~department~~ issued or adopted pursuant to the act, the Chief
22 Water Officer ~~department~~ shall give the owner or person written notice by
23 certified mail that the owner or person appears to be in violation of the
24 act. The owner or other person shall have thirty days from the mailing of
25 such notice to respond or to request a hearing before the Chief Water
26 Officer ~~department~~ as to why the owner or other person should not be
27 ordered to cease and desist from the violation. The notice shall inform
28 the owner or other person how to request the hearing and the consequences
29 of failure to request a hearing.

30 (2) If the Chief Water Officer ~~department~~ finds that an owner or
31 person is constructing, reconstructing, enlarging, altering, breaching,

1 removing, or abandoning a dam without having first obtained the required
2 application approval, the Chief Water Officer ~~department~~ shall issue a
3 temporary order for the owner or person to cease and desist the
4 construction, reconstruction, enlargement, alteration, breach, removal,
5 or abandonment pending final action by the Chief Water Officer ~~department~~
6 pursuant to subsection (3) of this section. The temporary order shall
7 include written notice by certified mail to the owner or person of the
8 time and date set by the Chief Water Officer ~~department~~ for a hearing to
9 show cause why the temporary order should be vacated.

10 (3) After a response to a notice or a hearing pursuant to subsection
11 (1) or (2) of this section or after the expiration of time to request a
12 hearing, the Chief Water Officer ~~department~~ shall issue a decision and
13 final order. The decision and final order may take such form as the Chief
14 Water Officer ~~department~~ determines to be reasonable and appropriate and
15 may include a determination of violation, a cease and desist order, the
16 recommendation of a civil penalty, and an order directing that positive
17 steps be taken to abate or ameliorate any harm or damage arising from the
18 violation. The owner or person affected may appeal the hearing decision
19 as provided in section 61-207.

20 (4) If the owner or person continues the violation after the Chief
21 Water Officer ~~department~~ has issued a final decision and order pursuant
22 to subsection (3) of this section or a temporary order pursuant to
23 subsection (2) of this section, the Chief Water Officer ~~department~~ may
24 apply for a temporary restraining order or preliminary or permanent
25 injunction from a court of competent jurisdiction. A decision to seek
26 injunctive relief does not preclude other forms of relief or enforcement
27 against the violator.

28 **Sec. 306.** Section 46-1668, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-1668 (1) Any person who violates the Safety of Dams and
31 Reservoirs Act or an application approval, an approval to operate, a

1 rule, a regulation, an order, or a requirement of the Chief Water Officer
2 ~~department~~ under the act may be assessed a civil penalty in an amount not
3 to exceed five hundred dollars per day for each day the violation
4 continues.

5 (2) The Chief Water Officer ~~department~~ shall bring an action to
6 recover a penalty imposed under this section in a court in the
7 jurisdiction in which the violation occurred.

8 (3) In determining the amount of the penalty, the court shall
9 consider the degree of harm to the public, whether the violation was
10 knowing or willful, the past conduct of the defendant, whether the
11 defendant has taken steps to cease, remove, or mitigate the violation,
12 and any other relevant information.

13 **Sec. 307.** Section 46-1669, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-1669 Any affected person aggrieved by any final order or decision
16 made by the Chief Water Officer ~~director~~ pursuant to the Safety of Dams
17 and Reservoirs Act may appeal the order as provided in section 61-207.
18 For purposes of this section, affected person means the applicant or
19 holder of any approvals under the act and any owner of an estate or
20 interest in or concerning land or water whose interest is or may be
21 impacted in a direct and significant manner by such final order or
22 decision.

23 **Sec. 308.** Section 46-1670, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-1670 (1) Every owner of a dam subject to the Safety of Dams and
26 Reservoirs Act that was completed prior to September 4, 2005, and not
27 previously approved ~~by the department~~ when ~~departmental~~ approval was
28 otherwise required shall file an application with the Chief Water Officer
29 ~~department~~ for approval of such dam.

30 (2) A separate application for each dam shall be filed with the
31 Chief Water Officer ~~department~~ upon forms supplied by the Chief Water

1 ~~Officer department~~ and shall include such appropriate information
2 concerning the dam as the Chief Water Officer ~~department~~ requires.

3 (3) The Chief Water Officer ~~department~~ may give notice, by certified
4 mail to the owner's last address of record in the office of the county
5 assessor of the county in which the dam is located, to the owner of dams
6 required under this section to file an application who or which have
7 failed to do so, and a failure to file within sixty days after receipt of
8 such notice shall be punishable as provided in the act.

9 (4) The Chief Water Officer ~~department~~ may make inspections of such
10 dams and may require owners of such dams and reservoirs to perform, at
11 the owner's expense, such work or tests as may reasonably be required to
12 disclose information sufficient to enable the Chief Water Officer
13 ~~department~~ to determine whether to issue an approval to operate or to
14 issue orders directing further work at the owner's expense necessary to
15 safeguard life and property. For this purpose, the Chief Water Officer
16 ~~department~~ may require an owner to lower the water level of or to drain
17 the reservoir.

18 (5) If, upon inspection or upon completion to the satisfaction of
19 the Chief Water Officer ~~department~~ of all work ordered, the Chief Water
20 Officer ~~department~~ finds that the dam is safe to impound, an approval to
21 operate shall be issued.

22 (6) If at any time the Chief Water Officer ~~department~~ finds that the
23 dam is not safe to impound, the Chief Water Officer ~~department~~ shall
24 notify the owner in writing and shall set a time and place for hearing on
25 the matter. The owner of such dam shall ensure that such dam does not
26 impound following receipt of such notice. Written notice of the time and
27 place of the hearing shall be mailed, at least thirty days prior to the
28 date set for the hearing, to the owner. Any interested person may appear
29 at the hearing and present his or her views and objections to the
30 proposed action.

31 **Sec. 313.** Section 54-2429, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 54-2429 (1) An applicant for a National Pollutant Discharge
3 Elimination System permit or a construction and operating permit under
4 the Environmental Protection Act or the Livestock Waste Management Act
5 shall not be issued a permit until the applicant has obtained ~~, before~~
6 ~~issuance by the Department of Environment and Energy,~~ obtain any
7 necessary approvals from the Chief Water Officer ~~Department of Natural~~
8 ~~Resources~~ under the Safety of Dams and Reservoirs Act and ~~certify such~~
9 ~~approvals to the Department of Environment and Energy.~~ The department
10 ~~Department of Environment and Energy,~~ with the concurrence of the
11 ~~Department of Natural Resources,~~ may require the applicant to obtain
12 approval from the Chief Water Officer ~~Department of Natural Resources~~ for
13 any dam, holding pond, or lagoon structure which would not otherwise
14 require approval under the Safety of Dams and Reservoirs Act but which in
15 the event of a failure could result in a significant discharge into
16 waters of the state and have a significant impact on the environment. The
17 ~~Department of Environment and Energy may provide for the payment of such~~
18 ~~costs of the Department of Natural Resources with revenue generated under~~
19 ~~section 54-2428.~~

20 (2) An applicant required to obtain a National Pollutant Discharge
21 Elimination System permit is subject to the requirements of the Engineers
22 and Architects Regulation Act.

23 (3) An applicant who has a large concentrated animal feeding
24 operation, as defined in 40 C.F.R. 122 and 123, as such regulations
25 existed on January 1, 2004, and who is required to obtain a construction
26 and operating permit is subject to the requirements of the Engineers and
27 Architects Regulation Act.

28 (4) An applicant who has a small or medium animal feeding operation,
29 as defined in 40 C.F.R. 122 and 123, as such regulations existed on
30 January 1, 2004, and who is required to obtain a construction and
31 operating permit, but not required to obtain a National Pollutant

1 Discharge Elimination System permit, is exempt from the Engineers and
2 Architects Regulation Act.

3 (5) The department may require an engineering evaluation or
4 assessment performed by a licensed professional engineer for a livestock
5 waste control facility if after an inspection: (a) The department
6 determines that the facility has (i) visible signs of structural breakage
7 below the permanent pool, (ii) signs of discharge or proven discharge due
8 to structural weakness, (iii) improper maintenance, or (iv) inadequate
9 capacity; or (b) the department has reason to believe that an animal
10 feeding operation with a livestock waste control facility has violated or
11 threatens to violate the Environmental Protection Act, the Livestock
12 Waste Management Act, or any rules or regulations adopted and promulgated
13 under such acts. Animal feeding operations not required to have a permit
14 under the Environmental Protection Act, the Livestock Waste Management
15 Act, or the rules and regulations adopted and promulgated pursuant to
16 such acts are exempt from the Engineers and Architects Regulation Act.

17 **Sec. 327.** Section 61-201, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 61-201 The Chief Water Officer of the Department of Water, Energy,
20 and Environment Director of Natural Resources shall be qualified by
21 training and business experience to manage and supervise the Division of
22 Water of the Department of Water, Energy, and Environment Department of
23 Natural Resources. The Division of Water of the Department of Water,
24 Energy, and Environment shall assist the Chief Water Officer in carrying
25 out the Chief Water Officer's duties. The Chief Water Officer director
26 shall be a professional engineer as provided in the Engineers and
27 Architects Regulation Act and have had at least five years' experience in
28 a position of responsibility in irrigation work and shall be appointed by
29 the Governor, subject to confirmation by the Legislature. The Chief Water
30 Officer shall report directly to the Director of Water, Energy, and
31 Environment. The Chief Water Officer shall, before assuming the duties of

1 the office, take and subscribe an oath, such as is required by state
2 officers.

3 **Sec. 328.** Section 61-202, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 61-202 The Department of Water, Energy, and Environment ~~Director of~~
6 ~~Natural Resources~~ may employ such personnel, including legal and
7 technical advisors, as necessary to carry out the duties required of the
8 department, including the duties required of the Chief Water Officer
9 ~~director.~~

10 **Sec. 329.** Section 61-203, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 61-203 The Chief Water Officer ~~Director of Natural Resources~~ shall
13 adopt a seal. Copies of all records or other instruments related to the
14 duties of the Chief Water Officer in the Department of Water, Energy, and
15 Environment ~~Natural Resources~~ when certified by the Chief Water Officer
16 ~~department~~ as true copies and bearing the seal thereof shall be received
17 in any court as prima facie evidence of the original record or
18 instruments.

19 **Sec. 330.** Section 61-204, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 61-204 (1) The Chief Water Officer of the Department ~~Director of~~
22 Water, Energy, and Environment ~~Natural Resources~~ may adopt and promulgate
23 rules and regulations to carry out the duties of the Chief Water Officer
24 ~~for the Department of Natural Resources~~ except to the extent such power
25 is statutorily granted to the Nebraska Natural Resources Commission. The
26 Chief Water Officer ~~director~~ shall administer rules and regulations
27 adopted and promulgated by the commission.

28 (2) The rules, regulations, and orders of the Director of Water
29 Resources, the Department of Water Resources, ~~and~~ the Nebraska Natural
30 Resources Commission, the Director of Natural Resources, and the
31 Department of Natural Resources shall remain in effect unless changed or

1 eliminated by the Chief Water Officer or the Department of Water, Energy,
2 and Environment, as determined by their respective duties ~~Director of~~
3 ~~Natural Resources or the Department of Natural Resources~~ or by the
4 commission to the extent such power is statutorily granted to the
5 commission.

6 **Sec. 331.** Section 61-205, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 61-205 The Chief Water Officer of the Department of Water, Energy,
9 and Environment shall exercise the powers and perform the duties assigned
10 to the Department of Natural Resources prior to July 1, 2025, except
11 those duties assigned to the Director of the Department of Water, Energy,
12 and Environment or the Department of Water, Energy, and Environment. The
13 ~~Department of Natural Resources shall exercise the powers and perform the~~
14 ~~duties assigned to the Department of Water Resources prior to July 1,~~
15 ~~2000. The Department of Natural Resources shall exercise the powers and~~
16 ~~perform the duties assigned to the Nebraska Natural Resources Commission~~
17 ~~prior to July 1, 2000, except as otherwise specifically provided.~~

18 The Chief Water Officer ~~Director of Natural Resources~~ and his or her
19 duly authorized assistants shall have access at all reasonable times to
20 all dams, reservoirs, hydroelectric plants, water measuring devices, and
21 headgates, and other devices for diverting water, for the purpose of
22 performing the duties assigned to the Chief Water Officer ~~department~~.

23 **Sec. 332.** Section 61-206, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 61-206 (1) The Chief Water Officer ~~Department of Natural Resources~~
26 is given jurisdiction over all matters pertaining to water rights for
27 irrigation, power, or other useful purposes except as such jurisdiction
28 is specifically limited by statute. The Chief Water Officer ~~department~~
29 may adopt and promulgate rules and regulations governing matters coming
30 before the Chief Water Officer ~~it~~. The Chief Water Officer ~~It~~ may refuse
31 to allow any water to be used by claimants until their rights have been

1 determined and made of record. The Chief Water Officer ~~It~~ may request
2 information relative to irrigation and water power works from any county,
3 irrigation, or power officers and from any other persons. The Chief Water
4 Officer ~~It~~ may have hearings on complaints, petitions, or applications in
5 connection with any of such matters. Such hearings shall be had at the
6 time and place designated by the Chief Water Officer ~~department~~. The
7 Chief Water Officer ~~department~~ shall have power to certify official acts,
8 compel attendance of witnesses, take testimony by deposition as in suits
9 at law, and examine books, papers, documents, and records of any county,
10 party, or parties interested in any of the matters mentioned in this
11 section or have such examinations made by its qualified representative
12 and shall make and preserve a true and complete transcript of its
13 proceedings and hearings. If a final decision is made without a hearing,
14 a hearing shall be held at the request of any party to the proceeding if
15 the request is made within thirty days after the decision is rendered. If
16 a hearing is held at the request of one or more parties, the Chief Water
17 Officer ~~department~~ may require each such requesting party and each person
18 who requests to be made a party to such hearing to pay the proportional
19 share of the cost of such transcript. Upon any hearing, the Chief Water
20 Officer ~~department~~ shall receive any evidence relevant to the matter
21 under investigation and the burden of proof shall be upon the person
22 making the complaint, petition, and application. After such hearing and
23 investigation, the Chief Water Officer ~~department~~ shall render a decision
24 in the premises in writing and shall issue such order or orders duly
25 certified as the Chief Water Officer ~~it~~ may deem necessary.

26 (2) The Chief Water Officer ~~department~~ shall serve as the official
27 officer ~~agency~~ of the state in connection with water resources
28 development, soil and water conservation, flood prevention, watershed
29 protection, and flood control.

30 (3) The Chief Water Officer or the Chief Water Officer's ~~authorized~~
31 representatives ~~department~~ shall:

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

5 (b) Keep the supervisors or directors of each such subdivision
6 informed of the activities and experience of all other such subdivisions
7 and facilitate cooperation and an interchange of advice and experience
8 between such subdivisions;

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

11 (d) Secure the cooperation and assistance of the United States, any
12 of its agencies, and agencies of this state in the work of such
13 subdivisions;

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

16 (f) Plan, develop, and promote the implementation of a comprehensive
17 program of resource development, conservation, and utilization for the
18 soil and water resources of this state in cooperation with other local,
19 state, and federal agencies and organizations;

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

22 (h) Assist such local governmental organizations as villages,
23 cities, counties, and natural resources districts in securing, planning,
24 and developing information on flood plains to be used in developing
25 regulations and ordinances on proper use of these flood plains.

26 **Sec. 333.** Section 61-207, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 61-207 If any county, party, or parties interested in irrigation or
29 water power work affected thereby are dissatisfied with the decision or
30 with any order adopted by the Chief Water Officer, such dissatisfied
31 county, party, or parties may appeal to the Court of Appeals to reverse,

1 vacate, or modify the order complained of. The procedure to obtain such
2 reversal, modification, or vacation of any such decision or order upon
3 which a hearing has been had before the Chief Water Officer ~~Department of~~
4 ~~Natural Resources~~ shall be governed by the same provisions in force with
5 reference to appeals and error proceedings from the district court. The
6 evidence presented before the Chief Water Officer ~~department~~ as reported
7 by the Chief Water Officer's ~~its~~ official stenographer and reduced to
8 writing, together with a transcript of the record and pleadings upon
9 which the decision is based, duly certified in such case under the seal
10 of the Department of Water, Energy, and Environment ~~department~~, shall
11 constitute the complete record and the evidence upon which the case shall
12 be presented to the appellate court. The time for perfecting such appeal
13 shall be limited to thirty days after the rendition of such decision or
14 order, and the appellate court shall advance such appeal to the head of
15 its docket.

16 **Sec. 334.** Section 61-208, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 61-208 The Chief Water Officer ~~Department of Natural Resources~~ may
19 make surveys of streams showing location of possible water power
20 developments and irrigation projects.

21 **Sec. 335.** Section 61-209, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 61-209 The Chief Water Officer ~~Department of Natural Resources~~ may
24 conduct special projects for water data collection on behalf of other
25 state agencies, political subdivisions, or federal agencies. Such data
26 shall be public information. The Chief Water Officer ~~department~~ may
27 charge a fee to cover in whole or in part the costs of collecting,
28 analyzing, and publishing the data and such fees shall be deposited in
29 the Department of Water, Energy, and Environment ~~Natural Resources~~ Cash
30 Fund.

31 **Sec. 336.** Section 61-210, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 61-210 The Department of Water, Energy, and Environment ~~Natural~~
3 ~~Resources~~ Cash Fund is created. The State Treasurer shall credit to such
4 fund such money as is specifically appropriated or reappropriated by the
5 Legislature. The State Treasurer shall also credit such fund with
6 payments, if any, accepted for services rendered by the department,
7 including the Chief Water Officer, and fees collected pursuant to
8 subsection (6) of section 46-606 and section 61-209. The funds made
9 available to the Department of Water, Energy, and Environment ~~Natural~~
10 ~~Resources~~ by the United States, through the Natural Resources
11 Conservation Service of the Department of Agriculture or through any
12 other agencies, shall be credited to the fund by the State Treasurer. Any
13 money in the fund available for investment shall be invested by the state
14 investment officer pursuant to the Nebraska Capital Expansion Act and the
15 Nebraska State Funds Investment Act. The Department of Water, Energy, and
16 Environment ~~Natural Resources~~ shall allocate money from the fund to pay
17 costs of the programs or activities of the department, including the
18 programs or activities of the Chief Water Officer. The Director of
19 Administrative Services, upon receipt of proper vouchers approved by the
20 department, shall issue warrants on the fund, and the State Treasurer
21 shall countersign and pay from, but never in excess of, the amounts to
22 the credit of the fund. Transfers may be made from the fund to the
23 General Fund at the direction of the Legislature.

24 **Sec. 337.** Section 61-211, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 61-211 The Chief Water Officer ~~Department of Natural Resources~~ may
27 direct managers or operators of interstate ditches to construct and
28 maintain suitable measuring devices at or near the state line in
29 Nebraska. A manager or operator shall within thirty days after receipt of
30 notice from the Chief Water Officer ~~department~~ construct and complete
31 installation of such a measuring device and shall furnish daily gauge

1 height reports to the Chief Water Officer ~~department~~ from the beginning
2 to the end of the irrigation season, in such form and manner as
3 recommended by the Chief Water Officer ~~department~~. Failure of any manager
4 or operator of an interstate ditch to comply with this section shall be a
5 Class V misdemeanor.

6 **Sec. 338.** Section 61-215, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 61-215 There shall be one or more division supervisors acting for
9 the Chief Water Officer ~~Department of Natural Resources~~ to administer the
10 public water of the state in water division No. 1 and water division No.
11 2, as the water divisions created by section 61-212. Such a division
12 supervisor, acting for the Chief Water Officer ~~department~~, shall have the
13 immediate direction and control of the distribution of water in such
14 manner as directed by the Chief Water Officer ~~department~~.

15 **Sec. 339.** Section 61-216, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 61-216 The division supervisor or supervisors shall, under the
18 direction of the Chief Water Officer ~~Department of Natural Resources~~, see
19 that the laws relative to the distribution of water are executed in
20 accordance with the rights of priority of appropriation.

21 **Sec. 396.** Section 77-3442, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 77-3442 (1) Property tax levies for the support of local governments
24 for fiscal years beginning on or after July 1, 1998, shall be limited to
25 the amounts set forth in this section except as provided in section
26 77-3444.

27 (2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this
28 section, school districts and multiple-district school systems may levy a
29 maximum levy of one dollar and five cents per one hundred dollars of
30 taxable valuation of property subject to the levy.

31 (b) For each fiscal year prior to fiscal year 2017-18, learning

1 communities may levy a maximum levy for the general fund budgets of
2 member school districts of ninety-five cents per one hundred dollars of
3 taxable valuation of property subject to the levy. The proceeds from the
4 levy pursuant to this subdivision shall be distributed pursuant to
5 section 79-1073.

6 (c) Except as provided in subdivision (2)(e) of this section, for
7 each fiscal year prior to fiscal year 2017-18, school districts that are
8 members of learning communities may levy for purposes of such districts'
9 general fund budget and special building funds a maximum combined levy of
10 the difference of one dollar and five cents on each one hundred dollars
11 of taxable property subject to the levy minus the learning community levy
12 pursuant to subdivision (2)(b) of this section for such learning
13 community.

14 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
15 of this section are (i) amounts levied to pay for current and future sums
16 agreed to be paid by a school district to certificated employees in
17 exchange for a voluntary termination of employment occurring prior to
18 September 1, 2017, (ii) amounts levied by a school district otherwise at
19 the maximum levy pursuant to subdivision (2)(a) of this section to pay
20 for current and future qualified voluntary termination incentives for
21 certificated teachers pursuant to subsection (3) of section 79-8,142 that
22 are not otherwise included in an exclusion pursuant to subdivision (2)(d)
23 of this section, (iii) amounts levied by a school district otherwise at
24 the maximum levy pursuant to subdivision (2)(a) of this section to pay
25 for seventy-five percent of the current and future sums agreed to be paid
26 to certificated employees in exchange for a voluntary termination of
27 employment occurring between September 1, 2017, and August 31, 2018, as a
28 result of a collective-bargaining agreement in force and effect on
29 September 1, 2017, that are not otherwise included in an exclusion
30 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
31 school district otherwise at the maximum levy pursuant to subdivision (2)

1 (a) of this section to pay for fifty percent of the current and future
2 sums agreed to be paid to certificated employees in exchange for a
3 voluntary termination of employment occurring between September 1, 2018,
4 and August 31, 2019, as a result of a collective-bargaining agreement in
5 force and effect on September 1, 2017, that are not otherwise included in
6 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts
7 levied by a school district otherwise at the maximum levy pursuant to
8 subdivision (2)(a) of this section to pay for twenty-five percent of the
9 current and future sums agreed to be paid to certificated employees in
10 exchange for a voluntary termination of employment occurring between
11 September 1, 2019, and August 31, 2020, as a result of a collective-
12 bargaining agreement in force and effect on September 1, 2017, that are
13 not otherwise included in an exclusion pursuant to subdivision (2)(d) of
14 this section, (vi) amounts levied in compliance with sections 79-10,110
15 and 79-10,110.02, and (vii) amounts levied to pay for special building
16 funds and sinking funds established for projects commenced prior to April
17 1, 1996, for construction, expansion, or alteration of school district
18 buildings. For purposes of this subsection, commenced means any action
19 taken by the school board on the record which commits the board to expend
20 district funds in planning, constructing, or carrying out the project.

21 (e) Federal aid school districts may exceed the maximum levy
22 prescribed by subdivision (2)(a) or (2)(c) of this section only to the
23 extent necessary to qualify to receive federal aid pursuant to Title VIII
24 of Public Law 103-382, as such title existed on September 1, 2001. For
25 purposes of this subdivision, federal aid school district means any
26 school district which receives ten percent or more of the revenue for its
27 general fund budget from federal government sources pursuant to Title
28 VIII of Public Law 103-382, as such title existed on September 1, 2001.

29 (f) For each fiscal year, learning communities may levy a maximum
30 levy of one-half cent on each one hundred dollars of taxable property
31 subject to the levy for elementary learning center facility leases, for

1 remodeling of leased elementary learning center facilities, and for up to
2 fifty percent of the estimated cost for focus school or program capital
3 projects approved by the learning community coordinating council pursuant
4 to section 79-2111.

5 (g) For each fiscal year, learning communities may levy a maximum
6 levy of one and one-half cents on each one hundred dollars of taxable
7 property subject to the levy for early childhood education programs for
8 children in poverty, for elementary learning center employees, for
9 contracts with other entities or individuals who are not employees of the
10 learning community for elementary learning center programs and services,
11 and for pilot projects, except that no more than ten percent of such levy
12 may be used for elementary learning center employees.

13 (3) For each fiscal year through fiscal year 2023-24, community
14 college areas may levy the levies provided in subdivisions (2)(a) through
15 (c) of section 85-1517, in accordance with the provisions of such
16 subdivisions. For fiscal year 2024-25 and each fiscal year thereafter,
17 community college areas may levy the levies provided in subdivisions (2)
18 (a) and (b) of section 85-1517, in accordance with the provisions of such
19 subdivisions. A community college area may exceed the levy provided in
20 subdivision (2)(a) of section 85-1517 by the amount necessary to generate
21 sufficient revenue as described in section 85-1543 or 85-2238. A
22 community college area may exceed the levy provided in subdivision (2)(b)
23 of section 85-1517 by the amount necessary to retire general obligation
24 bonds assumed by the community college area or issued pursuant to section
25 85-1515 according to the terms of such bonds or for any obligation
26 pursuant to section 85-1535 entered into prior to January 1, 1997.

27 (4)(a) Natural resources districts may levy a maximum levy of four
28 and one-half cents per one hundred dollars of taxable valuation of
29 property subject to the levy.

30 (b) Natural resources districts shall also have the power and
31 authority to levy a tax equal to the dollar amount by which their

1 restricted funds budgeted to administer and implement ground water
2 management activities and integrated management activities under the
3 Nebraska Ground Water Management and Protection Act exceed their
4 restricted funds budgeted to administer and implement ground water
5 management activities and integrated management activities for FY2003-04,
6 not to exceed one cent on each one hundred dollars of taxable valuation
7 annually on all of the taxable property within the district.

8 (c) In addition, natural resources districts located in a river
9 basin, subbasin, or reach that has been determined to be fully
10 appropriated pursuant to section 46-714 or designated as overappropriated
11 pursuant to section 46-713 by the Chief Water Officer of the Department
12 of Water, Energy, and Environment ~~Natural Resources~~ shall also have the
13 power and authority to levy a tax equal to the dollar amount by which
14 their restricted funds budgeted to administer and implement ground water
15 management activities and integrated management activities under the
16 Nebraska Ground Water Management and Protection Act exceed their
17 restricted funds budgeted to administer and implement ground water
18 management activities and integrated management activities for FY2005-06,
19 not to exceed three cents on each one hundred dollars of taxable
20 valuation on all of the taxable property within the district for fiscal
21 year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

22 (5) Any educational service unit authorized to levy a property tax
23 pursuant to section 79-1225 may levy a maximum levy of one and one-half
24 cents per one hundred dollars of taxable valuation of property subject to
25 the levy.

26 (6)(a) Incorporated cities and villages which are not within the
27 boundaries of a municipal county may levy a maximum levy of forty-five
28 cents per one hundred dollars of taxable valuation of property subject to
29 the levy plus an additional five cents per one hundred dollars of taxable
30 valuation to provide financing for the municipality's share of revenue
31 required under an agreement or agreements executed pursuant to the

1 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
2 levy shall include amounts levied to pay for sums to support a library
3 pursuant to section 51-201, museum pursuant to section 51-501, visiting
4 community nurse, home health nurse, or home health agency pursuant to
5 section 71-1637, or statue, memorial, or monument pursuant to section
6 80-202.

7 (b) Incorporated cities and villages which are within the boundaries
8 of a municipal county may levy a maximum levy of ninety cents per one
9 hundred dollars of taxable valuation of property subject to the levy. The
10 maximum levy shall include amounts paid to a municipal county for county
11 services, amounts levied to pay for sums to support a library pursuant to
12 section 51-201, a museum pursuant to section 51-501, a visiting community
13 nurse, home health nurse, or home health agency pursuant to section
14 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

15 (7) Sanitary and improvement districts which have been in existence
16 for more than five years may levy a maximum levy of forty cents per one
17 hundred dollars of taxable valuation of property subject to the levy, and
18 sanitary and improvement districts which have been in existence for five
19 years or less shall not have a maximum levy. Unconsolidated sanitary and
20 improvement districts which have been in existence for more than five
21 years and are located in a municipal county may levy a maximum of eighty-
22 five cents per hundred dollars of taxable valuation of property subject
23 to the levy.

24 (8) Counties may levy or authorize a maximum levy of fifty cents per
25 one hundred dollars of taxable valuation of property subject to the levy,
26 except that five cents per one hundred dollars of taxable valuation of
27 property subject to the levy may only be levied to provide financing for
28 the county's share of revenue required under an agreement or agreements
29 executed pursuant to the Interlocal Cooperation Act or the Joint Public
30 Agency Act. The maximum levy shall include amounts levied to pay for sums
31 to support a library pursuant to section 51-201 or museum pursuant to

1 section 51-501. The county may allocate up to fifteen cents of its
2 authority to other political subdivisions subject to allocation of
3 property tax authority under subsection (1) of section 77-3443 and not
4 specifically covered in this section to levy taxes as authorized by law
5 which do not collectively exceed fifteen cents per one hundred dollars of
6 taxable valuation on any parcel or item of taxable property. The county
7 may allocate to one or more other political subdivisions subject to
8 allocation of property tax authority by the county under subsection (1)
9 of section 77-3443 some or all of the county's five cents per one hundred
10 dollars of valuation authorized for support of an agreement or agreements
11 to be levied by the political subdivision for the purpose of supporting
12 that political subdivision's share of revenue required under an agreement
13 or agreements executed pursuant to the Interlocal Cooperation Act or the
14 Joint Public Agency Act. If an allocation by a county would cause another
15 county to exceed its levy authority under this section, the second county
16 may exceed the levy authority in order to levy the amount allocated.

17 (9) Municipal counties may levy or authorize a maximum levy of one
18 dollar per one hundred dollars of taxable valuation of property subject
19 to the levy. The municipal county may allocate levy authority to any
20 political subdivision or entity subject to allocation under section
21 77-3443.

22 (10) Beginning July 1, 2016, rural and suburban fire protection
23 districts may levy a maximum levy of ten and one-half cents per one
24 hundred dollars of taxable valuation of property subject to the levy if
25 (a) such district is located in a county that had a levy pursuant to
26 subsection (8) of this section in the previous year of at least forty
27 cents per one hundred dollars of taxable valuation of property subject to
28 the levy or (b) such district had a levy request pursuant to section
29 77-3443 in any of the three previous years and the county board of the
30 county in which the greatest portion of the valuation of such district is
31 located did not authorize any levy authority to such district in such

1 year.

2 (11) A regional metropolitan transit authority may levy a maximum
3 levy of ten cents per one hundred dollars of taxable valuation of
4 property subject to the levy for each fiscal year that commences on the
5 January 1 that follows the effective date of the conversion of the
6 transit authority established under the Transit Authority Law into the
7 regional metropolitan transit authority.

8 (12) Property tax levies (a) for judgments, except judgments or
9 orders from the Commission of Industrial Relations, obtained against a
10 political subdivision which require or obligate a political subdivision
11 to pay such judgment, to the extent such judgment is not paid by
12 liability insurance coverage of a political subdivision, (b) for
13 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)
14 for bonds as defined in section 10-134 approved according to law and
15 secured by a levy on property except as provided in section 44-4317 for
16 bonded indebtedness issued by educational service units and school
17 districts, (d) for payments by a public airport to retire interest-free
18 loans from the Division of Aeronautics of the Department of
19 Transportation in lieu of bonded indebtedness at a lower cost to the
20 public airport, and (e) to pay for cancer benefits provided on or after
21 January 1, 2022, pursuant to the Firefighter Cancer Benefits Act are not
22 included in the levy limits established by this section.

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

28 (14) Tax levies in excess of the limitations in this section shall
29 be considered unauthorized levies under section 77-1606 unless approved
30 under section 77-3444.

31 (15) For purposes of sections 77-3442 to 77-3444, political

1 subdivision means a political subdivision of this state and a county
2 agricultural society.

3 (16) For school districts that file a binding resolution on or
4 before May 9, 2008, with the county assessors, county clerks, and county
5 treasurers for all counties in which the school district has territory
6 pursuant to subsection (7) of section 79-458, if the combined levies,
7 except levies for bonded indebtedness approved by the voters of the
8 school district and levies for the refinancing of such bonded
9 indebtedness, are in excess of the greater of (a) one dollar and twenty
10 cents per one hundred dollars of taxable valuation of property subject to
11 the levy or (b) the maximum levy authorized by a vote pursuant to section
12 77-3444, all school district levies, except levies for bonded
13 indebtedness approved by the voters of the school district and levies for
14 the refinancing of such bonded indebtedness, shall be considered
15 unauthorized levies under section 77-1606.

16 **Sec. 403.** Section 81-1316, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 81-1316 (1) All agencies and personnel of state government shall be
19 covered by sections 81-1301 to 81-1319 and shall be considered subject to
20 the State Personnel System, except the following:

- 21 (a) All personnel of the office of the Governor;
- 22 (b) All personnel of the office of the Lieutenant Governor;
- 23 (c) All personnel of the office of the Secretary of State;
- 24 (d) All personnel of the office of the State Treasurer;
- 25 (e) All personnel of the office of the Attorney General;
- 26 (f) All personnel of the office of the Auditor of Public Accounts;
- 27 (g) All personnel of the Legislature;
- 28 (h) All personnel of the court systems;
- 29 (i) All personnel of the Board of Educational Lands and Funds;
- 30 (j) All personnel of the Public Service Commission;
- 31 (k) All personnel of the Nebraska Brand Committee;

- 1 (l) All personnel of the Commission of Industrial Relations;
- 2 (m) All personnel of the State Department of Education;
- 3 (n) All personnel of the Nebraska state colleges and the Board of
4 Trustees of the Nebraska State Colleges;
- 5 (o) All personnel of the University of Nebraska;
- 6 (p) All personnel of the Coordinating Commission for Postsecondary
7 Education;
- 8 (q) All personnel of the Governor's Policy Research Office;
- 9 (r) All personnel of the Commission on Public Advocacy;
- 10 (s) All agency heads;
- 11 (t)(i) The Director of Behavioral Health of the Division of
12 Behavioral Health; (ii) the Director of Children and Family Services of
13 the Division of Children and Family Services; (iii) the Director of
14 Developmental Disabilities of the Division of Developmental Disabilities;
15 (iv) the Director of Medicaid and Long-Term Care of the Division of
16 Medicaid and Long-Term Care; and (v) the Director of Public Health of the
17 Division of Public Health;
- 18 (u) The chief medical officer established under section 81-3115, the
19 Administrator of the Office of Juvenile Services, and the chief executive
20 officers of the Beatrice State Developmental Center, Lincoln Regional
21 Center, Norfolk Regional Center, Hastings Regional Center, Central
22 Nebraska Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska
23 Veterans' Home, Western Nebraska Veterans' Home, and each youth
24 rehabilitation and treatment center;
- 25 (v) The chief executive officers of all facilities operated by the
26 Department of Correctional Services and the medical director for the
27 department appointed pursuant to section 83-4,156;
- 28 (w) All personnel employed as pharmacists, physicians,
29 psychiatrists, or psychologists by the Department of Correctional
30 Services;
- 31 (x) All personnel employed as pharmacists, physicians,

1 psychiatrists, psychologists, service area administrators, or facility
2 operating officers of the Department of Health and Human Services or the
3 Department of Veterans' Affairs;

4 (y) Deputies and examiners of the Department of Banking and Finance
5 and the Department of Insurance as set forth in sections 8-105 and
6 44-119, except for those deputies and examiners who remain in the State
7 Personnel System;

8 (z) All personnel of the Tax Equalization and Review Commission;

9 (aa) The associate director of the Conservation Division of the
10 Nebraska State Historical Society and all personnel employed as a
11 Conservator I or Conservator II of the Conservation Division of the
12 Nebraska State Historical Society; ~~and~~

13 (bb) Assistant directors and deputies of the Nebraska Public
14 Employees Retirement Systems; and -

15 (cc) The Chief Water Officer, assistant directors, and deputies of
16 the Department of Water, Energy, and Environment.

17 (2) At each agency head's discretion, up to the following number of
18 additional positions may be exempted from the State Personnel System,
19 based on the following agency size categories:

20	Number of Agency	Number of Noncovered
21	Employees	Positions
22	less than 25	0
23	25 to 100	1
24	101 to 250	2
25	251 to 500	3
26	501 to 1000	4
27	1001 to 2000	5
28	2001 to 3000	8
29	3001 to 4000	11
30	4001 to 5000	40

1 over 5000 50

2 The purpose of having such noncovered positions shall be to allow
3 agency heads the opportunity to recruit, hire, and supervise critical,
4 confidential, or policymaking personnel without restrictions from
5 selection procedures, compensation rules, career protections, and
6 grievance privileges. Persons holding the noncovered positions shall
7 serve at the pleasure of the agency head and shall be paid salaries set
8 by the agency head. An agency with over five thousand employees shall
9 provide notice in writing to the Health and Human Services Committee of
10 the Legislature when forty noncovered positions have been filled by the
11 agency head pursuant to this subsection.

12 (3) No changes to this section or to the number of noncovered
13 positions within an agency shall affect the status of personnel employed
14 on the date the changes become operative without their prior written
15 agreement. A state employee's career protections or coverage by personnel
16 rules and regulations shall not be revoked by redesignation of the
17 employee's position as a noncovered position without the prior written
18 agreement of such employee.

19 **Sec. 424.** Section 81-15,170, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 81-15,170 The Nebraska Environmental Trust Board is hereby created
22 as an entity of the executive branch. The board shall consist of the
23 Director of Water, Energy, and Environment, the Chief Water Officer
24 ~~Environment and Energy, the Director of Natural Resources,~~ the Director
25 of Agriculture, the secretary of the Game and Parks Commission, the chief
26 executive officer of the Department of Health and Human Services or his
27 or her designee, and nine citizens appointed by the Governor with the
28 approval of a majority of the Legislature. The citizen members shall
29 begin serving immediately following notice of nomination and prior to
30 approval by the Legislature. The citizen members shall represent the

1 general public and shall have demonstrated competence, experience, and
2 interest in the environment of the state. Two of the citizen appointees
3 shall also have experience with private financing of public-purpose
4 projects. Three appointees shall be chosen from each of the three
5 congressional districts. The board shall hire an executive director who
6 shall hire and supervise other staff members as may be authorized by the
7 board. The executive director shall serve at the pleasure of the board
8 and be solely responsible to it. The Game and Parks Commission shall
9 provide administrative support, including, but not limited to, payroll
10 and accounting functions, to the board.

11 2. Renumber the remaining sections and correct the repealer
12 accordingly.